

Terms & Conditions

1. Acceptance

These are the Standard Terms and Conditions for the Sale of Equipment and Consumables ("Terms") adopted by Control Technology Inc ("CTI") and Customer (as defined herein, each individually referred to as "Party" and together as "Parties") for sale of the Equipment (as defined below) and where applicable, the sale of the Consumables (as defined below) and as more particularly listed in CTI's commercial proposal ("Quotation"). These Terms (which are incorporated as integral part of the Quotation) constitute the sole legal agreement between the Parties in respect of the sale of Equipment or sale of Consumables to the exception of all and any other terms and conditions which the Customer may attempt to introduce through its own purchase orders or the like. The only exception to this is where the Parties mutually agree to any changes to the Terms in the form of any Special Terms and Conditions (as defined below) which will take precedence over any conflicting Terms herein, provided that it can be demonstrated that the same were agreed to by CTI.

Any written or oral purchase order received from the Customer by CTI shall be construed as a written acceptance and unconditioned acknowledgement of CTI's Quotation to provide its Equipment and/or Consumables, as the case may be, in accordance with these Terms. CTI's acceptance of any order is expressly conditioned on the Customer's acceptance of the Terms. No variation of these Terms (including any Special Terms and Conditions) shall be effective unless it is in writing and signed by the Parties (or their authorised representatives).

2. Definitions and interpretation

2.1 The following definitions and rules of interpretation apply in respect of these Terms:

"Affiliate" means any subsidiary or holding company of any company or any other subsidiary or parent of any tier of such holding company or subsidiary;

"Claims and Losses" means any and all claims, losses, causes of action, damages, costs (including legal costs and expenses incurred in defence of the CTI Group), expenses and liabilities of whatever nature;

"CTI" means Control Technology Inc and any of its Affiliates;

"CTI Group" means Control Technology Inc., its subcontractors of any tier, its and their Affiliates, and its and their respective representatives, officers, directors, agents and employees (including agency personnel and invitees), but shall not include any member of Customer Group;

"Confidential Information" means any and all data, know-how and information contained in any tangible or intangible medium of expression as provided by a Party to the other Party pursuant to this Contract, relating to the Equipment or the business of either Party and shall include but not be limited to ideas, concepts, development plans for new or improved products or processes, data (including well data), materials, products, technology, manuals, business plans, marketing plans, financial information, formulae, techniques, designs, sketches, know-how, photographs, plans, drawings, specifications, samples, test specimens, reports, customer lists, price lists, findings, studies, computer programs, software, and technical documentation, trade secrets, diagrams, or inventions, and all information pertaining thereto;

"Consumables" means Equipment components, parts, materials and products related to well control equipment and listed in the Quotation;

"Contract" means collectively the Quotation issued by CTI to the Customer, accepted by the Customer and subsequently issued Purchase Order together with these Terms;

"Customer" means the company within Customer Group that enters into the Contract;

"Customer Group" means the Customer, its co-venturers, business partners, its and their respective Affiliates and its and their respective representatives, officers, directors, agents and employees (including agency personnel and invitees), Customer's other contractors and subcontractors, but shall not include any member of CTI Group;

"Equipment" means well control equipment such as control systems, blowout preventers, valves, spools and adaptors as detailed in the Quotation;

"Incoterms" means Incoterms Rules 2020, as amended from time to time;

"Force Majeure" means, in relation to either Party, any event which is unforeseeable, insurmountable, and outside the control of the Party which invokes it and prevents performance of all or part of the Contract, but shall not include any act (including strikes) of any member of the relevant Party's Group, financial distress of either Party, late delivery of materials, spares or the Equipment (unless the same is itself caused by a Force Majeure event), shortage of manpower or materials (unless the same is itself caused by a Force Majeure event), and/or any failure to obtain or maintain any licence, permit or other authorisation where such failure is due to the act or omission of the Group of the Party invoking the Force Majeure;

"Government Official" means, for purposes of Article 23, an official of government, an official of a government instrumentality, a candidate for political office, an official of a political party and a political party;

"Group" means CTI Group or Customer Group, as the case may be;

"Purchase Order" (or "PO") means the Customer's purchase order setting out the details of the Equipment to be provided for Rental, the Rental Amount, the Consumable to be provided for sale, the Sale Price, delivery details and other key details of this Contract (excluding any Customer's terms and conditions, which shall not be essential for the validity and existence of the Contract and such purchase order), along with all information and other documentation contained in, referred to or attached hereto;

"Sales Price" shall have the meaning given in clause 5;

"Special Terms and Conditions" means terms listed in the Quotation as mutually agreed between the Parties, which may vary these Terms or any other element of the Contract.

2.2 Clause headings shall not affect the interpretation of these Terms.

2.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

2.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

2.5 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

2.6 Any obligation on a party not to do something includes an obligation not to allow that thing to be done.

2.7 A reference to these Terms or to any other agreement or document (including the Quotation) referred to in these Terms is a reference to these Terms or such other agreement or document (including the Quotation) as varied or novated (in each case, other than in breach of the provisions of this agreement) from time to time.

2.8 References to clauses are to the clauses of these Terms.

2.9 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

3. Contract Acceptance

Any written or oral purchase order received from Customer by CTI shall be construed as a written acceptance of CTI's offer to sell and shall be filled in accordance with the terms and conditions of sale set forth herein. CTI's acceptance of this order is expressly conditioned on Customer's assent to the terms contained herein.

The terms and conditions of CTI's proposal (if any) and acknowledgement shall prevail over any conflicting or different terms in Customer's order unless Customer notifies CTI in writing of its objections thereto within fifteen (15) days from receipt of CTI's acknowledgement. Customer's standard terms of purchase will not be considered a counteroffer to CTI's terms and conditions of sale. The failure of CTI to object to any provision in conflict herewith whether contained on Customer's purchase order or otherwise shall not be construed as a waiver of the provisions hereof nor as an acceptance thereof.

4. Orders and Specifications

The quantity, quality and description of and any specification for the Equipment and/or Consumables shall be those set out in CTI's Quotation.

5. Charges – Sale of Equipment and Consumables

Any equipment, service capability or manufacturing capability which may be available at the time of quotation is made subject to prior sale. Prices quoted are subject to change without notice. The price in effect at the time of shipment including any escalation formula will apply unless a valid quotation or written agreement to the contrary exists between Customer and CTI. All prices shown are in U.S. dollars unless otherwise stated and are EXW CTI's facility. CTI reserves the right to place a service charge on past due accounts at the highest rate permitted by law. Any documentation pertaining to traceability requirements for raw materials or products or documentation required for any routine or special processes must be identified by the Customer at the time of quotation (if any) or at the time of order placement.

Any tax, duty or levy, whether now in force or enacted or levied in the future (excepting solely any tax based on CTI's net income levied in Canada) based on or measured by the Sale of the Equipment and Consumables hereunder (including withholding tax or VAT), shall be in addition to the Sales Amount and shall be paid by Customer. Such applicable taxes or levies include but are not limited to any value added tax, excise tax, permit fees, import and export duties or similar fees, and license fees, all of which shall be at Customer's sole expense. The provision of services and equipment from 1st of January 2018 will (unless specified otherwise by the Canadian tax laws and regulations from time to time in place) attract Value Added Tax ("VAT") at the then prevailing rate.

All Sales Amounts and any other amounts payable by Customer hereunder shall be paid without any set-off, withholding, counterclaim or deduction whatsoever and shall be free from any taxes or other deductions whatsoever, unless any such deduction shall be compelled by law. In such event, Customer shall pay to CTI such further amounts as may be necessary, in order that the net amounts received by CTI, after such deduction, withholding or tax, shall equal the amounts which would have been received in the absence of such deduction, withholding or tax.

In the event CTI agrees to deliver the Equipment other than in accordance with Clause 7 "Delivery Terms", Customer shall also be liable for CTI's charges for transportation, packaging and insurance of the Equipment during transit.

6. Terms of Payment

CTI shall invoice the Customer the Sales Amount immediately upon delivery of the Equipment and/or Consumables and any other charges applicable under these Terms. Terms of payment are thirty (30) days from date of invoice unless otherwise stated in CTI's quotation or CTI's order acknowledgment. Progress payments may be required for orders valued greater than \$100,000. Credit terms may be changed or removed at any time at the sole discretion of CTI.

If the Customer fails to pay any invoice within thirty (30) days of the date of issuance, without prejudice to any other rights or remedies available to CTI, CTI shall be entitled to:

- (a) appropriate any payment made by Customer in relation to the Equipment (or any equipment supplied under any other arrangement between Customer and CTI) as CTI may think fit; and/or
- (b) charge the Customer interest (from the date of such delinquency until paid) on the amount unpaid, at a rate equal to the lesser of:
 - I. Two (2%) percent per annum above Royal Bank of Canada base rate from time to time or; and/or
 - II. The highest lawful rate permitted by applicable law, until payment is made in full (a part of a month being treated as a full month for the purpose of calculating interest)

7. Delivery Terms

CTI will provide delivery schedules for Equipment and Consumables and are given as accurately as conditions permit and every effort will be made to make the delivery schedule. CTI will not be responsible for any deviations in meeting the delivery schedules nor for any losses or damages to Customer (or any third party) prompted by deviations in the delivery schedule. CTI shall have additional time within which to perform as may be reasonably necessary under the circumstances and shall have the right to apportion its production among its Customers in such a manner as it may consider being equitable. CTI reserves the right to furnish commercially equivalent or better substitutes for materials or to subcontract the Customer's order or portions thereof as CTI deems necessary.

In no event shall CTI be liable for any consequential damages resulting from failure or delay in shipment. If Customer requires drawings, procedures, standards or similar material for approval, delivery schedules will be calculated from the time such approvals are received by CTI, since delivery schedules are based on CTI having all required information at the time of a firm order from Customer which can be enterable into production. Any hold points, witness points or the need for inspection by Customer's representatives must be identified by Customer at the time of quotation (if any) and/or order placement in order that the effect on the prices or delivery schedules (if any) can be taken into account. Additional inspection or testing required by Customer which affects normal production sequence will be considered as extending the delivery dates accordingly.

In these Terms, 'Incoterms' means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date the quotation is accepted by Customer. Unless the context requires otherwise, terms not defined herein but which are defined under the Incoterms shall have the same meaning ascribed to them in the Incoterms. However, to the extent there is a conflict between the provisions of Incoterms and these terms and conditions, the latter shall prevail.

8. Delivery and Acceptance

Delivery shall be in accordance with the requirements in the Purchase Contract, provided, in the event Customer is able to accept delivery upon completion of the Equipment and Consumables in accordance with such requirements, Customer agrees that (i) title and risk of ownership shall pass to Customer on date of CTI's invoice, and (ii) Customer will make payments within thirty (30) days after date of such invoice. CTI shall retain custodial risk of loss until delivery is made in accordance with such requirements.

9. Inspection

Unless otherwise agreed in writing, final inspection and acceptance of Equipment and Consumables must be made at CTI's facility or other shipping or receiving point designated by CTI and shall be conclusive except as regards latent defects. Customer's representative may inspect at CTI's facility or shipping point during working hours prior to shipment in such manner as will not interfere with CTI's operations.

Customer may also request further inspection of the Equipment and Consumables at CTI's facility but must be agreed and identified during the time of quotation. Any inspection that is requested after the confirmation of a firm order from Customer can be accommodated with prior agreement by CTI; however this further inspection can have an effect on pricing and delivery of Equipment and Consumables.

10. Cancellations

Purchase orders once placed by the Customer and accepted by CTI can be cancelled only with CTI's written consent and upon terms which will save CTI from loss and allow a reasonable amount for profit. No Equipment or Consumables may be returned for credit or adjustment without written permission from CTI.

11. Warranty

CTI warrants that the Equipment and Consumables will be free from defects in material or workmanship for a specific warranty period. The warranty period for new equipment is twelve (12) months from the date of initial operation but not to exceed fifteen (15) months from shipment. The warranty period for consumables, repairs and upgrades is six (6) months from date of shipment.

CTI warrants that the field services supplied hereunder will be performed in a competent diligent manner and in accordance with generally accepted standards for such services. All claims for defective field services must be made in writing immediately upon discovery and in any event within seven (7) days from the date of completion of said services.

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All claims for defects whether in respect of the Equipment or Consumables must be made in writing immediately upon discovery and in any event not later than thirty (30) days from the date when Customer discovered such alleged defect in material or workmanship. CTI will at its option and expense either: (a) furnish a Service Representative to correct defective workmanship, or (b) replace the component, or (c) if the product cannot be made to conform to the warranty by repair or replacement, return the full purchase price for the product or service without interest. CTI's sole responsibility and Customer's sole remedy hereunder is limited to such repair, replacement or refund. Equipment and accessories furnished by third parties not incorporated in the equipment manufactured by CTI are warranted only to the extent of the original manufacturer's warranty to CTI.

Any warranty provided to the Customer shall cease if it has failed to adhere to its obligations under clause 4 or if repairs or other alterations (of any kind) are made to the Equipment or the Consumables. CTI shall have no obligation hereunder if the Equipment, or the Consumables, or any parts thereof, become defective in whole or in part as a result of removal, improper use, operation above capacities specified in Equipment certification package or any misapplication, including any storage, installation or handling after delivery of such Equipment or Consumables to the Customer.

Deterioration and wear occasioned by chemical and abrasive action or excessive heat or cold shall not constitute defects. Transportation of products to and from CTI's service facility shall be borne to Customer when a repair is not covered by warranty. Warranty work provided under this contract does not assure uninterrupted operation of the products.

There are no other warranties, express, statutory or implied, including those of merchantability and of fitness for purpose nor any affirmation of facts or representation which extends beyond the description of the products on the face hereof.

12. Transportation Charges, Allowances, Claims

Unless otherwise set forth in the quotation, all prices are EXW CTI's facility or other designated shipping point. No freight is allowed unless stated in CTI's quotation (if any). If the quotation or contractual price includes transportation, CTI reserves the right to designate the common carrier and to ship in the manner it deems most economical. Costs will be added due to special routing requested by the Customer. Under no circumstances is any freight allowance which is absorbed by CTI to be deducted from the selling price.

Customer assumes risk of loss upon delivery to the carrier, regardless of who pays shipping costs. CTI endeavours to pack or prepare all shipments so that they will not break, rust or deteriorate in transit, but does not guarantee against such damage. Unless requested in writing by the Customer, no shipments are insured by CTI against damage or loss in transit. CTI can provide insurance as nearly as possible in accordance with Customer's written instructions at the time of quotation but in such case CTI acts only as agent between the insurance company and the Customer and assumes no liability whatsoever. Any claims for shipping loss, breakage or damage (obvious or concealed) are the Customer's responsibility and should be made to the carrier. All claims regarding shortages must be made within thirty (30) days from receipt of shipment and must be accompanied by the packing list(s) covering the shipment.

13. Indemnities

13.1 CTI shall be responsible for and shall save, indemnify, defend and hold harmless the Customer Group from and against Claims and Losses in respect of:

13.1.1 loss of or damage to property of the CTI Group whether owned, hired, leased or otherwise provided by the CTI Group arising from or relating to the performance of the Contract

13.1.2 personal injury including death or disease to any person employed by the CTI Group arising from or relating to the performance of the Contract; and

13.1.3 subject to Clause 13.3 and Clause 14 "Consequential Loss" 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 CTI Group.

13.2 Customer shall be responsible for and shall save, indemnify, defend and hold harmless the CTI Group from and against any Claims and Losses in respect of:

13.2.1 loss of or damage to property of the Customer Group, whether owned by the Customer Group, or leased or otherwise obtained under arrangements with financial institutions by the Customer Group, whether located at Customer's worksite or not, and arising from or related to the performance of the Contract

13.2.2 personal injury including death or disease to any person employed by the Customer Group arising from or relating to the performance of the Contract;

13.2.3 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 the Customer Group.

13.3 Notwithstanding anything else in the Contract, and except as provided in this Clause 13 "Indemnities", the Customer shall save, indemnify, defend and hold harmless CTI Group from and against any Claims and Losses of whatsoever nature arising from pollution and/or contamination including without limitation such pollution or contamination emanating from the reservoir and/or from any equipment or property of the Customer Group

13.4 Notwithstanding anything contained elsewhere in the Contract to the contrary, the Customer shall save, indemnify, defend and hold harmless the CTI Group against all Claims and Losses resulting from:

- (a) loss of or damage to any well or hole;
- (b) blowout, fire, explosion, cratering or any uncontrolled well condition (including the costs to control a wild well and the removal of debris); and
- (c) Damage to any reservoir, geological formation or underground strata or the loss of oil or gas therefrom.

All exclusions and indemnities given under this Clause 13 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the Party indemnified herein or any other entity or party and shall apply irrespective of any claim in tort, under contract or otherwise at law.

14. Consequential Loss

Notwithstanding anything to the contrary herein or at law, CTI Group shall not be liable to Customer Group for any consequential, incidental, indirect or punitive damages of any kind or character, including loss of use, loss of profit, loss of revenue, rig downtime, loss of productivity, loss of business, loss of efficiency, acceleration, and loss of product or production howsoever arising under the performance or non-performance of the Equipment or Consumables or as a result of, relating to or in connection with the use of the Equipment or Consumables, whether or not such damages are the result in whole or in part from the sole, concurrent, or partial negligence of any person or party, including the CTI Group, or for pre-existing conditions (patent or latent), breach of statutory duty, strict liability or any other theory of legal liability.

15. Limitation of Liability

Subject to the provisions of clauses 13 and 14, but notwithstanding any other provision of the order, CTI's total cumulative liability to Customer arising out of or in relation to the performance of the order, under any cause of action whether in tort, contract or otherwise at law, shall not exceed a cumulative sum equivalent to twenty (20) percent of order price regardless of cause and whether any such liability arises by reason of negligence or breach of duty (whether statutory or otherwise) on the part of CTI group and Customer shall indemnify and hold CTI group harmless from and against any and all such liability in excess of this amount.

16. Force Majeure

CTI shall not be liable to Customer and any member of the Customer Group nor shall CTI be deemed to be in breach of these Terms by reason of any delay in performing, or any failure to perform, any of CTI's obligations in relation to the Equipment or Consumables if the delay or failure to perform was by reason of one of the following acts of force majeure including

- (a) act of God, explosion, flood, tempest, fire or accident;
- (b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- (c) pandemic(s)
- (d) acts, restrictions, regulations, by-laws, prohibitions or measure of any kind on the part of any governmental, parliamentary or local authority;
- (e) import or export regulations or embargoes;
- (f) strikes, lock-outs or other industrial actions or trade disputes;
- (g) difficulties in obtaining raw materials, labour, fuel, parts or machinery; and
- (h) power failure or breakdown in machinery.

17. Severability

If any provision of these Terms is held by any competent authority to be invalid, illegal or unenforceable in whole or in part, the validity, legality and enforceability of the other provisions of these Terms and the remainder of the provisions in question shall not be affected thereby.

18. Confidentiality

The Parties shall keep confidential these Terms and any and all Confidential Information that each party may acquire in relation to the business or affairs of the other for the period of five (5) years after the termination or expiry of these Terms. Neither CTI nor Customer shall use the other's confidential information for any purpose other than to perform its obligations under these Terms. CTI and Customer shall ensure that its officers and employees comply with the provisions of this Clause 18 "Confidentiality". The obligations on a Party set out in this Clause 18 "Confidentiality" shall not apply to any information which:

- (a) Is publicly available or becomes publicly available through no act or omission of that party; or
- (b) The party is required to disclose by order of a Court of competent jurisdiction or otherwise as required under applicable law.

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19. Notices

Any notice required or permitted to be given by either CTI or Customer to the other party under these Terms shall be in writing addressed to that other Party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the Party giving the notice.

20. Modification and Waiver

The terms herein may not be modified or rescinded nor any of its provisions waived unless such modification, rescission or waiver is in writing and signed by an authorized employee of CTI. Failure of CTI to insist in any one or more instances upon the performance of any of the terms and conditions of the contract or the failure of CTI to exercise any of its rights hereunder shall not be construed as a waiver or relinquishment of any such term, condition, or right hereunder and shall not affect CTI's right to insist upon strict performance and compliance with regard to any unexecuted portions of this contract or future performance of these terms and conditions. All orders must be accepted by an authorized employee of CTI.

21. No Partnership or Agency

Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute any party as the agent of another, or authorise any party to make or enter into any commitments for or on behalf of any other party.

22. Export and Trade Compliance

Customer shall be solely responsible for complying with any legislation or regulations governing the importation of the Equipment into the country of destination and for the payment of any taxes or duties thereon.

The Customer shall provide CTI with relevant end-use, end-user and country of end-use information with respect to the Equipment and Consumables to be supplied hereunder (collectively, "Items"). Based on and in reliance on such information, CTI will supply such Items in compliance with applicable trade and customs laws including that of Canada.

CTI shall provide the Customer with all relevant and accurate country of origin data, a harmonized schedule number and export classification number or any other comparable identification number with respect to the Equipment and Consumables (collectively, "Items"). Customer acknowledges that this information will be relied upon by CTI to determine whether such Items can be supplied in compliance with all applicable export control, import control, sanctions, and trade and customs laws. These restrictions and conditions include, but are not limited to: (a) restrictions on the export, re-export, or transfer of the Items, whether "as is" or as incorporated into other products, to entities, organizations, persons or locations that are subject to prohibitions under economic sanctions or export laws; (b) licensing of any export, re-export, or transfer by relevant government authorities; (c) record keeping requirements on any export, re-export, or transfer. CTI agrees that it will take the necessary steps to ensure its employees and service providers act in accordance with applicable laws, and assumes full responsibility for their actions with regard to legal compliance with export control, sanctions, trade, and customs laws. Any violation of this section by CTI shall be deemed a material breach of the sale transaction, and CTI shall defend, indemnify and hold Customer harmless from any costs, expenses, fines, penalties or loss arising from its failure to comply with applicable laws.

23. Ethical Business Considerations

In connection with this Contract, Parties shall not pay, promise to pay, or offer any fee, commission, material remuneration or other thing of value to or for the benefit of any Government Official in order to influence an act or decision of the Government Official in its official capacity, cause the Government Official to act or fail to act in violation of its lawful duty, or cause the Government Official to influence an act or decision of the government for the purpose of assisting Customer, CTI and their respective Affiliates in obtaining or retaining business, or in violation of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions effective as of 15 February 1999 or the USA Foreign Corrupt Practices Act, or in violation of any law applicable to the Parties, their employees, servants or agents.

24. Governing Law and Dispute Resolution

Any dispute arising out of or in connection with this Contract, including these Terms, including any question regarding its existence, validity or termination, shall be subject to the exclusive jurisdiction of the Courts of Alberta. The Contract shall be governed by and construed in accordance with the laws of Canada