



GENERAL TERMS AND CONDITIONS OF SALE

1. DEFINITIONS AND INTERPRETATION

Within this Contract the following expressions will have the following meanings unless inconsistent with the context;

“Affiliate”	means any entity directly or indirectly affiliated with a Party at any time in which (i) a Party directly or indirectly controls at least 50% of the registered capital or rights to vote; or (ii) such other entity directly or indirectly controls at least 50% of the registered capital or rights to vote of the Party; or an entity mentioned in (b) above controls directly or indirectly at least 50% of the registered capital or rights to vote.	“Consequential Loss”	product information, know-how, technical information, designs, trade secrets or software of a Party, any information, findings, data or analysis derived from such confidential information; and (iv) any other information that is identified as being of a confidential or proprietary nature.
“Business Day”	means any day other than a weekend or a public or bank holiday, in either the UK, the US or the UAE jurisdictions.	“Control”	means (i) all loss or deferment of profit, loss of use of equipment, services or materials, loss of contract, loss or deferral of production, loss of revenue, business interruption or increased cost of working, whether any of the foregoing are direct, indirect, or consequential and whether or not foreseeable at the date of this Contract; and/or (ii) any indirect or consequential loss under Contract or under applicable law.
“Buyer”	means the buyer entity.	“Factory Acceptance Test”	means the initial acceptance test to be concluded in the Premises of the Seller, in the presence of the Buyer Representative and in accordance with the Sellers Factory Acceptance Test protocols and procedures.
“Buyer Group”	means the Buyer, any co-venturer, its and their Affiliates, its and their respective officers, directors, employees, agents, servants and insurers, and its and their invitees, other contractors, sub-contractors and suppliers of any tier (excluding the Seller Group) and their Affiliates and its and their respective officers, directors, employees, agents, servants and insurers.	“Goods”	Means as described in any Schedule to this Contract.
“Buyer Representative”	means the person nominated by the Buyer under this Contract and as further cited in Clause 23.13.	“Goods Acceptance Certificate”	means the document that the Buyer Representative and Seller Representative shall sign upon completion of the Factory Acceptance Test.
“Claims”	means any claim of every kind and nature, demand, cause of action, proceedings, judgement, award, costs (including reasonable legal fees), liability, loss, expense, penalty, fine and damages.	“Group”	means either the Seller Group or the Buyer Group, as the case may be.
“Confidential Information”	means (i) all information (oral, written, machine readable) which is directly or indirectly disclosed to a Party; (ii) any and all discussions and negotiations that are taking place concerning the Goods and/or Services and the status of any discussions and negotiations; (iii) all confidential and/or proprietary information relating to the business, affairs, customers, clients, suppliers, intentions, or market opportunities of a Party, the operations, processes,	“Installation”	means the installation of the Goods at the Buyers Site on the Installation Date.
		“Installation Date”	means the date of installation, as mutually agreed between the Parties.
		“Intellectual Property Rights”	means all intellectual and industrial property rights



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including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions.

“License”	shall have the meaning prescribed in Clause 9.1 to this Contract.
“Licensed Program Material”	means any software contained on any media (disk, documentation, storage device) on which the software is supplied, any chips, microchips and or the like in the form of Read Only Memory (ROM) and/or Erasable and Programmable Read Only Memory (EPROM) providing interface to the Goods and such Licensed Program Material and/or any available upgrades from time to time.
“Personnel”	means any personnel provided by Seller utilized to perform the Services at the Site and/or any routine inspection of the Goods in accordance with this Contract.
“Purchase Price”	means the price, either in lump sum or in instalments as agreed between the Buyer and the Seller, to be paid by the Buyer to the Seller in exchange for the Goods and/or Services provided as cited in Schedule A.
“Premises”	means the Sellers warehouse in a location as notified by the Seller.
“Seller”	means the Drilling System entity.
“Seller Group”	means Seller, their Affiliates and its and their respective officers, directors, employees, agents,

servants and insurers and its and their other contractors, sub-contractors and suppliers of any tier (excluding the Buyer Group) and their Affiliates and its and their respective officers, directors, employees, agents, servants and insurers;

“Seller Representative”	means the person nominated by the Seller under this Contract and as further cited in Clause 23.13.
“Services”	means as described in any Schedule to this Contract.
“Shipment”	means the means of shipment agreed between the Buyer and the Seller.
“Shipment Date”	means the date that such Shipment leaves the Sellers Premises and the date that such final payment of the Purchase Price is due from the Buyer to the Seller, as specified in any such Order.
“Site”	means the onshore and/or offshore location under which the Buyer wishes the Goods to be delivered and/or the Services to be performed.
“Site Acceptance Test”	means the final acceptance test of the Goods, upon Installation.
“Third Party”	means any person or entity other than Buyer Group or Seller Group.
“User Documentation”	means any instruction manuals, user guides, instruction manuals, and/or any other information available to the Seller in relation to the Goods and/or the Licensed Program Material.
“Warranty”	shall be described in accordance with Clause 10 to this Contract.
“Warranty Period”	means a Warranty for a period of twelve (12) months from the Installation Date.

2. GENERAL

Any agreement, warranty, condition, statement, promise and/or undertaking not confirmed officially in writing by the Seller shall be void and shall not be binding on the Seller. No condition in any contract or supplemental letter, paper or document shall be imposed upon the Seller, unless the Seller's express consent thereto in writing has been previously obtained by the Buyer.



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3. FORMATION OF CONTRACT

- 3.1 Any quote and/or order issued shall constitute an offer by the Seller to sell such Goods and/or Services to the Buyer. This Contract shall take precedence, without deviation.
- 3.2 Commencement of design, manufacture, delivery, start of invoicing or supply of the Goods and/or Services implies acceptance of an order and/or quote by the Buyer under this Contract.
- 3.3 Acceptance of an order or quote means that the Buyer accepts this Contract together with any additional conditions issued by the Seller. Any variation and/or modification to an order or quotation shall only be valid when issued in accordance with Clause 11 of this Contract.

4. REPRESENTATIVES

- 4.1 Seller Representatives and Buyer Representatives are the persons named in this Contract and are the persons whom shall be readily available to enable both Seller and Buyer to discharge their obligations under the Contract. Seller Representative and any person authorised by him shall have access at all reasonable times to the Goods and Buyer shall assist in obtaining the right of access per the terms of this Contract.
- 4.2 Seller Representative has the authority to commit Seller in all matters under the Contract and, subject to any delegation of such authority, shall be responsible for issuing to and receiving from Buyer all notices, information, instructions and decisions. Seller may change Seller Representative at any time and shall notify Buyer of any change in writing in advance. Except as otherwise expressly stated in the Contract, Seller Representative has no powers to amend the Contract nor to relieve Seller from any of its obligations under the Contract.
- 4.3 Buyer Representative has the authority to commit Buyer in all matters under the Contract and, subject to any delegation of such authority, shall be responsible for issuing to and receiving from Seller all notices, information, instructions and decisions. Buyer may change Buyer Representative at any time and shall notify Seller of any change in writing in advance. Except as otherwise expressly stated in the Contract, Buyer Representative has no powers to amend the Contract nor to relieve Buyer from any of its obligations under the Contract.

5. PRICE

- 5.1 The Seller's acceptance of any order or quote is subject to satisfactory Buyer credit ratings. Payment terms shall be as set out in the Seller's Commercial Proposal, unless otherwise agreed by the Seller.
- 5.2 All invoices shall be paid in full, in cleared funds, in the currency cited by the Seller in any quote or order. Time for payment shall be of the essence. No payment shall be deemed to have been received by the Seller until the Seller receives such payment in cleared funds into the account nominated by the Seller. If any sums due from the Buyer are not paid by the designated dates within this Contract, without prejudice to any other right or remedy available to Seller, Seller shall be entitled to cancel or suspend (in whole or in part) performance of the Contract or any other order placed by the Buyer, including suspension of deliveries of Goods and/or Services, until appropriate payment is made by the Buyer.
- 5.3 Interest shall be payable for late payment of (i) correctly prepared and supported invoices and (ii) undisputed amounts payable on disputed invoices and (iii) disputed amounts that become payable to Seller. The amount of interest payable shall be the mean average of the daily published LIBOR "Base Rate" for the three months prior to the initial due date of payment plus two percent (2%), accrued from the due date for payment until actual payment.
- 5.4 The Purchase Price shall be exclusive of all applicable sales taxes, duties or other levies payable thereon.
- 5.5 Buyer shall make payment of the Purchase Price (or portion thereof) in respect of such invoices as follows on the dates stipulated in Clause 5.1 to this Contract;
 - (a) For payments in GBP, Buyer shall make payment of the due amount into the bank account of Seller as notified by Seller, using the Banker's Automated Clearing System; or
 - (b) For payment in any other currency, Buyer shall make payment of the due amount in the appropriate currency into the bank account of Seller as notified by Seller to Buyer.
- 5.6 If Buyer, acting reasonably and in good faith, disputes any material items on any invoice in whole or in part or if the invoice is prepared or submitted incorrectly in any material respect, Buyer shall return a copy of the invoice to Seller within five (5) days of receipt of the invoice, advising Seller of the reasons and requesting Seller to issue a credit note for the unaccepted part or whole of the invoice as applicable. The issuance of a credit note shall not imply that Seller agrees that such invoice was incorrect. Buyer shall be obliged to pay the undisputed part of a disputed invoice upon settlement of the same between the Parties. On settlement of any dispute Seller shall submit an invoice for sums due and Buyer shall make the appropriate payment in accordance with the provisions of this Clause 5.



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- 5.7 Buyer shall not be entitled to withhold monies due to Seller under any other contracts with Seller as set off against disputes or sums due under the Contract, nor shall it be entitled to withhold monies due under the Contract as set off against disputes or sums due under any other contract.

6. OBLIGATIONS OF THE SELLER

6.1 Shipment:

- 6.1.1 The Seller shall manufacture the Goods, complete or in agreed batch sizes, during normal working hours and shall properly prepare, pack and mark all Goods ready for Shipment on the Shipment Date. Goods shall be complete with all Shipment documentation and shall thereafter be sent to the delivery address provided to the Seller by the Buyer, in advance of any agreed Shipment Date. Each delivery shall be marked to show complete delivery or batch, batch number and contents, and any Buyer's order reference number (if any). Any dangerous Goods shall at all times, be accompanied by the relevant materials data safety sheet.
- 6.1.2 The Seller shall notify the Buyer as soon as reasonably practicable if the Seller becomes aware that Shipment of the Goods is likely to be delayed beyond the specified Shipment Date.
- 6.1.3 Risk in the Goods shall pass to the Buyer on the Shipment Date. Notwithstanding anything else to the contrary in this Contract, title in the Goods shall not pass to the Buyer until Payment of the Purchase Price is received in full, by the Seller.
- 6.1.4 Unless otherwise stated in the Contract, Shipment shall be governed by and construed in accordance with the provision of "Incoterms 2010" published by the International Chamber of Commerce as may be amended from time to time. All Goods supplied under this Contract shall be delivered EX-WORKS to the Buyer Site, carriage paid, unless otherwise agreed between the Buyer and the Seller.

6.2 Acceptance Test:

- 6.2.1 If applicable to the particular Goods being purchased by the Buyer, on completion of the manufacture and before preparation of the Goods for Shipment, Seller shall test the Goods in the Premises in the presence of the Buyer Representative to ensure that such Goods are working correctly and in accordance with their specifications ("**Factory Acceptance Test**"). The Seller shall stipulate two dates to the Buyer where such Factory Acceptance Test shall be completed, such Factory Acceptance Test shall be deemed to have been completed by the Seller whether or not the Buyer Representative is in attendance on the given dates or not.
- 6.2.2 Upon completion of the Factory Acceptance Test whether completed in the presence of the Buyer or not, the Buyer Representative shall sign and return to the Seller an acceptance certificate ("**Goods Acceptance Certificate**"), confirming that the Goods are in working order, prior to Shipment. Upon receipt of such signed Goods Acceptance Certificate, the Seller shall Ship the Goods to the Buyer in accordance with the provisions of this Contract and/or any Order. Seller shall not be obliged to ship any Goods until such Goods Acceptance Certificate has been returned to the Seller, duly signed. Such delay shall be the sole responsibility and at the sole cost of the Buyer.
- 6.2.3 In the event that the Goods show faults and/or required upgrades or enhancements requested during the aforementioned Factory Acceptance Test, the Buyer Representative and the Seller Representative shall mutually agree the list of faults and their degree of fault and/or upgrades/enhancements. Thereafter, the Parties shall sign a report detailing such faults and/or upgrades/enhancements and a timeline for rectification or installation of the same ("**Acceptance Report**"). Such Acceptance Report shall categorise the above in the following categories: (i) Non-Critical fault; (ii) Unacceptable Critical fault; (iii) upgrade or enhancement.
- 6.2.4 The Buyer and the Seller agree that neither Non-Critical Faults nor upgrades or enhancements shall delay Shipment and agree that such can be resolved during Installation at the Buyers Site. The Parties agree that Unacceptable Critical faults shall be rectified by the Seller before Shipment and in any event within three (3) months of the date of the Initial Acceptance Test. The Buyer and the Seller agree that outstanding items on the Acceptance Report shall not delay payment of the any Purchase Price cited in Clause 5.1, to the Seller.
- 6.2.5 In the event that the Seller either fails to or cannot rectify such Unacceptable Critical faults in the Goods, the Seller shall inform the Buyer of the same and shall propose to the Buyer how it wishes to proceed. Such events shall not be deemed as a right to terminate the Contract.
- 6.2.6 Installation of the Goods at the Buyers Site, the Seller shall perform a final test of the Goods ("**Site Acceptance Test**"). Such Site Acceptance shall be performed in the presence of the Buyer Representative. Such Site Acceptance Test shall be deemed to have been completed by the Seller whether or not the Buyer Representative is in attendance or not.
- 6.2.7 Without prejudice to anything else to the contrary within this Contract, should the Buyer commence use of Goods prior to any such Site Acceptance Test and/or completion of Faults reported on any Acceptance Report, then Buyer shall be deemed to have accepted the Goods as being in full, working and good order.

6.3 Installation and Final Acceptance Test:



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- 6.3.1 If applicable and if agreed between the Parties, upon receipt of the Shipment, the Buyer shall inform the Seller and the Seller and the Buyer shall arrange an Installation Date for the Installation and thereafter, Final Acceptance Test of the Goods.
- 6.3.2 The Seller shall thereafter arrange its Personnel to attend the Site to commence such Installation and Final Acceptance Test. Such Personnel shall be provided within the terms of this Contract and/or any Order.
- 6.3.3 Upon completion of a Site Acceptance Test, in the event that the Goods show continued and/or new faults, the Buyer Representative and the Seller Representative shall mutually agree the list of faults and their degree of fault. Thereafter, the Parties shall sign a report detailing such faults and a timeline for rectification or installation of the same ("**Final Acceptance Report**"). Such Final Acceptance Report shall categorise the above in the following categories: (i) Non-Critical fault; or (ii) Unacceptable Critical faults. In the event that the Goods were signed by the Buyer as having no faults during the completion of the Factory Acceptance Test, prior to Shipment and then Goods then shows any faults upon Installation, the Seller shall not be liable for cost of the rectification and/or repair of the same if in its reasonable opinion such faults were caused as a result of damage caused between the Premises and the Site by the Buyer and/or the Buyer Group.
- 6.3.4 Without prejudice to anything else to the contrary within this Contract, should the Buyer commence use of Goods prior to any such Site Acceptance Test and/or completion of faults reported on any Acceptance Report, then Buyer shall be deemed to have accepted the Supply as being in full, working and in good order.

6.4 Training and User Documentation

- 6.4.1 Upon Installation the Seller shall provide the Buyer and its relevant personnel, training on the use of the Goods and/or any License Material. Such training shall be held either at the Buyers Site or the Sellers Premises (as mutually agreed between the Parties) and shall be completed within forty five (45) days of the Installation Date. Failure by the Buyer to arrange a date within such time period shall mean such training is forfeited by the Buyer, without liability upon the Seller.
- 6.4.2 The Seller shall provide the Buyer all necessary User Documentation to the Goods on the Installation Date.

6.5 Services:

- 6.5.1 The Seller shall perform all Services specified in this Contract in a diligent, skillful and workmanlike manner and in accordance with the established best and safest practice of the Seller's industry throughout Contract. In the event Services are provided at an offshore Site, Personnel shall adhere to the on-board health and safety provisions in place on the vessel. Such policies to be provided by the Buyer to the Seller in advance of any Installation.
- 6.5.2 The Seller confirms that its Personnel shall comply with all instructions provided by the Buyer at the Buyers Site, consistent with the provisions of this Contract. Seller Personnel shall have the right, in their reasonable opinion, to stop or halt the Services in the event of any unsafe working conditions at the Site. Such action shall be without penalty by the Buyer. Such Services shall resume upon removal or rectification of the unsafe working environment to the satisfaction of the Seller.
- 6.5.3 All Personnel provided by the Seller shall be trained, skilled, experienced and qualified for their part of the Services that they will be required to perform. Personnel working offshore shall have attended approved survival and fire fighting schools and shall provide documentary evidence of, and certificates for, all such training.
- 6.5.4 All Personnel required to work offshore at any time shall have been examined by a registered physician in accordance with current medical standards and shall have been certified as fully fit and suitable to work in an offshore environment prior to commencing work offshore. Such certificates shall be made available to the Buyer upon request.

7. OBLIGATIONS OF THE BUYER

- 7.1 For the duration of this Contract, Buyer shall be responsible for routine and ordinary maintenance of the Goods in accordance with the recommendations and guidelines of the Seller, which shall be provided upon Installation. Buyer shall use the Goods in accordance with Sellers guidelines at all times and shall maintain the Goods in good working order.
- 7.2 Buyer shall allow Personnel unrestricted access to the Site and to the Goods at all reasonable times in order to perform required Services. Such access may include access to the Confidential Information used by Buyer in connection with the Goods. Seller shall be obliged to comply with the provisions of Clause 16 regarding access and/or use of any Buyer Confidential Information.
- 7.3 Buyer shall make available to the Seller at its own expense such personnel, time, supplies, equipment, assistance and cooperation of Buyer as the Seller shall reasonably request for the proper performance of its obligations under this Contract.
- 7.4 In the event of the Goods and/or Services being supplied to a Site offshore, Buyer shall provide offshore access and shall provide, at no cost to Seller Group, all routine and medivac transportation for Seller Personnel and transportation for such Goods and/or Services which are capable of transportation by helicopter or supply boat between Site and/or any onshore operating base. Buyer shall further be liable and pay Seller for documented cost for meals and accommodation resulting directly from delays caused by the failure of the Buyer to provide the transportation in accordance with this Clause.



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- 7.5 Buyer shall maintain regular adequate backups of all data provided to the Seller in order to ensure continued data security and retention. The Seller shall not be obliged to recreate or restore, or be liable in any way for the Buyer's data in the event of the Buyer's failure to maintain adequate back-up of all data.
- 7.6 Buyer shall not be entitled to replace the Goods without the prior written consent of the Seller, such consent not to be unreasonably withheld. Notwithstanding the above, but always subject to the Sellers express and written consent, in the event the Goods are deemed inoperable Buyer shall be entitled (at its own cost, risk and without extra charge by Seller) to use the License upon such alternative machines.
- 7.7 Notwithstanding anything else to the contrary within this Contract, Buyer shall not be entitled to modify any Goods, Licence and/or Services nor to merge the same with any other software program, or goods or install any additional software upon the Goods unless such Goods are provided by the Seller.
- 7.8 Modified, merged or issued Goods provided by the Seller shall be governed by the terms and conditions of this Contract.

8. TITLE AND LIENS

- 8.1 Notwithstanding anything to the contrary in this Contract and notwithstanding any payments made, Seller shall retain title to the Licensed Program Material, including but not limited to, Sellers Intellectual Property and Confidential Information related to the same and otherwise, at all times.
- 8.2 Buyer shall represent and warrant to the Seller that such Licensed Program Materials provided in accordance with Clause 9 of this Contract shall remain at all times free from all liens and/or retention of title Claims from any Third Parties.
- 8.3 Buyer shall not claim any lien, charge or the like on the Licensed Program Materials and/or on any property of the Seller in the possession of Buyer or at the Site. Without prejudice to the provisions of this Clause, Buyer shall save, indemnify, defend and hold harmless the Seller Group from and against all liens, attachments, charges or claims on the property of the Seller by any member of the Buyer Group and/or any Third Parties.
- 8.4 Buyer shall promptly notify the Seller of any possible lien, attachment, charge or claim on Buyer, which affects the Licensed Program Materials or any part thereof.

9. LICENCE

- 9.1 Subject always to the provisions of Clause 8, and if applicable to the particular Goods specified in any Order, the Seller shall provide the Buyer with a non-exclusive, non-transferable license for a period of ninety nine (99) years from the Installation Date for such Licensed Program Material ("**License**"). Such Licensed Program Material shall only be permitted for use on the Goods provided under this Contract and shall not be sold, transferred, duplicated, copied or reproduced by the Buyer, the Buyer Group or any third party at any time.
- 9.2 Notwithstanding any other Clause in this Contract to the contrary, the Seller provides no warranty or representation (oral, implied, express or otherwise) on the operation of the Licensed Program Material, that the same will be uninterrupted or error free nor that the same will run efficiently on unauthorized machines. The Buyer shall be obliged to report any known errors in the Licensed Program Material in a timely manner, upon receipt of such information the Seller shall endeavour to correct the error via a method it deems appropriate, in its sole opinion acting reasonably.
- 9.3 Notwithstanding anything else to the contrary in this Contract, the Seller shall be entitled to terminate and/or revoke the License for convenience at any time upon notice to the Buyer. The Buyer shall thereafter, and in any case within thirty (30) days of such revocation and/or termination return all Licensed Program Material to the Buyer or allow a representative of the Seller to collect all Licensed Program Material from the Buyers Site.

10. WARRANTIES

- 10.1 Subject to the exceptions set forth in Clause 10.5, the Seller warrants the following:
- (a) the Seller has the legal right, power and authority to enter into this Contract for the provision of Goods and Services;
 - (b) the Goods will be built in accordance with the industry standards, and if applicable to certain Goods supplied, in accordance with specific well control training as required by the International Well Control Forum (IWCF), the IADC WellSharp accreditation program or any alliances or derivatives thereof including but not necessarily limited to the International Association of Drilling Contractors (IADC);
 - (c) the Seller shall provide the Warranty on the Goods and/or Services for the Warranty Period. For the avoidance of doubt, such Licensed Program Material shall not be included within the provisions of this Clause.
- 10.2 The Buyer shall report any breaches in Warranty expeditiously upon becoming aware of such breach. Upon receipt of such notice from the Buyer, the Seller shall remedy such breach of Warranty in a timely manner.
- 10.3 Warranty during the Warranty Period shall comprise of the following:



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10.3.1 Replacement Parts:

All replacement parts provided under the aforementioned Warranty shall be new or equivalent to new in performance. Such replacement parts shall be incorporated into the existing Warranty and shall not be subject to a renewed period of Warranty.

10.3.2 Technical Support:

Technical support shall be provided remotely in the first instance and if necessary thereafter either by the return of the Goods (or part thereof) to the Premises for onward diagnostics, repair and/or replacement, or by Site support.

10.4 Notwithstanding anything to the contrary in this Contract, the Seller shall have no liability to remedy a breach of Warranty, and any such Warranty shall become null and void where such breach arises as a result of any of the following circumstances:

- (a) the improper use operation or neglect of the Goods;
- (b) any modification of any Goods (in whole or in part);
- (c) the use of any Goods on equipment not recommended by the Seller;
- (d) failure to timely report a breach of warranty and/or a fault in the Goods;
- (e) any repair adjustment alteration or modification of the Goods by a third party;
- (f) any breach by the Buyer of any of its obligations in respect of the Goods;
- (g) Buyers failure to update the Goods as and when recommended by the Seller from time to time;
- (h) the use of the Goods for any other purpose for which they were not designed; and/or
- (i) loss of or damage to the Goods due to the fault of the Buyer.

10.5 Subject to the foregoing, all conditions, Warranty terms and undertakings (express or implied statutory or otherwise) in respect of Goods and/or Services are hereby excluded.

11. VARIATIONS

11.1 The Seller shall accept and perform variations reasonably requested by the Buyer which are within the scope, specification, quantity, delivery and/or ethos of this Contract. The Purchase Price shall be adjusted to reflect such variation having regard to the rates and prices used in the Contract or, where these are not relevant, to what is fair and reasonable.

11.2 Neither party shall be bound by any variation to the Contract unless and until it is confirmed by an official Order amendment issued by the Seller.

12. INDEMNITIES

12.1 Subject to any other provision of this Contract to the contrary, Seller shall release, defend, indemnify and hold harmless the Buyer Group from and against any and all Claims of every kind and nature, howsoever arising in respect of;

- (i) personal injury to or sickness, illness or disease or death of any person who is a member of the Seller Group;
- (ii) loss of or damage to any property procured, owned, hired or leased by Seller Group, unless such loss and/or damage is caused by the negligence, gross negligence and/or willful misconduct of the Buyer Group;
- (i) except as provided for elsewhere in the Contract, personal injury including death or disease or loss of or damage to the property of any Third Party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Seller Group;

as a result of, or arising out of or relating to or in connection with this Contract, except as expressly stated otherwise, irrespective of cause and irrespective of the negligence of any degree or character or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law, of the Buyer Group.

12.2 Buyer shall release, defend, indemnify and hold harmless the Seller Group from and against any and all Claims of every kind and nature, howsoever arising in respect of:-

- (i) personal injury to or sickness, illness or disease or death of any person who is a member of the Buyer Group;
- (ii) loss of or damage to any property procured, hired or leased or owned by the Buyer Group;
- (iii) personal injury including death or disease or loss of or damage to the property of any Third Party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of Buyer Group;

as a result of, or arising out of or relating to or in connection with this Contract, irrespective of cause and irrespective of the negligence of any degree or character or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law, of the Seller Group.

12.3 Buyer shall release, defend, indemnify and hold harmless the Seller Group from and against any and all Claims of every kind and nature (including the Claims of Third Parties), howsoever arising in respect of, any pollution and/or pollution or contamination or environmental damage at any property of Buyer, the Buyer Group and/or any Third Party, which arises out of or in connection



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with the sale, use or transportation of the Goods or otherwise, as a result of, or arising out of, or relating to, or in connection with this Contract, irrespective of cause and irrespective of the negligence of any degree or character or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law, of the Seller Group.

- 12.4 Except as otherwise provided herein, all exclusions and indemnities given under this Contract shall apply irrespective of cause and notwithstanding the negligence, gross negligence, wilful misconduct, breach of duty (whether statutory or otherwise) or other failure of any nature of the indemnified party or any other entity or party and shall apply irrespective of any Claim in tort, breach of Contract or otherwise at law.
- 12.5 If either Party becomes aware of any incident likely to give rise to a Claim under the above indemnities, it shall notify the other and both Parties shall co-operate fully in investigating the incident.
- 12.6 Subject to any other Clause to the contrary, the parties intend that no provision of the Contract shall, by virtue of the Contracts (Rights of Third Parties) Act 1999, confer any benefit on, nor be enforceable by any person who is not a party to the Contract.

13. CONSEQUENTIAL LOSS:

- 13.1 Notwithstanding any other provision in this Contract to the contrary but subject to and without affecting the payment obligations of the Buyer under this Contract, Seller shall be responsible for and shall release, defend, indemnify and hold harmless the Buyer Group from and against the Consequential Loss of any member of Seller Group, whether or not foreseeable at the date of entering into this Contract, irrespective of the negligence of any degree or character or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law.
- 13.2 Notwithstanding any other provision in this Contract to the contrary but subject to and without affecting the payment obligations of the Buyer under this Contract, Buyer shall be responsible for and shall release, defend, indemnify and hold harmless the Seller Group from and against the Consequential Loss of any member of Buyer Group, whether or not foreseeable at the date of entering into this Contract, irrespective of the negligence of any degree or character or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law.

14. INSURANCE

- 14.1 The Seller and the Buyer shall each maintain in force adequate insurance to cover their obligations under the terms of the Contract, and applicable statutory requirements, in particular (without prejudice to the generality of the foregoing), Employer's Liability Insurance, fully complying with all applicable laws, and Public Liability Insurance, and shall, on request, provide evidence that such insurances are in force.
- 14.2 All such insurances shall be placed with reputable and substantial insurers. All the insurance policies shall, to the extent of the liabilities assumed and indemnities given by the Seller to the Buyer hereunder, shall be written or endorsed with Seller Group as additional insured, or shall contain indemnity to principal provisions.

15. CONFIDENTIALITY

- 15.1 The Company and the Seller shall maintain the Confidential Information obtained from each other in connection with this Contract. Such Confidential Information shall not be disclosed to any third party and shall not otherwise be exploited commercially, except with prior written consent or as required by law or regulatory body. If the Seller or the Buyer is legally required to disclose any Confidential Information of the other, it will notify the other Party prior to making such disclosure and take all available steps to limit such disclosure. Notwithstanding the above, the restrictions stated above shall not apply to any such Confidential Information:
- (i) which was generally available to the public at the time of disclosure or at any time thereafter;
 - (ii) which was already known by the receiving Party at the time of disclosure;
 - (iii) which is independently developed by a Party; and/or
 - (iv) which becomes known to a party from a source other than the disclosing Party without breach of any contractual obligation.
- 15.2 Buyer shall inform Buyer's Group that the Goods and/or License Program Materials provided hereunder constitute Confidential Information of the Seller, and Buyer shall take all such reasonable steps as shall be necessary to ensure compliance by Buyer Group with the provisions of this Clause 16.
- 15.3 Information or data entered into the Goods and/or License Program Materials by Buyer may contain confidential information of Buyer and/or Buyer Group; in this event all such information shall be the exclusive property of Buyer Group. The Seller shall keep confidential such information and limit access to members of the Seller Group who either have a need to know or who are engaged in the use of the Goods and/or Licensed Program Material.
- 15.4 Data obtained by use of the Goods and/or Licensed Program Materials is for the exclusive use of Buyer and may not be made available to Third Parties either directly or indirectly.

16. INTELLECTUAL PROPERTY



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- 16.1 Neither Seller nor the Buyer shall have the right of use other than for the purposes of the Contract whether directly or indirectly, any Intellectual Property Rights of the other Party.
- 16.2 Where any potential patent or registrable right in any country in the world results from developments by Seller which are based wholly on data, equipment, processes, substances and the like in the possession of Seller, such rights shall vest with the Seller Group.
- 16.3 Buyer shall save, indemnify, defend and hold harmless Seller Group from all Claims of every kind and nature for any alleged infringement of any patent or proprietary or protected right of the Seller Group.
- 16.4 Buyer shall not be entitled to copy or manufacture in whole or in part any Goods and/or Licensed Program Materials. Breach of this Clause shall deem Contract immediately terminated and the Seller shall be entitled to enforce all such remedies at law.

17. FORCE MAJEURE

- 17.1 Neither Party shall be responsible for any failure to fulfil any term or condition of the Contract if and to the extent that fulfilment has been delayed, hindered, or temporarily prevented by Force Majeure, as hereunder defined, which has been notified in accordance with this Clause.
- 17.2 For the purposes of this Contract, Force Majeure shall be events, which are beyond the control and without the fault or negligence of the Party affected and which, by the exercise of reasonable diligence, the said Party is unable to provide against. Both Parties shall use their best endeavours to mitigate, avoid, circumvent or overcome the circumstances of force majeure. Force Majeure events shall include but not be limited to:
- (a) Riot, war, invasion, act of foreign enemies, hostilities (whether war be declared or not), acts of terrorism, civil war, rebellion, revolution, insurrection of military or usurped power;
 - (b) Ionising radiations or contamination by radio-activity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
 - (c) Pressure waves caused by aircraft or other aerial devices travelling at sonic or supersonic speeds;
 - (d) Earthquake, flood, fire, explosion and/or other natural physical disaster, including weather conditions as such, regardless of severity;
 - (e) Strikes or industrial disputes which affect a substantial or essential portion of the provision of Goods and/or Services under this Contract;
 - (f) Maritime or aviation disasters; and/or
 - (g) sanctions imposed on either Party hindering the Contract, export and/or import restrictions, which shall include but not be limited to any and all customs delays and other transportation delays out with the control of the Seller.
- 17.2 In the event that either Party hereto is rendered unable, wholly or in part, to carry out its obligation under this Contract due to Force Majeure or the results thereof, such Party shall give notice and details of Force Majeure in writing to the other Party as promptly as possible after its occurrence.
- 17.3 If the Seller shall have been delayed or impeded in the performance of its obligations under the Contract, whether the delay or impediment occurs before or after the time or extended time fixed for completion thereof, then the Seller shall be under no liability for failure to perform its obligations under this Contract. On removal of the Force Majeure occurrence the Seller shall be entitled to reschedule the Shipment of Goods and/or the performance of Services. Any delay on the part of a subcontractor which prevents the Seller from completing its obligations under the Contract within the time fixed therefore shall entitle the Seller to an extension of time therefore provided such delay was due to any cause for which the Seller itself would have been entitled to an extension of time under this Clause 18.
- 17.4 Notwithstanding that the Seller be entitled to an extension of time under Clause 17.4 above, should the Force Majeure occurrence exist for a period of one hundred and eighty (180) consecutive days, then either Party at any time thereafter, and provided performance is still delayed or impeded, by notice to the other, terminate this Contract.
- 17.5 Notwithstanding anything to the contrary under this Contract, an occurrence of Force Majeure shall not relieve the Buyer of its payment and compensation obligations under this Contract. In the event of termination under this Clause 18, the Seller shall be entitled to be compensated in accordance with the provisions of this Contract.

18. TERMINATION

- 18.1 This Contract may be terminated:
- (a) forthwith by the Seller if the Buyer fails to pay any undisputed sum due hereunto within 30 days of the due date;
 - (b) forthwith by either Party if the other commits a material breach of this Contract and which (in the case of a breach capable of being remedied) a Party failing to commence to remedy such breach within 30 days of



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a written request to remedy the same;

- (c) forthwith by either Party if the other Party applies for a voluntary arrangement within Part I of the Insolvency Act 1986;
- (d) forthwith by either Party if the other Party shall convene a meeting of its creditors or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction);
- (d) by the Seller in accordance with Clause 9.3;
- (e) in accordance with Clause 17.5 (Force Majeure); and/or
- (f) by the Seller, for convenience upon providing the Buyer thirty (30) days prior written notice.

- 18.2 Any termination of this Contract by the Seller pursuant to this Clause shall be without prejudice to any other rights or remedies the Seller may be entitled hereunto or at law and shall not affect any accrued rights or liabilities of Seller, notwithstanding the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- 18.3 Termination of this Contract by the Buyer shall be Buyer Group's sole and exclusive remedy under Contract and/or at law.
- 18.4 Upon termination of this Contract howsoever caused, Buyer shall within thirty (30) days of such termination return all License in its possession to the Seller at its own expense and a Representative of Buyer shall certify in writing to the Seller that it has complied with such obligation. The Seller shall always have the right to collect all License from the Buyer's possession.
- 18.5 In such event of termination under Clause 18.1, the Seller shall be entitled to remuneration for the Goods and/or Services provided in accordance with the provisions of this Contract up to the date of termination only.

19. INDEPENDENT CONTRACTOR

- 19.1 The Seller shall at all times during the term of the Contract be an independent contractor with respect to the Company, and nothing in the Contract shall be construed as creating, at any time, any other relationship between the parties hereto. The Seller shall at all times have complete control, as employer, over, and full responsibility for, its employees. None of its employees, servants or agents shall be considered, or in any way represent themselves, as being employees of the Buyer or be entitled to any of the benefits supplied by the Buyer to its own employees.

20. TAX

- 20.1 Each Party shall in accordance with the provision of Clause 20 be responsible for:
 - (a) the payment of all taxes and similar duties, levies, charges and contributions (and any interest or penalties thereon) for which a Party is liable as imposed by any appropriate government authority whether or not they are calculated by reference to the wages, salaries, benefits or expenses and other remuneration paid directly or indirectly to persons engaged or employed by a Party or their respective Group; and
 - (b) the payment of all taxes and similar duties, levies, charges and contributions (and any interest or penalties thereon) including but not limited to income, profits, corporation taxes and taxes on capital gains, turnover and added value taxes for which a Party is liable, arising from this Contract; and
 - (c) compliance with all statutory obligations to make deductions on account of and remit the required amounts to any appropriate government authority, including, but not limited to income tax, national insurance, employee taxes, charges, social security costs, levies and contributions whether or not they are measured by the wages, salaries or other remuneration or benefits paid to persons employed by a Party or a member of their respective Group, or persons providing services in connection with the Contract, and the imposition of a similar obligation upon any subcontractor and/or any other person employed by them or providing services to them in connection with the Contract.
- 20.2 All prices quoted in respect of this Contract are exclusive of all taxes, duties, levies, charges and contributions (and any interest or penalties thereon) unless otherwise stated.
- 20.3 Buyer shall save, indemnify, defend and hold harmless Seller against all levies, charges, contributions and taxes of the type referred to in Clause 20.1 and any interest or penalty thereon which may be assessed, by any appropriate government authority on Buyer in connection with the Contract and from all reasonable costs properly incurred in connection therewith.
- 20.4 If a Party receives a notice requiring it to pay any levies, charges, contributions or taxes of the types referred to in Clause 20.1 and/or any interest or penalty thereon whether with respect to the other Party, such Party shall forthwith notify the other who shall work to make all reasonable endeavours to make any valid appeal against such payment. In the event that the receiving Party is ultimately required to make such payment, such Party may recover any such sums and all reasonable costs directly and properly



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incurred in connection therewith and/or deduct such sums from any monies due, or which may become due under this Contract. Notwithstanding any provision to the contrary, if any such withholding occurs, such Party shall furnish, within thirty (30) days of such withholding, official tax receipts evidencing payment of the amounts so withheld to the proper tax authorities. If such Party fails to furnish such official tax receipts within thirty (30) days of such withholding, such Party shall immediately reimburse Party for any such amounts withheld and shall bear the burden of any additional tax on said reimbursement, as well as, any interest, fines and penalties assessed resulting from a failure to remit said withholding tax to the appropriate tax authorities in a timely manner, or failure to provide such official tax receipts within the time period stated above.

- 20.5 Seller shall save, indemnify, defend and hold harmless Buyer Group against all levies, charges, contributions and taxes and any interest or penalty thereon which may be assessed, by any appropriate government authority on Seller in connection with the Contract and from all costs incurred in connection therewith, other than those taxes and other matters referred to above for which Seller is responsible under the Contract and which the provisions of this Clause allow Seller to recover from Buyer, if any.
- 20.6 Buyer shall reimburse Seller for the actual documented cost of Import / Export / Re- Export / duties, levies, fees and assessments of a similar nature together with related charges (including but not limited to interest, penalties and legal and professional fees) resulting from performance of this Contract that are paid by Seller Group to any appropriate government authority.

21. HEALTH, SAFETY AND ENVIRONMENT

- 21.1 The Seller shall at all times whilst attending or working on any Site fully comply with all relevant health, safety and environmental laws, rules, procedures and regulations. Prior to attending or working on the Site the Seller shall familiarise itself with all such regulations, which shall have been provided by the Buyer prior to the Sellers arrival on Site.

22. AUDIT AND INSPECTION

- 22.1 The Seller shall perform routine inspections and audit of the Goods and/or Licensed Program Materials to ensure that they are being used in accordance with Seller's instruction. Seller Personnel shall be granted access to the Site at all such reasonable times, upon prior written notice to the Buyer. For the avoidance of doubt, such inspection shall not constitute the provision of maintenance, installation or repair Services.

23. INTERPRETATION

23.1 ASSIGNATION, SUBCONTRACTING AND SUB-LICENSING

The Seller shall be entitled to assign or novate this Contract in whole or in part to an Affiliate or any Third Party upon prior written notice to the Buyer. The Seller undertakes in the event of an amalgamation or merger with or take over by a Third Party of the Seller or any other restructuring or reorganisation thereof to take all reasonable measures to ensure that its obligations under this Contract shall be novated fully to the new party.

In addition, the Seller may subcontract the supply of materials, equipment, parts and services to its subcontractors and suppliers without the consent of the Buyer.

Buyer shall not be entitled to assign this Contract nor any of its rights or obligations hereunder nor sub-licence the use (in whole or in part) of the Goods, Licence Program Materials and/or Services except to an Affiliate of Buyer in which instance Buyer will seek the consent of the Seller, such consent shall not be unreasonably withheld or delayed.

23.2 RELATIONSHIP

Neither Party is the partner, joint venture, agent nor representative of the other Party. Buyer is an independent body. There is no employment relationship between the Parties. Neither Party has the authority to make any representations or warranties or incur any obligations or liabilities on behalf of the other Party.

23.3 WAIVER

No failure on the part of either at any time or from time to time to enforce or to require the adherence and performance of any of the terms or conditions of the Contract shall constitute a waiver of such terms or conditions and/or affect or impair such terms or conditions in any way or the right of either Party at any time avail itself of such remedies as it may have for each and every breach of such terms and conditions.

23.4 AMENDMENT

No amendment shall be effective unless produced in writing by both Parties and signed by their duly authorised representatives.

23.5 ENTIRE CONTRACT

The Contract represents the entire agreement between the Parties and shall supersede all prior representations, agreements, statements and understandings made prior to the date of commencement of the Contract whether oral or in writing other than those representations, agreements, statements and understandings which have been expressly incorporated in the Contract. The Seller shall not be liable to



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Buyer for loss arising from or in connection with any representations, contracts, statements or undertakings made prior to the Contract date other than those representations, contracts, statements or undertakings expressly incorporated or referred to in this Contract.

23.6 LAW

This Contract is governed and construed in accordance with the laws of England and Wales.

23.7 DISPUTE RESOLUTION

The Parties agree that any and all disputes or controversies that may arise between the parties arising out of or related to this Contract shall be determined by binding arbitration. Any such arbitration shall be determined before the London Court of International Arbitration ("LCIA") in accordance with the LCIA rules then in effect with each Party nominating one arbiter and the two arbiters nominating a third, and that any arbitration proceedings shall be held in London, England, UK. Judgment upon arbitration awards may be entered in any court, state or federal, having jurisdiction.

23.8 HEADINGS

The headings and index including hereto are for ease of convenience only, and in no way effect the interpretation of the Contract.

23.9 SURVIVAL

Any provision of the Contract which is expressed or intended to have effect on, or to continue in force after, the expiry or termination of the Contract will have such effect, or, as the case may be, continue in force after such expiry or termination. Without prejudice to the generality of the foregoing, the obligations under Clauses 8, 10, 12, 13, 14, 15, 16, 17, 23.11 and the Sellers compliance schedules (as provided to the Buyer) shall survive the expiry or termination of the Contract.

23.10 SEVERENCE

If any provision of the Contract is to any extent invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby and each of the provisions of the Contract will be valid, legal and enforceable to the fullest extent permitted by law or replaced by such valid, legal and enforceable provision which comes closest to the parties' original intent. The same applies in the event of omissions in the Contract.

23.11 SANCTIONS, RESTRICTED DESTINATIONS AND COMPLIANCE

The Buyer shall at all times abide by and comply with the provisions of the Sellers (Business Ethics and Sanction Restrictions).

The Seller may terminate this Contract issued hereunder in the event that it determines, in its sole discretion exercised in good faith, that Buyer has violated the representations set out herein and Buyer shall indemnify and hold Seller Group harmless from any Claims that may incur as a result of such a violation.

The Parties agree that this Clause 23.11 is a material provision of this Contract.

The Goods and/or Services may contain materials and/ or technical data from many sources including the United Kingdom, the European Union and the United States of America. Buyer agrees to fully comply with all economic sanctions and export control laws and regulations of those jurisdictions in relation to the Goods and/or Services supplied. In addition, and without prejudice to any other provisions of this Contract, Buyer shall not, directly or indirectly, sell, provide, export, re-export, transfer, divert, loan, lease, consign or otherwise dispose of the Goods and/or Services or any part thereof, to or via any person, entity or destination, or for any activity or end-use restricted by the laws or regulations of those jurisdictions without first obtaining all required government authorizations.

23.12 NOTICE

Any notice, request, instruction or other document to be given hereunder shall be in writing and delivered or sent by first class post or by e-mail or fax (such e-mail or fax notice to be confirmed by letter posted within 48 hours) to the undernoted addresses of the other Party set out in this Contract (or such other address as may have been notified from time to time) and any such notice or document shall be deemed to have been served (if delivered) at the time of delivery (if sent by post) upon the expiration of 7 days after posting and (if sent by e-mail or fax) upon the expiration of 48 hours after successful dispatch.

For and on behalf of Buyer:

Name:
Address:
Telephone:
Email:
Fax:

For and on behalf of Seller:

Name:
Address:
Telephone:
Email:
Fax:

23.13 REPRESENTATIVES

Both Parties shall appoint a representative, as follows:



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Seller's Representatives shall be:

Name:
Title
Address:
Email:
Tel:
Mobile:
Fax:

Buyer's Representatives shall be:

Name:
Title
Address:
Email:
Tel:
Mobile:
Fax:

23.14 ENGLISH LANGUAGE

This Contract shall be articulated in and governed by the English language. All notices and communications between the Parties concerning anything relating to this Contract shall be conveyed in the English language. Where documents, notices or communications between the Parties are articulated in more than one language, then the English language version shall prevail in all instances.

23.15 LIMITATION OF LIABILITY

The total cumulative liability of the Seller and/or the Seller Group to the Buyer and/or Buyer group under this Contract shall under no circumstances exceed the total Purchase Price. Provided however, that such limitation of liability shall not apply to any liabilities assumed by the Seller under Clause 12 (Indemnities), Clause 13 (Consequential Loss) or Clause 14 (Insurance).