



STANDARD TERMS and CONDITIONS
Applicable to Purchases and Rentals of Ulterra Products

1. APPLICABILITY

All sales by and transactions with Ulterra Drilling Technologies L.P. and each of its parents, affiliates and subsidiaries ("Seller") are subject to these standard terms and conditions. Terms and conditions of Purchaser's order (whether contained in a purchase order or otherwise) which are in any way in conflict or inconsistent with or different or in addition to these standard terms and conditions (whether communicated orally or contained in a purchase order or other written correspondence) shall not be binding on Seller and are rejected and shall not be considered applicable to any sale unless expressly agreed to in writing by Seller. The placing of an order by Purchaser and the acceptance of good hereunder shall be conclusive evidence of Purchaser's approval of and consent to the terms and conditions herein contained. The term "sales" shall include rentals as the case may be.

2. PRICES

All prices, whether herein named or heretofore quoted or proposed are subject to change without notice. Prices do not include packing and preparation for export shipment, inland or ocean freight, insurance or forwarding fees, taxes, or duties of any kind or other similar charges applicable to products. Purchaser agrees to pay such charges incurred by Seller on Purchaser's behalf upon receipt of Seller's invoice for the same.

3. TERMS OF PAYMENT

Unless Seller and Purchaser otherwise agree in writing to payment terms other than those specified herein, payment shall be made in U.S. Dollars in accordance with remittance instructions furnished by Seller.

- a. Payment terms are net thirty (30) days from date of invoice subject to prior credit approval. The maximum allowable service charge, under the laws of the State in which Seller is located as set forth on the front face, shall be applied to all past due accounts commencing from the due date of the invoice until paid.
- b. Unless waived by Seller, payment on orders for shipment to countries other than the U.S.A. shall be made by Letter of Credit to be established by the Purchaser, at its expense, including bank confirmation charges. All Letters of Credit shall be in favor of and acceptable to Seller, shall be maintained in sufficient amounts and for the period necessary to meet all payment obligations, shall be irrevocable and issued or confirmed by a bank in the United States.

4. WARRANTY

- a. Seller warrants to Purchaser only, and not to any of Purchaser successors in interest or title to the articles produced hereunder, that the articles delivered hereunder are free from defects in materials and workmanship.
- b. The responsibility of Seller hereunder, and the sole and exclusive remedy of Purchaser for a breach of any warranty hereunder, is limited to correction or replacement by Seller at its plant without charge of any article or part which has been returned to Seller and which is not in accordance with this warranty provided; however: (1) Seller must be notified in writing of the

defect or non-conformity within the warranty period and before first use, and the affected article or part returned to Seller within thirty (30) days after discovery of such defect or conformity (2) if Seller is unable to repair or replace defective or non-conforming articles or parts within a reasonable time after receipt thereof, Purchaser shall be credited for their value at the original purchase price; and (3) Seller shall not be responsible for costs of removal and reinstallation.

- c. Seller shall have the sole right to determine whether returned articles or parts shall be repaired or replaced.
- d. Seller's responsibility under these warranties shall expire twelve (12) months after delivery of the article to the Purchaser or in the case of any part or component repaired or replaced by Seller the warranty shall remain in effect for the remainder of the twelve (12) month warranty period or for three (3) months from the date of shipment of the repaired or replaced part or component, whichever is longer.
- e. Unless otherwise agreed, and except as may be necessary to comply with these warranties, Seller reserves the right to make changes in its products without any obligation to incorporate such changes in any product manufactured, overhauled or repaired theretofore.
- f. Purchaser agrees to assume round-trip transportation costs for defective or non-conforming articles to and from Seller's facility.
- g. These warranties will not apply if the articles or any parts thereof have been subjected to (1) any use, maintenance, overhaul, installation, storage, operation, or use handling or environment which is improper or not in accordance with Seller's instructions, (2) any alteration, modification, or repair by anyone other than Seller or its authorized representative, or (3) any accident, misuse, neglect, or negligence after delivery by Seller. The warranty shall not apply to any article to the extent that the defect or non-conformity is attributable to any part not supplied by or approved by the Seller.
- h. Seller's obligations under these warranties are conditioned on Purchaser's obligation to maintain records which will accurately reflect maintenance performed on Seller's products and establish the nature of any unsatisfactory condition of Seller's equipment. Seller, at its request, shall be given access to such records for substantiating warranty claims.
- i. Parts or components not manufactured by Seller shall be in accordance with the standard warranty provisions of the manufacturer or supplier thereof, which warranty constitutes the sole obligation of Seller and the sole remedy of Purchaser.
- j. No warranty is given with respect to articles or parts not overhauled or replaced by Seller.
- k. ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED, OR STATUTORY, SUCH AS WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE HEREBY EXCLUDED AND DISCLAIMED. THIS WARRANTY COMPRISES SELLER'S ENTIRE LIABILITY IN RELATION TO ANY FAILURE OR DEFECT TO THE EXCLUSION OF ALL OTHER LIABILITY IN TORT (WHETHER FOR NEGLIGENCE OR OTHERWISE) OR IN CONTRACT. IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES.
- l. No agreement extending this warranty shall be binding upon the Seller unless in writing and signed by Seller's duly authorized officer or representative.
- m. The above warranty is the only warranty given unless other warranties are attached and thereby made a part hereof by written agreement of Seller.

5. LIMITATION OF LIABILITY

- a. Seller's liability on any claim of any kind, including negligence, for any loss or damage arising out of, connected with, or resulting from this order, or from the performance or breach thereof, or from the manufacture, sale, delivery, resale, repair or use of any article covered by or furnished under this order shall in no case exceed the price applicable to the article or part thereof which gives rise to the claim. In no event shall Seller be liable for exemplary, punitive, indirect, incidental, special or consequential damages including, but not limited to, damage for loss of product, loss of revenue, and loss of profits regardless of the negligence (either sole or concurrent) of either party and each party hereby releases the other in this regard.

- b. Neither Purchaser nor its employees, agents or representatives shall have any liability or responsibility whatsoever to whomsoever for injury to or illness or death of any employee of Seller, howsoever caused, arising or occurring, including the sole or concurrent negligence of Purchaser relating to the sale or rental of products hereunder. Seller shall release, protect, defend, indemnify and hold harmless Purchaser and its employees from and against any loss, damage, liability, suit, claim or expense as a result of such injury, illness or death.
- c. Neither Seller nor its employees shall have any liability or responsibility whatsoever to whomsoever for injury to or illness or death of any employee of Purchaser, its contractors or subcontractors (other than Seller), and any operator for whom Purchaser may be acting, and the employees of any of them, and any third parties, howsoever caused, arising or occurring, whether through the negligence or other legal fault of Seller or its employees or otherwise, relating to the sale or rental of products hereunder. Purchaser shall release, protect, defend, indemnify and hold harmless Seller and its employees from and against any loss, damage, liability, suit, claim or expense as a result of such injury, illness or death.
- d. Responsibility for Loss of or Damage to Property of Purchaser: Neither Seller nor its employees, agents or representatives shall have any liability or responsibility whatsoever to whomsoever for loss of or damage to property or equipment of Purchaser, lease owners of the well site, including, without limitation, any third parties, or for loss of or damage to productive formations, reservoirs, oil or gas, the well or hole itself, including the costs relating to a wild well, howsoever caused, arising or occurring in any way relating to the products sold or rented hereunder. Purchaser shall release, protect, defend, indemnify and hold harmless Seller and its employees from and against any loss, damage, liability, suit, claim or expense as a result of such loss or damage.
- e. Neither Seller nor its employees shall have any liability or responsibility whatsoever to whomsoever for any pollution or contamination, including the costs of cleanup, howsoever caused, arising or occurring, whether through the negligence or legal fault of Seller or its employees, agents or representatives or otherwise, in any way relating to the sale or lease of products hereunder. Purchaser shall assume all responsibility for and shall release, protect, defend, indemnify and hold harmless Seller from and against any loss, damage, liability, suit, claim, fine or expense as a result of pollution or contamination, or the environmental cleanup required by law or by direct or indirect contractual obligations of Purchaser in any way relating to the sale or lease of products hereunder.
- f. For any products leased or rented hereunder, which are lost-in-hole (other than as a result of the negligence of Seller), Purchaser shall reimburse and pay to Seller an amount equal to the replacement value of such products lost in hole.

6. NO THIRD PARTY BENEFICIARIES

Except as expressly provided herein to the contrary, the provisions of this order are for the benefit of the parties to the order and not for the benefit of any other party, person or entity.

7. RETURNS

Restocked bits will be charged at 20% of list price. Seller requests the return of dulled bits, upon request, when the original cutter teeth and/or bearings have served their useful life.

8. TAXES

The amount of Federal, State or local taxes applicable to the sale, use or transportation of the articles sold or the work performed hereunder and all duties, imposts, tariffs, or other similar levies shall be added to the prices and paid by the Purchaser, except where the Purchaser shall furnish an appropriate certificate of exemption there from. Purchaser indemnifies and holds Seller harmless from the payment or imposition of any tax imposed on any articles sold or used hereunder, or for any work performed hereunder under the provisions of any State Sale or Use Tax Act plus penalties or interest or attorney's

fees connected with the imposition of any such sales or use tax in connection with the articles sold or used or the work performed hereunder.

9. SHIPMENT, TITLE, RISK OF LOSS

The articles being sold hereunder shall be delivered to Purchaser FOB origin and shall be deemed accepted by Purchaser at Seller's facility. Purchaser shall take title at Purchaser's facility upon acceptance and shall bear all risk of loss from and after that time.

10. EXPORT

If any article sold hereunder is for export, Purchaser shall be responsible for arranging for transportation, insurance and compliance with local country export/import or re-export laws and clearances. The sale contemplated hereunder is subject to Seller successfully obtaining any required United States Department of State or Commerce export license. Except as set forth in the last sentence of this paragraph, if such license is not obtained, the parties shall be relieved of all of their obligations under this Agreement without any liability to the other. Purchaser shall cooperate with Seller in providing any necessary information or documentation necessary for Seller to obtain export licenses, including but not limited to notification of any Purchaser intent to re-export and/or the providing of end user certifications. Purchaser shall defend, indemnify and hold harmless Seller for any Purchaser failure or refusal to comply with the provisions of this paragraph 10.

11. INTELLECTUAL PROPERTY RIGHTS

Seller retains all intellectual property rights in the articles including but not limited to any and all patent, trade secret, trademark or copyright rights. Purchaser shall have no such rights by virtue of entering into this agreement or order. Specifically, and without limiting the generality of the foregoing, Purchaser agrees that it shall not, following its purchase of the articles hereunder, build, manufacture, fabricate or reverse engineer the articles, or sell any item so built, manufactured, fabricated or reverse engineered.

12. SEVERABILITY

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction. To the extent permitted by applicable law each party hereby waives any provision of law which renders any provisions hereof prohibited or unenforceable in any respect.

13. GOVERNING LAW AND FORUM

This Agreement shall be interpreted in accordance with the laws of the State of Texas. The parties hereto agree that any litigation arising out of this Agreement shall be in the State of Texas. Any legal action by Purchaser for breach must be commenced within one (1) year from the date of the breach. Purchaser agrees to pay all costs and expenses, including reasonable attorney's fees incurred by Seller in any action to enforce its rights hereunder. The United Nations Convention on the Contracts for International Sale of Goods, 1980, and any amendment or successor thereto is expressly excluded from this Agreement.

14. WAIVER

Failure by Seller to assert all or any part of its rights upon any breach of this agreement shall not be deemed a waiver of such rights either with respect to such breach or any subsequent breach nor shall any waiver be implied from the acceptance of any payment or service.

No written waiver of any right shall extend to or affect any other right Seller may possess nor shall such written waiver extend to any subsequent similar or dissimilar breach.

15. ESTIMATED PRICING

Estimated pricing is defined to mean an approximate calculation only. The final price may exceed the estimate price.

16. ENTIRE AGREEMENT

Upon acceptance of this agreement or order by Seller, the provisions hereof shall constitute the entire Agreement between the parties and supersedes all prior prices, offers, negotiations and agreements relating to the subject matter hereof.