



## OIL SEARCH (YEMEN) LIMITED

(Incorporated in British Virgin Islands)

# SERVICE PURCHASE ORDER GENERAL TERMS AND CONDITIONS

### 1. Term

This SPO will take effect from the SPO Issue Date and will continue in full force and effect until completion of the Services and any warranty work or until sooner terminated in accordance with these General Terms And Conditions.

### 2. Scope Of Services

Contractor must, and must procure that any subcontractor appointed by it must perform the Services strictly in accordance with Company's instructions, specifications, standards, quality requirements and good industry standards and practices in a safe, efficient, good and workmanlike manner with due diligence and dispatch. Contractor, at its own cost and expense, must provide or supply all Contractor's personnel, facilities, equipment and goods required to perform the Services.

### 3. Compensation And Payment

Contractor's sole compensation in consideration for the proper performance of the Services will be the prices, rates and/or lump sums specified in the SPO, inclusive of all taxes, which will not be subject to change except by a written variation order from Company. All prices, rates and/or lump sums will be quoted in US Dollars unless otherwise requested by Company. Within 30 days of Company's acceptance of the satisfactory performance of the Services, Contractor must submit to Company at the address provided in the SPO, a fully detailed, referenced and supported invoice for the value of the Services performed and accepted. Within 30 days of receipt by Company of a correctly prepared and supported invoice, Company will pay the undisputed portion of such invoice due to Contractor.

### 4. Variations

Company has the right to issue instructions to Contractor to vary the SPO provided that the variation reasonably falls within the general scope of the Services provided under this SPO and is within the capability and resources of Contractor. If such variation result in any increase or decrease in the cost of performing the Services it will be determined in accordance with the methods detailed in the SPO or in the absence of any specific provisions will be determined utilising the SPO prices, rates and/or lump sums as a guide for the determination and mutual agreement of a fair and reasonable evaluation and adjustment.

### 5. Warranty

Contractor warrants and represents that all the Services (including any goods supplied) will be of good and merchantable quality and workmanship, fit for the purpose which Company discloses to

Contractor or for the purpose for which they are commonly provided, free of errors and defects and will comply in all respects with the requirements of the SPO. Without limiting the operation of any other provision of these General Terms And Conditions, Company is entitled to the benefit of all warranties conferred by law and the operation of any such warranty for the benefit of Company may not be excluded by Contractor. If any defects in the Services appear within 12 months after acceptance by Company, Contractor must immediately remedy such defects to the satisfaction of Company at Contractor's cost or Company will be entitled to remedy (either with or without engaging third parties) such defects and be reimbursed by Contractor for the costs incurred.

### 6. Supply Of Goods

In the event that the performance of the Services includes the supply of any goods (including equipment components, parts or consumable items):

- (a) Contractor must fully comply with all instructions issued by Company pertaining to importation of any goods to be imported for the exclusive use of Company;
- (b) Title, liability and responsibility for the goods will pass to Company upon acceptance of the Services by Company at the worksite. Contractor must provide a recommended spare parts list, including competitive prices, for any goods supplied.

### 7. Health, Safety, Environment And Security

Contractor must perform the Services with the utmost regard for the preservation of the health and safety of persons and protection of the environment and must exercise due care and diligence and must take all necessary measures and precautions to prevent any personal injury or property loss or damage. Contractor agrees to perform the Services in accordance with the more stringent of Contractor's or Company's health, safety, environment and security policies, standards and procedures. Contractor must comply at all times with all health, safety, security and environmental protection laws, regulations, rules and ordinances applicable to the Services.

### 8. Taxes And Duties

Contractor must fully comply with all instructions issued by Company pertaining to importation of any goods supplied in accordance with clause 6. Contractor must assume full and exclusive liability for payment of all taxes, duties (including any import, export, customs and excise duties), levies, fiscal contributions and other charges levied by any government or authority in connection with the Services or the payments to be made under this SPO payable by or in respect of Contractor,



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including but not limited to withholding taxes, personal income taxes, property taxes, capital gains taxes, value added taxes, pensions, insurance contributions, turnover or sales taxes and all corporate taxes.

### 9. Liabilities And Indemnities

- (a) Contractor is responsible for and must defend, release, indemnify and hold Company harmless from and against all claims, losses, damages, costs (including legal costs), expenses arising from or relating to the performance of the SPO in respect of:
- (i) loss of or damage to the property of Contractor, whether owned, hired, leased or otherwise provided by Contractor, howsoever caused;
  - (ii) personal injury, including death, disease, illness and mental and bodily injury to any person employed or engaged by Contractor, howsoever caused;
  - (iii) personal injury, including death, disease, illness and mental and bodily injury, 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 tortious act or omission or statutory breach of Contractor or any person employed or engaged by Contractor; and
  - (iv) any breach or alleged breach of any patent, registered design, trade mark, copyright or other proprietary right in respect of the Services, any goods supplied by Contractor in the performance of the Services, or other obligations under the SPO.
- (b) Company is responsible for and must defend, release, indemnify and hold Contractor harmless from and against all claims, losses, damages, costs (including legal costs), expenses arising from or relating to the performance of the SPO in respect of:
- (i) loss of or damage to the property of Company, whether owned, hired, leased or otherwise provided by Company, howsoever caused;
  - (ii) personal injury, including death, disease, illness and mental and bodily injury to any person employed or engaged by Company, howsoever caused; and
  - (iii) personal injury, including death or disease, illness and mental and bodily injury, 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 tortious act or omission or statutory breach of Company or any other person employed or engaged by Company.
- (c) Company defends, releases, indemnifies and holds Contractor harmless from Company's own Consequential Loss and Contractor

defends, releases, indemnifies and holds Company harmless from Contractor's own Consequential Loss.

- (d) The benefit of any indemnity given in favour of Company and Contractor in this SPO, will always be deemed to include their respective personnel, affiliates, co-venturers, sub-contractors, sub-suppliers and their respective personnel.
- (e) For the purpose of this clause 9, "**Consequential Loss**" means loss of production, loss of product, loss of use, loss of revenue, profit or anticipated profit regardless of its foreseeability or whether it was in the reasonable contemplation of the Parties.

### 10. Insurance

- (a) Contractor must, during the term of the SPO, take out and maintain at its expense the following insurances or that required by applicable law:
- (i) employers liability / workers compensation insurance to the full extent required by all applicable laws of the country in which the Services are to be performed;
  - (ii) automotive liability including passenger liability insurance in an amount not less than USD \$1,000,000.00 per claim; and
  - (iii) comprehensive general third party liability insurance in an amount not less than USD\$2,000,000.00 per claim.
- (b) Contractor must ensure that all policies of insurance furnished under the SPO contain cross liabilities and waivers of subrogation in favour of Company, and must name Company as additional insured with Contractor to the extent of the indemnities given by Contractor in this SPO. Prior to commencement of the Service or upon request, Contractor must provide Company with notarised copies of its certificates of insurance. The taking out of insurance under this SPO does not relieve Contractor of any of its obligations or liabilities under this SPO or otherwise at law.

### 11. Alcohol And Drug Use

Contractor must adopt and enforce work rules and policies which strictly prohibit the use, possession or distribution of alcohol, unprescribed drugs or any controlled substance by its personnel or those of its subcontractors. Contractor's personnel found to be in breach of such work rules and policies will be immediately removed from the worksite and not permitted to return. In the event that any Contractor's personnel have been prescribed a controlled substance for legitimate medical reasons, prior written approval must be obtained from Company and the person must be in possession of the original prescription and must



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not be in possession of more than the prescribed quantity and dosage.

### 12. Drawings And Documents

Contractor must provide Company with copies of any documents, specifications, descriptions, drawings, test data, test curves, hydraulic test certificates and materials certificates provided by Contractor in the normal course of its business or as explicitly required in the SPO or requested by Company. Contractor must provide Company with copies of any drawings and documents that are required to install, commission, operate, maintain, replace, repair, handle or store any goods supplied. All documents, specifications, descriptions on drawings provided by Contractor must be provided in the English language and at no additional cost to Company.

### 13. Suspension And Termination

- (a) Company has the right at any time and for any reason to suspend the performance of the Services or terminate the SPO by written notice to Contractor effective immediately on dispatch of that notice. Contractor will be entitled to payment for the value of the Services performed and accepted by Company up to the date of suspension or termination and, except where termination is attributable to Contractor's default (including but not limited to failure to perform in accordance with this SPO), negligence or wilful misconduct, to payment for any documented unavoidable additional costs incurred by Contractor as a direct and immediate consequence of such suspension or termination.
- (b) The expiration or any termination of this SPO will not affect clauses 8, 9, 16, 22 and 26 or any other provision of this SPO which are intended to continue after expiration or termination and will also be without prejudice to any claim by either Party against the other Party arising out of any breach or non-performance by that Party of any obligations assumed by or imposed on that Party under this SPO at any time prior to termination.

### 14. Force Majeure

The International Chamber of Commerce Force Majeure Clause 2003, ICC Publication No. 650 applies to this SPO.

### 15. Business Practices

Contractor must not take any action on behalf of Company in the performance of the Services that would subject either Company or Contractor to liability or penalty under any laws, rules, regulations, or decrees of any governmental authority. The direct or indirect offer, payment,

soliciting and acceptance of inducements in any amount or form are unacceptable business practices. Without prejudice to any other rights which Company may have, Company may terminate the SPO with immediate effect should Contractor violate the provisions of this clause 15, and attribute said termination to Contractor's default.

### 16. Confidentiality

All information provided by Company to Contractor, in connection with the SPO, including, but not limited to, any information with respect to Company's operations, all data relating to Company, its affiliates, its business, employees and all other data provided or disclosed to, or received by, Contractor from any source in connection with this SPO is confidential, and Contractor must not disclose such information to any third party or publish such information without the prior written consent of Company. All such information remains the property of Company. Any data supplied by Company must be returned upon completion or termination of the SPO.

### 17. Inventions

Contractor grants to Company a royalty free irrevocable licence to use in all countries any invention developed by any personnel of Contractor as a result of the performance of the Services. The licence includes the right to make, use and sell throughout the world any substance produced or during the operation of the invention.

### 18. Title

Title to, access to, copyright in, the right to possession of and the free right of use of all things provided, created under or arising out of the Services will vest in Company.

### 19. Independent Contractor

Unless this SPO expressly provides otherwise, nothing in this SPO may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

### 20. Assignment

- (a) Contractor may not assign this SPO in whole or in part or assign any part of the Services without the prior written consent of Company, which consent must not be unreasonably withheld.
- (b) Company has at all times the right to assign in whole or in part its right and obligations under this SPO, without the consent of Contractor.



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**21. Subcontracting**

- (a) Contractor may not subcontract in whole or in part any part of the Services without the prior written consent of Company, which consent must not be unreasonably withheld.
- (b) Notwithstanding Company's consent and approval in paragraph (a) above, no subcontract will relieve Contractor from any of its obligations or liabilities under this SPO and Contractor will be responsible for the acts and/or omissions of any subcontractor, its directors, officers and employees as fully as if they were the acts and/or omissions of Contractor.
- (c) Every subcontract entered into by Contractor must contain a provision permitting assignment to Company.

**22. Dispute Resolution**

- (a) Disputes or differences arising between Company and Contractor regarding the SPO will preferably be settled by negotiation within 30 days of the dispute arising. If Company and Contractor are unable to settle a dispute within the 30 day negotiation period, either Party may refer the dispute to arbitration.
- (b) Unless otherwise expressly agreed in writing by the Parties to the arbitration proceedings:
  - (i) the arbitration proceedings will be held in Dubai, United Arab Emirates with three (3) arbitrators;
  - (ii) the arbitration proceedings will be conducted in the English language and the arbitrator(s) must be fluent in the English language;
  - (iii) the arbitrator(s) must be and remain at all times wholly independent and impartial;
  - (iv) the arbitration proceedings will be conducted in accordance with the Arbitration Rules of the International Chamber of Commerce; and
  - (v) any procedural issues not determined under the arbitral rules selected pursuant to this SPO will be determined by the law of the place of arbitration, other than those laws which would refer the matter to another jurisdiction.
- (c) The findings from arbitration will be final and binding.

**23. No Waiver**

- (a) A failure, delay, relaxation or indulgence by a Party in exercising any power or right conferred on the Party by this SPO does not operate as a waiver of the power or right.
- (b) A single or partial exercise of the power or right does not preclude a further exercise of it

or the exercise of any other power or right under this SPO.

- (c) A waiver of a breach does not operate as a waiver of any other breach.

**24. Amendments**

This SPO cannot be amended or varied except in writing signed by the Parties.

**25. Order of Precedence**

The Parties agree that any special conditions set out in this SPO will take precedence over the General Terms And Conditions to the extent of any inconsistency.

**26. Applicable Law**

- (a) The SPO is governed by and will be construed in accordance with the laws in force in England and Wales. The Parties submit to the non-exclusive jurisdiction of the courts of England in respect of all matters arising out of or relating to this SPO, its performance or subject matter.
- (b) For the purpose of the SPO a person who is not a Party to the SPO has no right under the *Contract (Rights of Third Parties) Act 1999* (UK) to enforce any term of the SPO.
- (c) In performing the Services, Contractor must comply with all applicable laws, decrees and regulations and Contractor must ensure that its affiliates, co-venturers, sub-contractors, sub-suppliers and their respective personnel comply with such laws, decrees and regulations.
- (d) Contractor must obtain all licences, permits and authorisations required by the applicable laws, rules and regulations for the performance of the Services.

**27. Entire Agreement**

The SPO will constitute the sole and entire agreement between the Parties for the performance of the Services. The SPO will supersede all prior negotiations, agreements, warranties and representations between the Parties. If Contractor has not informed Company by way of written notice within 5 days of the issue of the SPO of any qualifications or objection to the SPO, Contractor will have been deemed to have unconditionally accepted the SPO in full.