

IMES Ltd

General Conditions of Sale

between

IMES Ltd (Supplier)

and

XXX Limited (Purchaser)

This Agreement for General Conditions of Sale (hereinafter referred to as this "Agreement") is made, and is effective from, this **(DATE)** day of **(MONTH) (YEAR)** between IMES Ltd registered in Scotland and having its registered address at Greenhole Park, Greenhole Place, Bridge of Don, Aberdeen, AB23 8EU (hereinafter referred to as the "Supplier") and **XXXXXXXX** Limited (registered in **England/Scotland** No.: **000000**) whose office is situated at **XXXXXXXX** (hereinafter referred to as "Purchaser").

WHEREAS Supplier and Purchaser are the parties to this Agreement it is agreed and intended that this Agreement may be used by either of their respective parent, subsidiary or affiliated companies by referencing this Agreement in any Order placed by the parent, subsidiary or affiliated company of Purchaser and accepted by the relevant parent, subsidiary or affiliated company of Supplier.

1. Prevailing Effect of this Agreement

- 1.1 The terms and conditions of this Agreement shall apply and shall be incorporated by reference in any written Purchase Order issued by the Purchaser hereunder and shall prevail at all times between the Parties over any other terms and conditions with respect to the sale and purchase of Goods except as modified, supplemented or amended pursuant to Clause 22 hereof.
- 1.2 Nothing in this Agreement shall obligate the Purchaser to order any Goods from Supplier nor shall Supplier be obligated to accept any Purchase Order issued by the Purchaser hereunder.
- 1.3 The duration of this Agreement shall be for two years from the date of execution hereof with two options for extension, each of twenty-four months, to be exercised by the Purchaser not later than three months prior to the expiry of this Agreement or any subsequent extension.

2. Definitions

- 2.1 "Purchaser" shall mean **(PURCHASER COMPANY NAME)** or any parent, subsidiary or affiliated firm or company named as the purchaser of the Goods on the face of the Purchase Order.
- 2.2 "Purchaser Group" shall mean and include the Purchaser, its parent, subsidiary and associated companies, its Client and its other contractors, sub-contractors and suppliers of any tier excluding Supplier Group and its and their respective officers, directors, employees, agents, servants and insurers.
- 2.3 "Supplier" shall mean IMES Ltd or any parent, subsidiary or affiliated firm or company to whom the Purchaser has addressed the Purchase Order.
- 2.4 "Supplier Group" shall mean and include Supplier, its parent, subsidiary and associated companies, its and their other contractors, sub-contractors and suppliers of any tier excluding Purchaser Group and its and their respective officers, directors, employees, agents, servants and insurers.
- 2.5 "Client" shall mean the person, firm or company to whom the Purchaser is providing its services under contract.
- 2.6 "Goods" shall mean the equipment, products or materials to be provided by Supplier in accordance with and as specified in the Purchase Order.
- 2.7 "Party" shall mean either the Purchaser or the Supplier as may be applicable. "Parties" shall mean both Purchaser and Supplier.

2.8 "Purchase Order" shall mean the written instruction issued by the Purchaser to, and accepted by, Supplier for the provision of Goods and any subsequent written amendment thereto accepted by both Parties. Such Purchase Order shall detail the Goods that the Purchaser requires to purchase, quantities and detailed specification, applicable prices, inspection and quality assurance requirements, delivery date, delivery point, and any special conditions applicable to the Purchase Order.

3. Delivery Date

Supplier shall use reasonable endeavours to deliver the Goods at or prior to the time for delivery specified in the Purchase Order. Supplier shall give written notice to the Purchaser as soon as practicable after Supplier becomes aware that delivery is likely to be delayed (and in any event no later than forty-eight hours after becoming aware of the circumstances of delay).

4. Delivery, Packing and Quality Assurance

4.1 Delivery shall be governed by and construed in accordance with the provisions of "Incoterms 2000" published by the International Chamber of Commerce, as may be amended from time to time. In the event of conflict between the provisions of Incoterms 2000 and any Purchase Order, the provisions of the Purchase Order shall prevail. All Goods supplied under any Purchase Order shall be delivered "Ex Works" unless otherwise expressly stipulated in the Purchase Order. The Goods must be delivered at the named place of delivery specified in the Purchase Order. If the Goods are incorrectly delivered, any additional expense incurred in handling and delivery of the Goods to their correct destination shall be borne by the Supplier.

4.2 Goods shall be adequately packed, palletised and protected to withstand transit and short-term storage. Packages shall be clearly and conspicuously marked with the Purchase Order number. If applicable, all packing of hazardous materials must comply with applicable regulations and Dangerous Goods shall be accompanied by the relevant materials data safety sheet.

Supplier shall, on request, supply to the Purchaser any required certification including, without limitation, any necessary declaration and documents stating the origin of the Goods.

4.3 Supplier shall:

(a) Have an implemented and documented Quality Assurance Program meeting the requirements of the applicable ISO standard or other internationally recognised standard of the same level and conforming to applicable laws and regulations and shall have a nominated person within its organisation responsible for quality assurance matters.

(b) Permit the Purchaser at any reasonable time to conduct a quality audit in relation to any of the foregoing requirements.

5. Risk and Property

5.1 Title to and risk in the Goods shall remain with Supplier and shall only pass to the Purchaser following full or partial delivery of the Goods to the delivery address specified in the Order. Time, method, place and medium of payment shall not limit in any way the Supplier's rights in and to the Goods until payment has been received in full by the Supplier.

5.2 Whenever the Purchaser is not the ultimate consumer of the Goods, all rights, benefits and remedies conferred upon the Purchaser by this Agreement including specifically the benefit of any

warranties and transfer of title, shall accrue to and are for the express benefit of the Purchaser's Client.

- 5.3 Supplier shall ensure that all necessary service manuals, data books, materials safety data sheets and/or any third party certifications are complete and are delivered with the Goods or at such other time as specified in the Purchase Order.

6. Access to Supplier's Manufacturing Premises

The Purchaser shall have reasonable rights of access to Supplier's premises to inspect the progress of manufacture, testing and commissioning of the Goods and to otherwise satisfy itself as to compliance of the Goods with the Purchase Order provided purchasers representatives adhere to all safety regulations applicable at the Suppliers premises and are accompanied at all times by appropriate Suppliers personnel. Payment of Goods prior to inspection shall not constitute acceptance thereof.

7. Acceptance

The Purchaser shall have the right to reject any Goods not conforming to the requirements of the Purchase Order within a reasonable time of delivery. In the case of Goods rejected by the Purchaser due to fault or non-conformance with the Purchase Order the costs of the return of the rejected Goods to the Supplier shall be borne by the Supplier.

8. Suspension

- 8.1 The Purchaser may, at its sole discretion, suspend a Purchase Order at any time for any reason whatsoever. In such event, Supplier shall have the right to receive payment in accordance with such Purchase Order for all Goods supplied to the Purchaser prior to the date of suspension and a fair and reasonable valuation for those Goods in course of manufacture at the date of suspension together with such other reasonable unavoidable charges that arise directly from such suspension.

- 8.2 In the event of suspension of a Purchase Order, the Goods being supplied under such Purchase Order shall either be delivered to the named place of delivery or, subject to the agreement of Supplier, shall be securely and separately stored at Supplier's premises and marked as the property of the Purchaser until either the manufacture and/or provision of such Goods is resumed or the Purchaser terminates the Purchase Order and instructs Supplier with regard to the disposal of the Goods stored.

- 8.3 The Purchaser may by notice instruct the Supplier to reactivate the Purchase Order; the Supplier will advise Purchaser of the effect on delivery and cost resulting from Suspension.

9. Termination

- 9.1 Each Party reserves the right to terminate any Purchase Order with immediate effect if (a) the other Party is in default of any of its material obligations under this Agreement or under the relevant Purchase Order; or, (b) the other Party becomes apparently insolvent, is wound up (other than for purposes of reconstruction while solvent), suffers a liquidator, receiver or administrator to be appointed to its undertaking, or any part thereof, or enters into any composition with its creditors.

- 9.2 The Purchaser may terminate a Purchase Order at any time for any reason whatsoever by giving Supplier written notice to that effect. On receipt of such notice, Supplier shall immediately cease

manufacture and/or supply of the Goods under the Purchase Order. In such event, Supplier shall have the right to be paid in accordance with the Purchase Order for all Goods supplied to the Purchaser prior to the date of termination and a fair and reasonable valuation for those Goods in course of manufacture at the date of termination, together with such other reasonable and unavoidable charges that arise directly from such termination.

10. Price and Payment

- 10.1 The Purchaser shall, in consideration of delivery of the Goods by Supplier in accordance with the Purchase Order, pay to Supplier the price stipulated in the Purchase Order. Neither Party may alter the price without the prior written agreement of the other Party.
- 10.2 Supplier shall submit its invoices in respect of the sale and purchase of the Goods following delivery of such Goods to the Purchaser. All invoices shall be accompanied by relevant supporting documentation including, by way of example, dispatch and acceptance notes, bills of lading, copies of reimbursable third party charges.
- 10.3 The Purchaser shall make payment of the approved amounts of such invoices within thirty (30) days from the date of receipt by the Purchaser. If the Purchaser disputes any part of the invoice it, shall notify Supplier of such dispute and shall be entitled to withhold payment of the disputed part but shall, upon receipt of a credit note for the disputed portion of the invoice, pay the undisputed portion thereof. Supplier and the Purchaser shall endeavour to settle the disputed amount as quickly as possible. Following settlement, Supplier shall issue an invoice for the amount, if any, agreed and Purchaser shall make payment of such amount as soon as reasonably practicable thereafter.
- 10.4 Interest shall be payable for late payment of correctly prepared and supported invoices and shall be calculated on a daily basis at the Bank of England Base Rate plus three percent (3%) from the due date for payment until actual payment in full.
- 10.5 Supplier shall submit its final invoice in respect of the sale of Goods under any Purchase Order within ninety (90) days of date of delivery of the Goods or the date termination of the Purchase Order, whichever is the earlier.

11. Tax

- 11.1 Each Party shall, in respect of any taxes of any nature whatsoever incurred, due or owing by such Party, indemnify and hold harmless the other Party from and against any claims, penalties, expenses, liabilities, costs (including legal costs) against the other Party arising out of or in connection with such Purchase Order.
- 11.2 The Rates and Charges quoted in any Purchase Order shall be quoted exclusive of Value Added Tax (VAT) and Supplier shall, wherever applicable, show the proper amount of VAT as a separate item on any invoice submitted in connection with any Purchase Order.

12. Liabilities and Indemnities

- 12.1 Supplier and the Purchaser shall each be responsible for and shall release, defend, indemnify and hold harmless the Purchaser Group and the Supplier Group respectively, from and against any and all claims, liabilities, costs (including legal costs), damages and expenses of every kind and nature howsoever arising in respect of (i) personal injury to or sickness, illness, disease or death of any member of their respective Group; and, (ii) loss of or damage to any property procured, owned,

hired or leased by their respective Group, as a result of or arising out of or relating to or in connection with any Purchase Order, irrespective of cause and irrespective of the sole or contributory negligence or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law, of the Purchaser Group or the Supplier Group, as the case may be.

- 12.2 Each Party shall be responsible for and shall release, defend, indemnify and hold harmless the other party and its Group from and against all claims, proceedings, damages, expenses, liabilities and losses, including (without limitation) costs and legal fees arising out of or in connection with (a) personal injuries to, including death of, and (b) loss or damage suffered by any third party, not being a member of either the Purchaser Group or the Supplier Group, including property damage to property arising out of or in connection with this Purchase Order, to the extent that such injury or death, loss or damage was attributable to the negligence of a Party or to its Group.
- 12.3 The Purchaser shall release, defend, indemnify and hold harmless the Supplier Group from and against any and all claims, liabilities, costs (including legal costs), damages and expenses of every kind and nature howsoever arising in respect of (i) loss of or damage to the well (including casing and associated materials and services), any subsurface reservoir, geological formation or strata and for loss of any oil or gas or other minerals or liquids therefrom; and, (ii) blow-out, cratering, fire, explosion and/or killing or control of any well which shall have become out of control for any reason, including but not limited to debris removal; and, (iii) pollution or seepage emanating from the reservoir and its removal and clean up as a result of or arising out of or relating to or in connection with any Purchase Order, irrespective of cause and irrespective of the sole or contributory negligence or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law of the Supplier Group.
- 12.4 Notwithstanding any other provision herein to the contrary, Supplier and the Purchaser shall each be responsible for and shall release, defend, indemnify and hold harmless the Purchaser Group and the Supplier Group respectively, from and against any and all liability howsoever arising, whether or not foreseeable at the date of entering into the Purchase Order, in respect of its own indirect or consequential losses, including but not limited to consequential loss under applicable law, business interruption, loss of production, loss of product, loss of use, facility downtime, loss of revenue, loss of profit or anticipated profit, as a result or arising out of or relating to or in connection with any Purchase Order, irrespective of cause and irrespective of the sole or contributory negligence or breach of duty (contractual, statutory or otherwise) or any liability in tort, contract, statute or otherwise at law of the Purchaser Group or the Supplier Group, as the case may be.
- 12.5 The provisions of The Contracts (Rights of Third Parties) Act, 1999 shall apply solely to Clause 12 of this Agreement but only to the extent that a third party is identified in either Clause 2.2 or Clause 2.4. Such third party shall be entitled in its own right to enforce, but not assign, the benefit only of the indemnities given to such third party under this Clause 12. This Agreement may be rescinded or varied by the Parties without the consent of any third party even if as a result such third party's rights or benefits would be varied or extinguished.
- 12.6 For the purposes of this Clause 12 Client's other contractors are considered part of the Purchaser Group only insofar as Purchaser has received a reciprocal indemnity on behalf of such other contractors in the applicable contract with its Client.
- 12.7 Both parties shall effect and maintain with a first class insurance company, policies of insurance adequate to cover their liabilities herein and to fulfil any requirements of government or other appropriate bodies to the extent applicable

13. Warranty

Except as otherwise provided in this Clause 13, Supplier makes no warranty, either express or implied (including without limitation, implied warranties of merchantability and/or fitness for a particular purpose).

- 13.1 Supplier warrants and guarantees that (i) all Goods shall be supplied in accordance with the provisions of the Purchase Order with regard to quality, specification, quantity and measurement and that the Goods shall be of high quality and workmanship within recognised industry standards and free from defects in material and workmanship; and, (ii) Supplier shall convey clear title to the Goods free of any lien, encumbrance or security interest upon delivery of the Goods to the delivery address specified in the Purchase Order.

All warranties and guarantees shall survive inspection, test, acceptance of and payment for the Goods, and shall accrue to the Purchaser, its successors and assigns and any end user of the Goods.

- 13.2 Supplier, as its sole and exclusive liability hereunder, undertakes to repair or replace any of the Goods which fail or are found to be defective for a period of eighteen (18) months from date of delivery or twelve (12) months from the date of installation, whichever is the earlier, provided that Supplier has access to goods within the above warranty periods. All transportation cost of materials and equipment replaced or repaired by the Supplier under its warranty shall be borne by the Supplier.

Notwithstanding the foregoing, retrieval and re-installation of defective materials or equipment shall be the responsibility of and for the account of the Purchaser.

Supplier shall not be liable for (i) the costs of routine maintenance of the Goods; and, (ii) the costs of correction of any defects which result from either (a) incorrect installation or operation by the Purchaser or end user (including the use of non standard parts); or (b) normal wear and tear; or, (c) actual operating conditions being different from those specified in the Purchase Order; or (d) damage to the Goods whilst in storage or transit, except where such damage is due inadequate packaging of the Goods.

14. Specification Changes

- 14.1 The Purchaser may, at any time, make changes within the general scope of the Purchase Order by giving written notice to Supplier. Such changes may include changes to the technical specification of the Goods (where such Goods are manufactured to order), quantities, method of shipping and/or packing, inspection standards and place of delivery. The Purchaser and Supplier shall agree upon any adjustments to the price and/or delivery date that may be occasioned by any such change. Any agreed changes to specification; price or delivery shall be confirmed and agreed in writing by the Parties by the issue of a new or revised Purchase Order.

15. Patent Indemnity

- 15.1 Supplier shall indemnify the Purchaser and its Client from and against any claim by a third party for infringement of patents, copyrights, trademarks, registered designs or other proprietary rights which may arise out of the sale and/or use of the Goods supplied by Supplier.

This indemnity shall not extend to instances in which the Goods concerned have been supplied to the design of the Purchaser.

- 15.2 The Purchaser shall not have the right of use, except as permitted by this Agreement or by any Purchase Order, of any patent, copyright, proprietary right or confidential know-how, trademark or process relating to the Goods provided by Supplier. All intellectual property rights relating to the Goods shall remain with Supplier.
- 15.3 Supplier may develop valuable information, data and know-how relating to the Goods in the course of or by reason of the provision of the Goods. All such intellectual property or information, including any patent or registrable rights, shall vest solely with Supplier, without any claim thereon by the Purchaser or its Client or its or their employees.
- 15.4 All Purchaser information provided by Purchaser to Supplier in relation to any Order and the intellectual property rights therein shall remain the property of Purchaser and shall not be used, reproduced or adapted or divulged to any person except to employees of Supplier or Supplier's authorised subcontractors for the purpose of carrying out the Order.

16. Confidential Information and Publicity

- 16.1 All information obtained by either Party in connection with the performance of any Order shall be held confidential, for a period of five (5) years and shall not, without the prior written consent of the other Party, be divulged to any third party unless such information is already in the public domain or is required to be disclosed by the other Party in order to comply with any statutory obligation.
- 16.2 Neither Party shall make use of the other Party's name (or the name of the Client of the Purchaser) for publicity purposes, and shall not publish or permit to be published any information or photographs in connection with its performance of any Order without the prior written consent of the other Party.

17. Force Majeure

- 17.1 No failure or omission by either Party to carry out or observe any of the stipulations, conditions or obligations to be performed under any Purchase Order shall give rise to any claim by the other Party, or be deemed to be a breach of contract, if such failure or omission arises from a cause beyond the reasonable control of the Party claiming force majeure. For the avoidance of doubt, force majeure expressly excludes financial distress of a Party or industrial disputes solely amongst the employees of the Party claiming force majeure.
- 17.2 Notwithstanding the occurrence of an event of force majeure, the Purchaser shall remain liable for payment of all monies due to Supplier in respect of Goods delivered to, or in a deliverable state, prior to the date of force majeure.

18. Audit

- 18.1 Supplier shall maintain records of all transactions connected with any Purchase Order for a period of not less than twenty four (24) months after the date that final payment has been made by the Purchaser to Supplier under any such Purchase Order. The Purchaser shall have the right to audit all reimbursable costs and expenses related to any such Purchase Order to the exception of the make up of rates and lump sums.
- 18.2 The right to conduct audits in accordance with the provisions of Clause 18.1 shall extend to the Purchaser's client.

19. Assignment

- 19.1 Except as provided below, Supplier shall not, other than to an affiliated or subsidiary company, assign or sub-contract any part of the Order without the prior written approval of the Purchaser, which approval shall not be unreasonably withheld or delayed.
- 19.2 Supplier may procure raw materials and component parts of the Goods from recognised sources of supply, provided always that Supplier remains responsible and liable to the Purchaser for the Goods to be provided under any Purchase Order to the same extent that Supplier would otherwise have been responsible or liable if Supplier itself had manufactured such component parts.
- 19.3 The Purchaser shall have the right to assign any Purchase Order to the Client on whose behalf the Goods have been purchased.

20. Entire Agreement

This Agreement, together with the Purchase Order and any subsequent amendments or special conditions, represents the entire agreement between the Purchaser and Supplier.

21. Compliance with Laws and Regulations

Each Party shall comply with all laws, rules, regulations or directives of any government authority having jurisdiction over the activities of a Party which are effective at the date of any Purchase Order or which may in the future become applicable to the business of a Party and subject to the provisions of Clause 12 shall release, defend and indemnify the other Party against any fines and penalties which may be asserted or assessed against the indemnifying Party by reason of its infraction of such laws, rules, regulations or directives.

22. Special Conditions

Where special conditions, including modified, supplemental and/or amended terms and conditions are incorporated in any amendment to this Agreement or in any Purchase Order such special conditions shall apply equally with this Agreement except where there is any inconsistency between this Agreement and such special conditions, in which event such special conditions shall apply.

In no event shall either Party's terms and conditions supersede or prevail over this Agreement unless otherwise expressly agreed in writing by the Parties.

23. General Provisions

- 23.1 The headings used in this Agreement are intended for convenience only and shall not form part of, or be used in the construction or interpretation hereof.
- 23.2 Words importing the singular only shall also include the plural and vice versa where the context so requires.
- 23.3 No failure by either Party to enforce all or any part of this Agreement shall be interpreted as a waiver of all or any part of this Agreement unless such waiver is expressly given in writing.

- 23.4 Any provision of this Agreement 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.
- 23.5 In the event any act required under this Agreement is inconsistent with, penalised by or prohibited under the laws of England or 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 this Agreement construed as if such obligation had not been set forth herein.
- 23.6 Subject to the provisions of Clause 12, unless otherwise specifically stated in this Agreement, both Purchaser and Supplier shall retain all rights and remedies under this Agreement that either Party may have against the other.
- 23.7 Both Purchaser and Supplier shall take all reasonable steps to mitigate any loss resulting from any breach of this Agreement by the other Party.
- 23.8 Any exclusion or limitation of liability under this Agreement shall exclude or limit such liability not only in contract but also in tort or otherwise at law.

24. Notices

All notices and other communications provided for in this Agreement shall be in writing and shall be delivered by post, fax, electronic mail (subject to read receipt being given) or hand to an authorised representative of the Party to whom such notice is directed at the address shown on any Purchase Order or to the address of the registered office or such other address as may, from time to time, be notified to the other Party. Any notices served shall be deemed effective upon actual receipt by the receiving Party.

25. Status of the Parties

- 25.1 Supplier shall look only to the Purchaser for the due performance of any Purchase Order and nothing therein contained shall impose any liability upon, or entitle Supplier to commence any proceedings against the Client of the Purchaser.
- 25.2 The Purchaser shall be entitled to enforce any Purchase Order on behalf of its Client in connection with the Purchase Order as well as for itself and, for this purpose, only the Purchaser may commence proceedings against Supplier.
- 25.3 It is expressly understood that Supplier is an independent Supplier and that neither Supplier nor anyone employed by Supplier shall be deemed for any purpose to be an employee, agent, servant or representative of Purchaser.

26. Survival

Following termination or fulfilment of the obligations of the Parties under any Purchase Order, the rights and obligations of the Parties that by their nature survive termination shall remain in full force and effect.

27. Law and Disputes

27.1 This Agreement, together with any Purchase Order, shall be governed, construed and interpreted and shall take effect in accordance with English Law excluding any conflict laws or choice of law principles.

27.2 Should a dispute arise between the Purchaser and the Supplier out of or in connection with this Agreement or any Purchase Order, the Parties shall initially endeavour to resolve such dispute via their appointed representatives, failing which the dispute shall then be referred to the Managing Directors of the Parties. Should the dispute still remain unresolved then the dispute shall then be submitted to the exclusive jurisdiction of the English Courts.

28. Export Compliance

Supplier agrees that, in its performance under any Purchase Order issued hereunder, it is solely responsible for required compliance with the import and export laws and regulations of the United Kingdom and those of any other jurisdiction or country as may be applicable.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement for General Conditions of Sale as of the date first above written.

Signed:

Name:

Title

for **(Supplier) IMES Ltd**

Signed:

Name:

Title:

for **(Purchaser)**