

ADDITIONAL TERMS & CONDITIONS FOR FIELD SERVICES INCLUDING INSTALLATION & COMMISSIONING

INTRODUCTION

These Additional Terms and Conditions are supplemental to, and shall be read in conjunction with the General Terms and Conditions of Sale and, except as otherwise stated all provisions of, and definitions in, the General Terms and Conditions of Sale shall also apply here.

DEFINITIONS

In addition, the following definitions shall apply to these Additional Terms and Conditions:

50. "Commissioning" means the checking, adjusting, testing and proving of the Equipment by the Seller.
51. "Installation" means the fixing in position by the Buyer of the various items of the Equipment, the interconnection cabling thereof and the connection to the electrical power supply and the Plant under the supervision of the Seller, all as provided in the Contract.
52. "Plant" means all machinery, apparatus, materials and articles (other than the Equipment) to be provided by the Buyer and to be used in association or conjunction with the Equipment.
53. "Services" means the services of Seller's engineers/technicians at the Site to supervise Installation and carry out Commissioning, Trials or other work all as defined in the Contract.
54. "Trials" means the tests carried out pursuant to Clauses 64-66 to demonstrate that the Equipment is capable of achieving the specified function.
55. "Trials Schedule" means the schedule produced by Seller detailing the Trials.

SELLER'S RESPONSIBILITIES

56. Seller shall provide the Services of one or more competent engineers/technicians to supervise and to give instructions to the skilled and unskilled labour provided by the Buyer so as to secure:
 - (a) the reception and unpacking of the Equipment at the site ("Site") which could in certain circumstances be a vessel ("Vessel");
 - (b) the Installation; and
 - (c) if the Contract so provides, the Commissioning and Trials.

BUYER'S RESPONSIBILITIES

57. The Buyer shall ensure that the Plant is in a proper state for the carrying out of Installation and Commissioning of the Equipment, is sufficient and suitable for its purpose and that any minor adjustments that may be required by Seller to be made to the Plant are carried out expeditiously.
58. To enable Seller's obligations in respect of the Services to be expeditiously and properly carried out, the Buyer shall provide free of charge all necessary facilities at the Site/Vessel as and when required including but not limited to:
 - (a) reasonable access to the Plant, proper foundations and satisfactory environmental conditions for the Equipment, adequate lifting facilities and scaffolding, such skilled and unskilled labour as is necessary, suitable guarding and protection for the Equipment from time of delivery, any electric power, lighting and heating necessary and all other necessary facilities and adequate assistance;

- (b) permanent and suitable electrical supplies for the Equipment;
- (c) reasonable access to the Plant at reasonable times and for reasonable periods;
- (d) competent operators and attendants for the Plant;
- (e) notification to Seller, at the commencement of the Services, of all safety regulations and procedures to be observed;
- (f) such office facilities as may be reasonably required by Seller, which shall include: electronic communication, facsimile and telephone services;
- (g) working conditions which do not endanger the health or welfare of Seller's engineers; and
- (h) first aid facilities.

59. The Buyer shall ensure that before Commissioning commences:
 - (a) the associated Plant necessary to the proper functioning of the Equipment is fully operational;
 - (b) competent operators are available for the Plant as and when required; and
 - (c) the Plant and Equipment are each made available to Seller and that Seller has access thereto as necessary to enable the progress of Commissioning and Trials to proceed without interruption or hindrance.

JOB BOXES AND BUYER'S TEMPORARY POSSESSION

60. Definition: For purposes of the Contract, "Job Boxes" means all reusable shipping crates, cases, containers, tools, calibrated test equipment, instruments, computers, cables, leads, commissioning equipment, small consumable materials, personal protective equipment, locks, trackers, packing materials, documents and other property supplied or mobilized by the Seller for use in performing the Services and which are not expressly sold to the Buyer under the Contract. Commissioning spares and other project materials shall not form part of the Job Boxes unless expressly identified as such by Seller.
61. Ownership: All Job Boxes and their contents shall always remain the sole property of the Seller. No title or ownership interest in any Job Box or its contents shall pass to the Buyer, notwithstanding any Incoterms® rule applicable to the Equipment or any other provision of the Contract concerning transfer of title. The Buyer shall not use, sell, lease, loan, pledge, encumber or permit any lien or other claim to be asserted against any Job Box or its contents. In the event of any inconsistency between this Clause and Clauses 14 through 16 of the General Terms and Conditions of Sale, this Clause shall prevail with respect to the Job Boxes.
62. Inventory and Condition: The Seller may provide the Buyer with a packing list, inventory, condition record, photographs, serial numbers, seal numbers and declared replacement value for each Job Box. Unless the Buyer gives the Seller written notice, together with reasonable supporting evidence, of any apparent shortage or external damage within two (2) Business Days after receipt at the Site or Vessel, the Job Boxes shall be deemed to have been received in the quantity and external condition shown in Seller's records. Seals, calibration labels, serial-number labels and tracking devices shall not be removed, altered or broken except by Seller's personnel or as required by a governmental or customs authority.
63. Collection and Transportation to Site:
 - (a) Unless otherwise expressly stated in the Contract, the Buyer shall arrange and pay for collection of the Job Boxes from the Seller's

designated premises. Where the Equipment is supplied on an Ex Works basis, the same allocation of transportation cost and risk shall apply to the outbound transportation of the Job Boxes solely for transportation purposes, but no title to the Job Boxes shall pass to Buyer.

- (b) The Buyer shall be responsible for loading, carriage, freight, handling, cargo insurance, customs clearance, temporary import or export formalities, permits, bonds, duties, taxes and all other costs associated with transporting the Job Boxes to the Site or Vessel.
- (c) The Seller may, at the Buyer's request or where operationally preferable, arrange transportation on the Buyer's behalf. The Seller's arranging or coordinating transportation shall not alter the Buyer's responsibility for transportation costs or the agreed transfer of risk.
- (d) Risk of loss of or damage to the Job Boxes shall pass to Buyer when the Job Boxes are placed at Buyer's disposal at Seller's designated premises for collection and shall continue until their return and acceptance by the Seller.

64. Receipt, Custody and Storage:

From the time risk passes to the Buyer until the Job Boxes are returned to and accepted by the Seller, the Buyer shall:

- (a) promptly receive the Job Boxes and maintain an accurate record of their location and custody;
- (b) store the Job Boxes and reusable shipping crates in a locked, secure, dry, weatherproof and environmentally suitable indoor location;
- (c) protect the Job Boxes from theft, loss, fire, water, impact, contamination, deterioration, unauthorized access and unauthorized use;
- (d) restrict access to the Job Boxes to the Seller's personnel and persons expressly authorized by Seller;
- (e) not relocate the Job Boxes from the Site or Vessel without the Seller's prior written consent;
- (f) preserve all crates, locks, packing materials, calibration labels, seals, identification markings and tracking devices;
- (g) make the Job Boxes available, intact and readily accessible at the applicable work location when Seller's personnel arrive and throughout performance of the Services; and
- (h) shall remain responsible for the acts and omissions of its employees, carriers, subcontractors, agents, site operators and other persons having possession or control of the Job Boxes.

65. Use and Consumption: The Buyer shall not use or remove any Job Box or its contents without the Seller's prior written authorization. Parts and small consumable materials actually used or installed by the Seller's personnel in performing the Services shall not be required to be returned, provided that such use is recorded by Seller. The use of such items shall not affect the Seller's right to charge for them where they are not included in the Contract Price.

66. Return:

- (a) The Seller's personnel may conduct a closeout inventory and pack and seal the Job Boxes before demobilization. The Buyer shall ensure that the return carrier and pickup arrangements are confirmed before the Seller's final resource leaves the Site or Vessel.
- (b) Unless the Seller approves otherwise in writing, the Job Boxes shall be delivered to the return carrier within five (5) Business Days after the Seller gives notice that they are ready for return and shall be delivered, freight prepaid and adequately insured, to the Seller's designated premises no later than thirty (30) calendar

days after completion of the Seller's demobilization. Any project-specific exception shall be agreed to in writing before the Job Boxes are shipped to the Site.

- (c) Each Job Box shall be returned to the Seller in its original crate and packing configuration, with the same contents and in the same condition in which it was received, reasonable wear resulting from authorized use and parts or consumables used by the Seller's personnel excepted. The Buyer's responsibility and risk of loss shall continue until the Job Boxes have been physically received and reasonably inspected by Seller at its designated premises.

67. Loss, Damage or Failure to Return.

- (a) The Buyer shall be responsible for any loss, theft, destruction, shortage or damage occurring to the Job Boxes while the Job Boxes are at the Buyer's risk, including while they are in the custody of a carrier, subcontractor, customs authority, site operator or other third party, except to the extent directly caused by the Seller's personnel.
- (b) If a Job Box or any non-consumable item is damaged, the Seller may, at its option, require the Buyer to pay the reasonable cost of repair or replacement. If a Job Box is not returned within five (5) Business Days after the applicable return deadline, the Seller may deem it lost and invoice Buyer for its full then-current replacement value.
- (c) The Buyer shall also be responsible for reasonable freight, expediting, customs, duties, taxes, inspection, recovery, rental and substitute-equipment costs incurred by Seller as a result of a loss, damage or failure to return Job Boxes. These reimbursement obligations constitute amounts due under the Contract and are not dependent upon the Seller first recovering under any insurance policy.
- (d) The Seller's internal allocation of a loss, repair, replacement or non-conformance report cost to a project or sales order shall not limit the Seller's right to invoice the Buyer where the Buyer is responsible for loss, damage or a failure to return Job Boxes.

68. Insurance: The Buyer shall maintain property and cargo insurance covering each Job Box for its full replacement value from the time risk passes to the Buyer until its return and acceptance by the Seller. Upon request, the Buyer shall provide reasonable evidence of such insurance. Insurance coverage shall not limit or replace the Buyer's obligations under this Clause.

69. Delay and Unavailability: Any delay, interruption, standby time, remobilization or additional work resulting from a Job Box being late, inaccessible, incomplete, lost or damaged while at the Buyer's risk shall constitute a Buyer-caused delay. In such an event, the Seller shall be entitled to an appropriate schedule extension and reimbursement of all resulting costs at the Seller's then-current rates.

CHARGES PAYABLE BY THE BUYER

70. Unless otherwise provided for in the Contract, supervision of Installation and Commissioning and Trials shall be carried out on a time and material basis (based upon the Seller's then-current rate sheet). The following shall be separately charged:

- (a) the travelling expenses incurred by Seller for its employees and the transport of instruments and personal effects;
- (b) the living expenses, including any appropriate allowance, of Seller's employees for each day's absence from their homes including non-working days and holidays;
- (c) time worked at the agreed rate, it being understood that the Seller's day rate provides for up to 12 hours work however work outside these hours may be charged at special rates;

- (d) time necessarily spent on:
 - preparation and formalities incidental to the outward and homeward journeys;
 - the outward and homeward journeys;
 - waiting when work is prevented by circumstances for which Seller is not responsible under the Contract;
- (e) any taxes or dues levied on the invoice and paid by Seller in the country where the Services take place.
- (f) Cost of reasonable accommodation for the duration of the project on a single room per person basis.

HOURS OF WORK

71. Unless otherwise provided for in the Contract, the Buyer shall give Seller facilities for carrying out the Services on the Site continuously during the normal working hours generally recognized in the territory. The Buyer may direct that work shall be carried out at other times if it shall be practicable to do so. The extra cost of work so performed shall be added to the Contract Price unless such work, by the default of Seller, has become necessary to ensure the completion of the Services on time. Seller's rate provides for up to 12 hour day.
72. No work shall be carried out on Site during the night or on locally recognized days of rest without the consent of the Buyer, unless the work is unavoidable or necessary for the protection of life or property or for the safety of the Services, in which case Seller shall immediately advise the Buyer. The Buyer shall not withhold any such consent if work at night or on rest days is considered by Seller to be necessary to meet the completion time for the Services.

INTERRUPTION OF WORK

73. If the Services are interrupted for a cause for which Seller is not responsible:
 - (a) the Buyer is entitled to send home Seller's staff, but in this case the Buyer shall pay the resulting expenses (including payment by Buyer of day rate during return travel);
 - (b) Seller is entitled to recall its staff at the expense of the Buyer (including payment by Buyer of day rate during return travel) if the interruption of Installation and Commissioning exceeds a period of seven (7) days.
74. If Seller's staff are sent home or recalled, the Contract is not terminated and its performance is merely suspended until the Buyer has required the return of Seller's staff to the Site by giving a reasonable period of notice.

TIME OF TAKING OVER

75. The Equipment or any portion thereof shall be taken over by Buyer at the earlier of the following times and the Buyer shall issue a take-over Certificate accordingly:
 - (a) When the Equipment or such portion has passed or is deemed to have passed the Trials; or
 - (b) When the Equipment or such portion shall have been put into use.
76. The time of taking over shall not be delayed due to additions, minor omissions or defects which do not materially affect the use of the Equipment.

CERTIFICATES

77. Upon completion of the tasks comprising the Services and upon receipt of Seller's written request, Buyer shall provide Seller with certificate(s) ("Certificate(s)") accepting such completed tasks.
78. If within fourteen (14) days of Buyer's receipt of Seller's written request for the aforementioned Certificate(s), Buyer has not delivered same to Seller or has not provided Seller with good and sufficient reason for withholding the requested Certificate(s), any such completed tasks for which the Certificate(s) has been requested by Seller shall be deemed accepted and in accordance with the Contract.

TRIALS

79. Trials shall be performed in accordance with the approved Trials Schedule and shall be commenced promptly after Seller has given notice to the Buyer that it is ready to proceed therewith. It will be the Buyer's responsibility to ensure that during Trials, the Plant is working normally in accordance with the operating procedure agreed during the Equipment design and within the limits laid down (if any), and that members of the Buyer's staff operating the Plant and Equipment, exercise all appropriate skill and care. For the purpose of the article *Time of Taking Over*, the Buyer shall be deemed to have taken over the Equipment if as a result of circumstances beyond the control of Seller (whether or not due to circumstances within the Buyer's control or that of other contractors):
 - (a) Trials are delayed beyond the time stated in the Contract or, when no time is stated, for an unreasonable time; or
 - (b) the Equipment fails to pass the Trials.
80. Notwithstanding that the Equipment shall be deemed to have been taken over for the purpose of the Contract, Trials shall subsequently be carried out once the circumstances referred to above are remedied by the Buyer, within a reasonable time and any extra costs and expenses incurred by Seller shall be paid for by the Buyer.
81. If the results of the Trials show that Seller has failed to achieve the requirements of the Trials Schedule, then further Trials shall, if required by either Party, be repeated at the time and place to be agreed. In the event the Buyer or other contractors are responsible for such failure, then all of Seller's reasonable expenses incurred for the purpose of repeating the Trials shall be paid for by the Buyer.