

P R MARRIOTT DRILLING LIMITED
TERMS AND CONDITIONS OF PURCHASE
(PRODUCTS AND SERVICES)

Unless otherwise agreed to in writing, the following provisions apply to all
PRMD purchase orders:

1. Definitions

In this document the following words shall have the following meanings:

- **“Agreement”** means the contractual agreement between the Buyer and the Supplier for the sale and purchase of the Goods and/or Services being comprised solely of these terms and conditions together with the terms of the applicable Purchase Order;
- **“Buyer”** means P R Marriott Drilling Limited, Spring Water House, Old Pit Lane, Danesmoor, Chesterfield, Derbyshire, England, S45 9BQ, or any other member of the Buyers group of subsidiary companies;
- **“Claims”** means all claims, costs (including reasonable legal costs), damages, debts, demands, expenses, fines, interest and awards (including legal expenses), liabilities, liens, losses, obligations, penalties, remedies and causes of action of any kind and sums paid by settlement or compromise.
- **“Goods”** mean any goods, materials, machinery, equipment, articles specified in the Purchase Order, including any goods supplied to the Buyer in connection with the supply of Services to the Buyer;
- **“Intellectual Property Rights”** means all patents, registered and unregistered designs, copyright, trademarks, know-how and all other forms of intellectual property wherever in the world enforceable;
- **“Purchase Order”** means the standard Buyer document which includes or is attached to a statement of work describing the Goods and/or Services to be provided by the Supplier;
- **“Services”** means any works or services to be provided by the Supplier to the Buyer as specified in the Purchase Order;
- **“Supplier”** means the person, consultant, sole trader, firm or company with whom Buyer contracts for the supply of Goods or Services (including its successors and agreed assignees);

- **“Supplier Personnel”** means any employee or contractor supplied by the Supplier to provide services.

2. General

- The Agreement contains all the agreed contractual terms between the Buyer and the Supplier in relation to the purchase/supply of the relevant Goods and/or Services. Any and all other terms and conditions (including without limitation, any terms and conditions which the Supplier purports to apply under any previous or subsequent Supplier’s quotation, acknowledgement, acceptance or confirmation of order, specification, delivery note or invoice are unconditionally excluded from the Agreement. The Supplier waives any right which it otherwise might have to rely on such terms and conditions.
- The Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Buyer which is not set out in these terms and conditions or the relevant Purchase Order.
- The Agreement shall be formed and binding when a Purchase Order is delivered by the Buyer to the Supplier and the commencement of performance of the Services and/or the delivery of Goods by the Supplier pursuant to the Purchase Order shall constitute acceptance of these terms & conditions in any event.
- The Goods and/or Services to be supplied, the price payable and any other special terms agreed between the parties shall be set out in the Purchase Order.
- No changes or variations to these terms and conditions or any Purchase Order shall be effective unless agreed in writing between the parties and signed by a director of the Buyer.

3. Price and Payment

- The price for the Goods and/or Services shall be as specified in the Purchase Order and, unless otherwise so stated, shall be:
 - (a) fixed and not subject to any increase. No increase in price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior consent of the Buyer in writing;
 - (b) exclusive of any applicable value added tax (which shall be payable by the party receiving the Goods or Services subject to receipt of a VAT invoice); and
 - (c) inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods and/or Services to the point of delivery and any duties, imposts or levies other than value added tax.

- An invoice shall be produced by the Supplier to the Buyer in accordance with the terms set out in the Purchase Order only upon completion of delivery of all of the Goods and performance of all of the Services which are the subject of the Purchase Order and in any case no later than 3 (three) months of the Goods and/or Services having been supplied or delivered, time being of the essence in this regard. Buyer shall not be liable to make payment where an invoice is first received after the above referenced 3 month deadline. Subject to the remaining clauses of these terms and conditions, the Buyer shall pay for the Goods and/or Services within 60 days of a valid and fully vouched invoice being received. No payment of or on account of the price shall constitute any admission by the Buyer as to acceptability of the Goods or the proper performance by the Supplier of the Services.
- If the parties agree that the Supplier is to provide Goods and/or Services in addition to those specified in a Purchase Order, then such agreement will be reflected in a further Purchase Order, which will be deemed incorporated into this Agreement.
- The Buyer shall be entitled to apply any moneys due to the Supplier under any contract in or towards payment of any sum owing by the Supplier to the Buyer in relation to any matter whatsoever.
- The Buyer shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier, whether or not expressly recorded in the Purchase Order.

4. Warranty

- The Supplier warrants and guarantees that all Goods supplied under the Agreement shall be free from any defects, patent or latent, in material and workmanship, conform to applicable specifications and drawings and, to the extent that detailed designs were not provided to the Buyer, will be free from design defects and in every aspect suitable for the purposes intended by the Buyer, as to which the Supplier hereby acknowledges that it has had due notice. The perfunctory approval by the Buyer of any designs provided by the Supplier shall not relieve the Supplier of its obligations under any provision contained in this Clause.
- The Supplier's obligations under this Clause shall extend to any defect or non-conformity arising or manifesting itself within the manufacturers warranty period from delivery.
- Where there is a breach of the warranty contained in this Clause by the Supplier, the Buyer, without thereby waiving any rights or remedies otherwise provided by law and/or elsewhere in this Agreement, may require the Supplier to repair or replace the defective

Goods at the Supplier's risk and expense or repay the price or part of the price relating to the defect to the Buyer.

- Any Goods repaired or replaced shall be subject to these Terms and Conditions in the same manner as those originally delivered under this Agreement. If the Supplier refuses or fails promptly to repair or replace items when requested under this provision, the Buyer may itself, or through an agent or sub-contractor, or otherwise, repair or replace any item itself and the Supplier shall indemnify the Buyer for any costs or expenses incurred.

5. Delivery

- Delivery of the Goods and/or Services shall be made to such location as the Buyer shall direct. Any time agreed between the parties for such delivery shall be of the essence and the Buyer shall be entitled to cancel, without notice, the whole or any part of this Agreement if this Clause is not complied with by the Supplier.
- Where the Buyer cancels the whole or part of the contract in accordance with Clause:
 - All sums payable by the Buyer in relation to the whole or part of the contract cancelled shall cease to become payable;
 - All sums paid by the Buyer in relation to the whole or part of the contract cancelled shall be repaid by the Supplier immediately;
 - The Buyer shall be entitled to recover damages from the Supplier for any loss caused as a result of the Supplier's failure to deliver the Goods and/or as a result of the cancellation of the whole or part of the contract.

6. Title

- The Supplier warrants that it has good unencumbered title to the Goods. Title in the Goods will pass to the Buyer on the earlier of payment by or delivery to the Buyer, whichever happens first.

7. Risk

- The Goods will be and shall remain at the Supplier's sole risk until such time as they are delivered to the Buyer (or at his direction) and are confirmed by the Buyer to be in accordance with the requirements of this Agreement. It shall be the duty of the Supplier at all times to maintain a contract of insurance over the Goods and, on request from the Buyer, to assign to the Buyer the benefits of such insurance.

8. Inspection of Goods

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- The Buyer shall inspect the Goods upon delivery. Where Goods are damaged or otherwise found to be non-compliant with Buyer's requirements and/or specifications, the Buyer shall notify the Supplier. The Buyer may reject the damaged Goods and the following provisions shall apply:
 - the Supplier shall collect the damaged Goods from the Buyer at the Supplier's expense;
 - during the period between delivery of the Goods to the Buyer and collection by the Supplier, the Buyer shall not be liable for any loss or further damage caused to the damaged Goods;
 - all sums payable by the Buyer in relation to the damaged Goods shall cease to become payable;
 - all sums paid by the Buyer in relation to the damaged Goods shall be repaid by the Supplier immediately;
 - the Buyer shall be entitled to claim damages from the Supplier for any losses caused to the Buyer as a result of the Goods being damaged.
- Where there are shortages in the order the Buyer shall notify the Supplier and the following provisions shall apply:
 - all sums payable by the Buyer in relation to the missing Goods shall cease to become payable;
 - all sums paid by the Buyer in relation to the missing Goods shall be repaid by the Supplier immediately;
 - the Buyer shall be entitled to claim damages from the Supplier for any losses caused to the Buyer as a result of the shortages.
- If the Buyer so requests, the Supplier shall immediately replace damaged Goods or supply Goods which are missing at the Supplier's expense or the Buyer shall be entitled to cancel, without notice, the whole or any unexecuted part of the order and the all other rights referred to in these terms and consitions shall apply.
- Where there is an excess of Goods in relation to the order the Buyer may reject the excess Goods by notice in writing to the Supplier and the following provisions shall apply:
 - the Supplier shall collect the excess Goods from the Buyer at the Supplier's expense;
 - during the period between delivery of the Goods and collection by the Supplier, the Buyer shall not be liable for any loss or damage caused to the excess Goods;

- no sum shall be due to the Supplier for the excess Goods and in the event that sums are paid to the Supplier for the excess Goods, the Supplier shall repay such sums to the Buyer immediately.
- The Buyer may accept excess Goods by notifying the Supplier of such acceptance and the price of the excess Goods shall be payable by the Buyer.
- The Supplier shall repair or replace free of charge, Goods damaged or lost in transit upon receiving notice to that effect from the Buyer.
- The Buyer's signature on any delivery note of the Supplier is evidence of the number of packages received only and not evidence of the correct quantity of Goods received or that the goods are in a Good condition or of the correct quality.
- Without prejudice to any other of the Buyer's remedies hereunder, if Supplier breaches any of its obligations under the Agreement, including failing to meet any agreed (partial or final) delivery date, breaching any warranty or guarantee obligation or failing to effect any remedy according to the requirements of the Agreement, the Buyer may, to the maximum extent permitted by applicable law, do any one or more of the following: (1) reject the Goods and/or Services; (2) revoke acceptance of the Goods and/or Services; (3) demand an immediate cure by the Supplier; (4) step in and remedy, for Supplier's account, any such breach, including effecting cover by purchasing same or similar Goods and/or Services supplied by another contractor and recovering any increase in price and its resulting costs and expenses; (5) terminate by written notice the Agreement in whole or in part; (6) recover from Supplier all its damages, losses, costs and expenses resulting from Supplier's breach, including any that are incurred or will be likely incurred by Buyer in effecting a remedy; (7) offset any damages, losses, costs and expenses incurred or to be incurred by the Buyer; or (8) withhold any payments that may otherwise be due until the breach is fully remedied. The above remedies shall be cumulative with, and not exclusive of, the remedies stipulated in these terms and conditions or otherwise available to the Buyer under applicable law.

9. Supplier's Obligations

- The Supplier warrants, represents and undertakes that:
 - all Services performed under this Agreement shall be performed with all due skill and care, in a good and workmanlike manner and otherwise in line with best practice within its industry ("Best Industry Practice");
 - the Supplier Personnel will possess the qualifications, professional competence and experience to carry out such services in accordance with Best Industry Practice;

- the Services will not in any way infringe or violate any Intellectual Property Rights, trade secrets or rights in proprietary information, nor any contractual, employment or property rights, duties of non-disclosure or other rights of any third parties; and
- it has full capacity and authority to enter into this Agreement and that it has or will obtain prior to the commencement of the services, any necessary licences, consents and permits required of it for the performance of the services.
- The Supplier shall provide the Buyer with such progress reports, evidence or other information concerning the Services as may be requested by the Buyer from time to time.
- The Supplier shall be responsible for maintaining such insurance policies in connection with the provision of the Services and Supplier's Personnel, as may be appropriate or as the Buyer may require from time to time.
- The Supplier shall procure that the Supplier Personnel take all reasonable steps to safeguard their own safety and the safety of any other person who may be affected by their actions.
- The Supplier will provide and supply (at its expense) all necessary tools and equipment required to perform the Agreement and shall ensure that all such tools and equipment are suitable and safe for the purpose for which they are intended to be used.

10. Supplier's Indemnification

- The Supplier agrees to save, defend, indemnify and hold harmless the Buyer together with its director's, employees and affiliates from any and against all Claims arising out of or relating to the performance or non-performance of the Agreement in respect of:
 - (i) personal injury including death or disease to anyone from the Supplier's Personnel;
 - (ii) damage to or loss or destruction of the Supplier's equipment and any other property or equipment of the Supplier whether owned, hired, leased or otherwise provided by the Supplier; and
 - (iii) personal injury including death, sickness or disease to any third party 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 the Supplier.
 - (iv) all losses, costs, damages, expenses and claims caused to and made against the Buyer which would not have been caused or made had the Supplier fulfilled its express or implied obligations under the Agreement;

- (v) all claims cost, expenses caused to and made against the Buyer arising out of errors and omissions in drawings, calculations, labelling, packing details or other particulars supplied by the Supplier;
- (vi) all claims made against the Buyer arising out of or relating to the performance or non-performance of this Agreement in respect of the acts and omissions of the Supplier, its employees, agents or its sub-contractors;
- (vii) all liability, costs and expenses of any nature resulting from the Supplier's own failure to comply with relevant laws, regulations and/or best industry practices.

The Supplier's indemnification of the Buyer under this Clause 10 shall apply irrespective of cause and even if the relevant Claims are contributed to in whole or in part by the fault or negligence of any form or degree (whether sole, joint or concurrent) , strict liability, breach of contract, breach of duty (whether statutory or otherwise), breach of representation or warranty, breach of any relevant laws or any other failure of any nature of the Buyer.

11. Status and Liabilities

- It is expressly understood that neither the Supplier nor the Supplier Personnel have the authority to act as agent for the Buyer or to contract on the Buyer's behalf. The Supplier Personnel shall at no time be deemed to be employed or otherwise engaged by the Buyer.
- The Supplier shall be responsible for paying the Supplier Personnel and for making any deductions required by law in respect of income tax and National Insurance contributions or similar contributions relating to the provision of the services. The Supplier agrees to indemnify the Buyer in respect of any claims that may be made by the relevant authorities against the Buyer in respect of tax demands or National Insurance or similar contributions relating to the provision of the services by the Supplier
- The Supplier will ensure that its authorised servants or agents visiting any of the Buyer's premises will observe the Buyer's standards of Safety and Hygiene and obtain permission to make such a visit.

12. Termination

- The Buyer may terminate this Agreement for any reason by providing written notice to the Supplier.
- The Buyer may terminate this Agreement with immediate effect by providing written notice to the Supplier if:
 - the Supplier or the Supplier Personnel commit any material or persistent breach of this Agreement;

- the Supplier fails to or refuses after written warning to procure that the Supplier Personnel provide the services properly required of them in accordance with this Agreement;
- the Supplier passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- the Supplier ceases to carry on its business or substantially the whole of its business; or
- the Supplier is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

13. Intellectual Property Rights

- All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become the absolute property of the Buyer, and the Supplier shall do all that is reasonably necessary to ensure that such rights vest in the Buyer by the execution of appropriate instruments or the making of agreements with third parties.

14. Force Majeure

- The Buyer shall not be liable for any delay or failure to perform any of its obligations under this Agreement if the delay or failure results from events or circumstances beyond its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, flood or industrial disputes, and the Buyer shall be entitled to a reasonable extension of its obligations.

15. Relationship of Parties

- Nothing in this Agreement shall be construed as establishing or implying any partnership or joint venture between the parties and nothing in this Agreement shall be deemed to construe either of the parties as the agent of the other.

16. Assignment

- The Supplier shall not be entitled to assign, let or in any way subcontract its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Buyer.

17. Severability

- If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated.

18. Taxes

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19. Waiver

- No failure by the Buyer to enforce any of these terms and conditions shall constitute a waiver of its rights hereunder.

20. Notices

- Any notice to be given by either party to the other may be served by email, fax, personal service or by post to the address of the other party given in the Purchase Order or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent, if sent by fax shall be deemed to be served on receipt of an error free transmission report, if given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by post shall be deemed to have been delivered in the ordinary course of post.

21. No third parties

- Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

22. Compliance with Federal, State, and Local Laws

- Supplier warrants that in the performance of Services and supply of Goods under the Agreement, it has complied with or will comply with all applicable federal, state, foreign, provincial and local laws and ordinances, and with all lawful orders, rules and regulations thereunder.

23. Audit

- Supplier agrees to make available to Buyer or Buyer's representative, without expense to Buyer, such facilities and records as may be necessary to audit, substantiate, and justify Seller's costs and or invoices.

24. Entire Agreement

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- This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.
- The Agreement must be strictly complied with notwithstanding that the Buyer may on an earlier occasion or occasions have waived its rights under these terms and conditions. The Supplier cannot claim that the Buyer is unable to exercise any right included herein (in particular the ability to bring a claim), merely because the Buyer has not exercised that right as yet.

25. Governing Law and Jurisdiction

- The Agreement shall be governed by and construed in accordance with the law of England and the parties hereby submit to the exclusive jurisdiction of the English courts.