

DRILLERS SERVICE, INCORPORATED
TERMS AND CONDITIONS OF SALE

1. **ENTIRE AGREEMENT:** These Terms and Conditions of Sale (“Terms”) are incorporated into any contract for the sale of goods by Drillers Service, Incorporated (“DSI”) to Buyer and these Terms, together with any price, delivery, payment or similar terms provided by DSI, shall constitute the entire agreement between the parties regarding all goods purchased from DSI. No change to or modification of these Terms shall be binding upon DSI, unless signed by its authorized representative. If DSI is deemed to have made an offer to Buyer, acceptance shall be limited to these Terms and DSI hereby notifies Buyer of DSI's objection to any additional, missing or different terms in Buyer's acceptance. If Buyer is deemed to have made an offer to DSI, DSI's acceptance is expressly conditioned upon Buyer's assent to any additional, deleted or different terms (from Buyer's offer) in these Terms. No change to these Terms will be binding upon DSI, unless signed by an authorized representative of DSI.

2. **LATE CHARGES AND COSTS:** Buyer shall pay interest at the rate of 1.5% per month on all overdue contract or invoice balances. Buyer further agrees to pay all costs and expenses, including reasonable attorneys' fees, incurred by DSI in collecting overdue contract or invoice balances or in otherwise enforcing the terms and provisions of this contract.

3. **APPLICABLE LAW AND JURISDICTION:** This contract shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to principles of conflicts of law. Buyer hereby consents to the personal jurisdiction of the state and federal courts in North Carolina with regard to any lawsuit arising out of this contract or any goods or services provided by DSI to Buyer or any other agreement, obligation or transaction between DSI and Buyer.

4. **WARRANTIES:** With regard to all goods purchased by Buyer from DSI, warranties are limited to the manufacturer's warranty, if any, and under no circumstances shall the manufacturer's warranty be deemed to be a warranty made by DSI. DSI MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH REGARD TO GOODS PURCHASED FROM DSI, AND HEREBY DISCLAIMS ALL IMPLIED WARRANTIES, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. DSI hereby assigns to Buyer, without recourse, any manufacturer's warranty applicable to goods purchased from DSI, to the extent such warranty is assignable. If there is a breach of a manufacturer's warranty, Buyer shall comply with all terms of such warranty and any remedies provided in such warranty by the manufacturer shall be Buyer's exclusive remedy for any defective or nonconforming goods. In no event shall Buyer be entitled to claim or recover any direct, indirect, incidental or consequential damages from DSI of any nature whatsoever pertaining to goods sold by DSI to Buyer, including damages for lost profits, down time or loss of use. If, notwithstanding the foregoing, DSI is determined to be obligated to Buyer for any damages or costs related to the goods purchased by Buyer, including without limitation damages related to defects or nonconformities in the goods or failure to comply with delivery schedule or other obligations, then whether such claim is in contract, tort, warranty or otherwise, DSI's

liability will not exceed the price paid by Buyer to DSI for the goods to which the claim is related. These provisions allocate between DSI and Buyer the risks regarding any claim related to the goods and DSI's pricing to Buyer reflects such allocation of risk and the foregoing contractual limitation of DSI's liability.

5. **CREDIT APPROVAL:** Acceptance of any order submitted by Buyer shall be subject to the sole and exclusive discretion of DSI and to credit approval by DSI. If, after initial credit approval, Buyer's credit becomes unsatisfactory to DSI, in its sole discretion, or if DSI for any reason deems itself commercially insecure, or if Buyer fails to comply with any obligation to DSI or any of these terms and conditions, DSI reserves the right to terminate any order upon written notice to Buyer. In that event, DSI shall have no liability to Buyer for such termination and Buyer shall not be entitled to assert any claim against DSI for such termination.

6. **PRICES:** Prices are subject to change by DSI, without notice, to the extent that DSI's cost of acquiring the goods is increased after DSI's acceptance of Buyer's order. Prices shown do not include any sales, excise or other government charge payable by DSI to federal, state or local authority. Any such taxes now or hereafter imposed upon sales or shipments will be added to the purchase price. Buyer agrees to reimburse DSI for any such tax or provide DSI with an acceptable tax exemption certificate. Any change in quantities, partial release or destination may result in a price adjustment.

7. **ORDER CANCELLATION AND RETURNED GOODS:** No order in the process of production is subject to cancellation, deferment or change in specifications without written agreement by DSI. Cancellation charges shall be determined by DSI, in its sole discretion, and will include cost of all labor and material ordered by DSI or in process for the Buyer's order.

8. **FORCE MAJEURE:** DSI shall not be liable for any default in, delay, reduction, or failure of, delivery due to causes beyond its control, including, without limitation, strikes, floods, lock outs, disputes or disagreements resulting in work stoppages, inability to timely acquire the goods from DSI's supplier for reasons beyond DSI's control, embargoes, government regulations, military service, war, delays by carriers, lack of shipping facilities, unavoidable casualties, fires, storms, explosions, epidemics, civil disturbances, acts of God or public enemy, or any other causes or conditions in addition to the foregoing which are beyond DSI's control.

9. **SHORTAGES:** Claims for shortages, other than lost in transit, must be made to DSI in writing within five (5) days after receipt of shipment.

10. **DELAY AND DELIVERY:** Factory shipments and predicted delivery dates are based upon the best estimates of the manufacturers or suppliers to DSI. In no event shall DSI be liable to Buyer or any other persons for consequential or other damages arising from delays in delivery. Buyer expressly agrees to indemnify and hold harmless DSI from any and all claims or

damages, including attorneys' fees, which may be asserted against DSI by third parties arising from delays in delivery.

11. **LABOR CHARGES:** DSI shall not be liable for any labor charges, other than those to be paid or reimbursed by the manufacturer as agreed upon in advance between the manufacturer, DSI and Buyer.

12. **PASSAGE OF TITLE AND RISK OF LOSS:** For deliveries by DSI trucks, title and risk of loss pass to the Buyer at the time and place of delivery at Buyer's facility or designated delivery location. All other shipments are F.O.B. DSI's or DSI's supplier's warehouse or manufacturing facility. Title and risk of loss to such goods pass to the Buyer when the goods leave any DSI location or, in instances of direct shipments by DSI's supplier or manufacturer, title and risk of loss passes when the goods leave the supplier's or manufacturer's location. Therefore, for shipments other than by DSI trucks, claims for in-transit shortage or damage are the Buyer's responsibility.

13. **RETURN OF GOODS:** No credit will be allowed for goods returned without written permission from DSI. A deduction will be made from any credits issued on all returned goods to cover cost of handling or other costs, including charges imposed by DSI's supplier or manufacturer. Goods must be in original condition and original packaging, and must be accompanied by DSI's packing list or invoice.

14. **WAIVER:** No waiver by either party, whether express or implied, of any provision of this contract or any breach or default by the other party, shall constitute a continuing waiver or waiver of any other provision or provisions of this contract and no such waiver by either party shall prevent such party from enforcing any and all provisions of this contract as to any subsequent breach or default by the other party under any provisions of this contract.

15. **CUMULATIVE RIGHTS:** All rights and remedies of DSI under this contract are in addition to DSI's other rights and remedies provided by law and are cumulative, not alternative.

16. **SEPARABILITY:** If any provision of this contract is or becomes, at any time, unenforceable under any law, rule, or regulation, the other provisions of this contract shall not be affected and shall continue in effect.