



**STANDARD TERMS AND CONDITIONS FOR SALES AGREEMENTS
APPLICABLE TO GOODS AND SERVICES SUPPLIED BY
DYNA-DRILL TECHNOLOGIES, INC. (“DYNA-DRILL”) TO BUYER**

1. **Acceptance**

- 1.1 Acceptance of any offer to sell by DYNA-DRILL is limited to Buyer completely and exclusively accepting all terms and conditions hereof (“Terms”). This Agreement constitutes the entire agreement (the “Agreement”) between the parties and takes precedence over any and all previous verbal or written arrangements in connection with this Agreement. Any deletions, modifications, alterations of or additions to the Terms, to be binding, shall be in writing and signed by an authorized representative of DYNA-DRILL and Buyer. Without limiting the foregoing, it is expressly acknowledged that any Buyer document received is for order identification convenience only. Any and all provisions on the face or reverse side of any purchase order or service order which Buyer may send to DYNA-DRILL in connection herewith are expressly objected to by DYNA-DRILL and waived by Buyer and made inapplicable to any such purchase, unless both parties expressly agree in writing to include any such terms and conditions in this Agreement. Electronic commerce transactions between DYNA-DRILL and Buyer shall be solely governed by this Agreement.
- 1.2 The term “Goods” as used herein shall mean all tangible things (included specially manufactured goods) which are identifiable to any sales agreement between DYNA-DRILL and Buyer.
- 1.3 Buyer’s acceptance is hereby expressly limited to the Terms, and, acceptance of any part of the Goods covered hereunder shall be deemed to constitute such acceptance. (If this order constitutes an acceptance of an offer, such acceptance is expressly made conditional on Buyer’s assent to the Terms and any additional or different terms contained herein, and, acceptance of any part of the Goods covered hereunder shall be deemed to constitute such assent.) DYNA-DRILL may provide the Goods from its affiliated companies, in which event these Terms will apply. Buyer may not assign this Agreement without the prior written consent of DYNA-DRILL.
- 1.4 For any DYNA-DRILL Goods leased to Buyer, DYNA-DRILL’s Standard Terms and Conditions of Equipment Lease shall apply, which terms and conditions are incorporated herein by reference.

2. **Limited Warranties**

Due to the uncertainties of subsurface conditions and hazards in and about wells over which DYNA-DRILL has no control, DYNA-DRILL warrants that the Goods sold by it shall be of DYNA-DRILL standard quality but not that they will accomplish any particular result.

DYNA-DRILL hereby warrants that all Goods manufactured by DYNA-DRILL (with the exception of stators as provided below) are free of defects of material and workmanship for a period of three (3) months from the date shipped (the “Warranty Period”), providing that the Goods are used in the service specified and are properly installed, used and maintained and not altered after initial delivery, corrosion and erosion and normal wear and tear excepted. Buyer shall give written notice to DYNA-DRILL of any defects within thirty (30) days of their discovery by Buyer, within said three (3) month period, with a report detailing failure and defects. Provided, however, in the case of stators used in downhole drilling applications, such Goods are warranted to be free from defects in materials and workmanship ONLY for the first downhole drilling application of such Goods. DYNA-DRILL warrants to Buyer that the Goods will not fail downhole for a minimum period of one hundred (100) drilling and circulating hours or three (3) months from the date shipped, whichever occurs earlier, provided that:

- (1) the stators are used in accordance with recommended practices set forth in DYNA-DRILL’s catalog, and
- (2) when not in use, the stators are stored in a controlled environment not exceeding thirty-five (35) degrees Celsius.

DYNA-DRILL reserves the right to require prepaid return of the allegedly defective Goods to establish a warranty claim. Should DYNA-DRILL determine, in its sole discretion, and based upon its inspection that the Goods were defective in material and/or workmanship, customer’s sole remedy, statutory or otherwise, shall be limited to the replacement of the Goods F.O.B. manufacturing facility, repair, or credit for the purchase price paid for the Goods upon return to DYNA-DRILL. This warranty does not obligate DYNA-DRILL to bear the cost of labor, transportation, or other incidental charges in connection with the replacement or repair of the Goods. DYNA-DRILL shall not be responsible for retrieving or removing defective items (whether manufactured by DYNA-DRILL or not), or any part thereof, or for reinstalling the same when repaired or replaced, or for any cost incurred in connection with such retrieval, removal or reinstallation. In the case of items or parts not wholly of DYNA-DRILL’s manufacture, but supplied by DYNA-DRILL, DYNA-DRILL’s liability shall be limited to assisting Buyer in enforcing the warranty of the manufacturer of the items or parts. DYNA-DRILL does not warrant goods not provided by or manufactured by DYNA-DRILL. DYNA-DRILL will not be responsible for repairs made by other than DYNA-DRILL without prior written consent.

THIS WARRANTY IS EXCLUSIVE AND, EXCEPT AS STATED HEREIN, DYNA-DRILL MAKES NO EXPRESS OR IMPLIED WARRANTIES AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, WHICH EXCEED THE FOREGOING WARRANTY. BUYER’S SOLE REMEDY AND DYNA-DRILL’S SOLE OBLIGATION ARISING OUT OF OR IN CONNECTION WITH DEFECTS IN MATERIALS, WORKMANSHIP OR SERVICES, WHICH ARE BASED ON

WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL BE THOSE STATED IN THIS SECTION.

The Buyer acknowledges that any affirmation of fact or promise made by DYNA-DRILL, its agents, employees or representatives, by words or action, shall not constitute a further warranty nor be deemed to create an express warranty, that Buyer is not relying on DYNA-DRILL's skill or judgment in selecting or furnishing a system suitable for any particular purpose, and there are no warranties which extend beyond the description on the face hereof. All warranties other than the express warranty stated above are excluded to the fullest extent permissible by law. The express warranty stated herein extends only to the first user to whom DYNA-DRILL or its dealer delivers such Goods. All warranties and obligations of DYNA-DRILL shall terminate if: 1) customer fails to perform its obligations under this or any other agreement between the parties; 2) customer fails to pay any charges otherwise due DYNA-DRILL; 3) customer uses the Goods for any unauthorized or unintended purpose; 4) the customer misuses or abuses the Goods; 5) customer alters or repairs the Goods without the prior written consent of DYNA-DRILL; or 6) the Goods are lost while on customer's site due to customer's or any third party's negligence, vandalism, or force majeure. Notwithstanding anything herein to the contrary, customer acknowledges and agrees that the limited warranty and limitation of liability set forth in this Section shall apply in the event customer suffers any damage whatsoever as a result of the defective Goods. DYNA-DRILL shall in no event be liable for incidental or consequential damages or contingent liabilities arising out of the failure of any Goods or Services to perform properly.

3. **Liability**

- 3.1 **Mutual Indemnities.** DYNA-DRILL agrees to defend, indemnify, release and hold Buyer Group harmless from and against all costs, damages, losses, fines, penalties, expenses (including court costs and reasonable attorney's fees) and liabilities (except for Environmental Liabilities) arising out of claims, demands, or causes of action brought by any person or entity for bodily injury to or death of, any employee of DYNA-DRILL, officers, directors, shareholders, contractor, subcontractor, agent, invitee, parent, co-owner, co-venturer, co-lessee, partner, subsidiary, or affiliate of DYNA-DRILL ("DYNA-DRILL Group"), or for damage to or loss of property owned or leased (except property leased to Buyer) by DYNA-DRILL Group, which injury, death, damage, liability, claim, demand or loss arises out of or is incidental to the performance of this Agreement, or in any way is related to the use of the Goods or Services whether by Buyer Group or another end user, **REGARDLESS OF WHETHER CAUSED BY DEFECTS IN MATERIALS AND WORKMANSHIP OR FAILURE OF THE GOODS OR SERVICES, OR THE NEGLIGENCE, IN ANY FORM, OR FAULT, OR STRICT LIABILITY OF BUYER GROUP, OR ANY OTHER PERSON NATURAL OR OTHERWISE, AND/OR ANY DEFECT IN ANY PREMISES OR VESSEL WHETHER PRE-EXISTING THIS CONTRACT OR NOT AND WHETHER SUCH DAMAGES, LOSSES, INJURIES, LIABILITIES, CLAIMS OR**

DEMANDS ARISE FROM TORT, CONTRACT, QUASI-CONTRACT OR OTHERWISE.

Buyer agrees to defend, indemnify, release and hold DYNA-DRILL Group, harmless from and against all costs, damages, losses, fines, penalties, expenses (including court costs and reasonable attorney's fees) and liabilities arising out of claims, demands, or causes of action brought by any person or entity for bodily injury to or death of, any employee of Buyer, contractor (other than DYNA-DRILL), officers, directors, shareholders, subcontractor, agent, invitee, parent, co-owner, co-venturer, co-lessor, partner, subsidiary or affiliate of Buyer ("Buyer Group"), or for damage to or loss of property owned or leased by Buyer Group, which injury, death, damage, liability, claim, demand or loss arises out of or is incidental to the performance of this Agreement, or in any way is related to the use of the Goods or Services whether by Buyer Group or another end user, **REGARDLESS OF WHETHER CAUSED BY DEFECTS IN MATERIALS AND WORKMANSHIP OR FAILURE OF THE GOODS OR SERVICES, OR THE NEGLIGENCE, IN ANY FORM, OR FAULT, OR STRICT LIABILITY OF DYNA-DRILL GROUP, OR ANY OTHER PERSON NATURAL OR OTHERWISE AND/OR THE UNSEAWORTHINESS OF ANY VESSEL, ANY DEFECT IN ANY PREMISES OR VESSEL WHETHER PRE-EXISTING THIS CONTRACT OR NOT AND WHETHER SUCH DAMAGES, LOSSES, INJURIES, LIABILITIES, CLAIMS OR DEMANDS ARISE FROM TORT, CONTRACT, QUASI-CONTRACT OR OTHERWISE.**

The parties agree that the foregoing indemnity obligations shall be supported by equal amounts of insurance or qualified self-insurance maintained by DYNA-DRILL and Buyer, respectively, which shall be no less than the amounts of insurance set forth in Section 4.

The indemnification provided hereunder shall be effective to the maximum extent permitted by applicable law. The parties agree that in the event any law is enacted in any state, the laws of which are applied to this Agreement that limits in any way the extent to which indemnification may be provided to an indemnitee, then this Agreement shall automatically be amended to provide that the indemnification provided hereunder shall extend to the maximum extent permitted by applicable law.

- 3.2 **Environmental Liability.** Notwithstanding any other provision(s) contained in this Agreement and specifically in Section 3.1, Buyer assumes sole responsibility for and shall defend, indemnify and hold DYNA-DRILL Group harmless from and against any and all claims, demands, suits, judgments, damages, losses, fines, penalties and causes of action of every nature, kind and character for damage to or loss of the hole, including the casing and all pipe and tubulars and equipment and tools therein, loss of or impairment of any property right in and to any oil, gas,

water or other mineral substance, for all spills, leakage, blowouts, above or below ground, or uncontrolled flow(s) of oil, gas and water and all other substances, including the damages caused by said leakage or uncontrolled flow(s) of oil, gas, water and all other substances, including the control and removal thereof, pollution and/or contamination, costs of removal of debris or damage to or loss of the well, damage to or loss of the reservoir, damage to or loss of the production and/or formations (the “Environmental Liabilities”) **REGARDLESS OF WHETHER CAUSED BY THE NEGLIGENCE, IN ANY FORM, OR FAULT, OR STRICT LIABILITY OR ABSOLUTE LIABILITY OF ANY MEMBER OF DYNA-DRILL GROUP, OR ANY OTHER PERSON NATURAL OR OTHERWISE AND/OR THE UNSEAWORTHINESS OF ANY VESSEL, ANY DEFECT IN ANY PREMISES OR VESSEL WHETHER PRE-EXISTING THIS CONTRACT OR NOT AND WHETHER SUCH DAMAGES, LOSSES, LIABILITIES, CLAIMS OR DEMANDS ARISE FROM TORT, CONTRACT, QUASI-CONTRACT OR OTHERWISE.**

- 3.3 **Third Party Indemnification.** DYNA-DRILL shall indemnify Buyer and hold Buyer harmless from any physical damage to property of third parties (excluding environmental damage) or injury to persons, including death, to the extent resulting directly from the negligence of DYNA-DRILL or its officers, servants, agents, employees, and/or assigns while engaged in activities relating to this Agreement. Buyer shall likewise indemnify and hold harmless DYNA-DRILL Group from any physical damage to property of third parties or injury to persons, including death, to the extent resulting directly from the negligence of Buyer, its officers, servants, agents, employees, and or assigns, while engaged in activities relating to this Agreement. In the event such damage or injury is caused by the joint or concurrent negligence of DYNA-DRILL and Buyer, the loss shall be borne by each party in proportion to its negligence.
- 3.4 **Indemnity Savings Clause; Severability.** If any defense, indemnity or insurance provision contained in this Agreement conflicts with, is prohibited by or violates public policy under any federal, state or other law determined to be applicable to a particular situation arising or involving any Goods or Services hereunder, it is understood and agreed that the conflicting, prohibited or violating provision shall be deemed automatically amended in that situation to the extent - but only to the extent - necessary to conform with, not be prohibited by and avoid violating public policy under such applicable law. No other provisions of this Agreement shall be amended or affected thereby. Both parties agree that the exculpatory, indemnification and hold harmless provisions herein shall be modified or altered only insofar as required by a jurisdiction purporting to limit such provisions, it being the intention of both parties to enforce to the fullest extent all terms and conditions herein agreed to. Any provision or term of this Agreement which is or may be void or unenforceable shall, to the extent of such invalidity or unenforceability, be deemed severable and shall not affect any other provision of this Agreement.

3.5 **Incidental and Consequential Damages.** Notwithstanding anything to the contrary in this Agreement, in no event shall either party hereto be liable for any, special, incidental, indirect, exemplary, punitive, speculative, contingent, or consequential damages of any type. In no event, whether as a result of breach of contract, warranty, tort (including negligence), at law or in equity, strict liability, indemnity, or otherwise, shall DYNA-DRILL or any of its affiliates or suppliers be liable for loss of profit or revenues, loss of use of the Goods or Services, cost of capital, overhead, labor, cost of substitute equipment, services or software, cost of substitute facilities or replacement power, damage to associated equipment or facilities, downtime costs, claims for damages or costs related to the cleanup, removal, release or threatened release, remediation or disposal of or any response to any hazardous material, or claims of Buyer's customers for any of the foregoing.

3.6 **Limitation of Liability.** Notwithstanding anything to the contrary in this Agreement and excepting DYNA-DRILL's mutual indemnification obligations in Section 3.1, DYNA-DRILL's total liability, in tort, contract or otherwise, to Buyer Group, under or relating in any way to this Agreement or to any Goods or Services provided hereunder shall in no event exceed a single aggregate limit equal to the sales agreement price. All liability under this Agreement shall terminate upon expiration of the Warranty Period. If Buyer is furnishing DYNA-DRILL's Goods to a third party by contract, Buyer shall obtain from such third party a provision affording DYNA-DRILL the protection of this Section and shall, in any event, indemnify DYNA-DRILL against any liability in excess of the limitations and exclusions provided herein.

4. **Insurance**

Both parties agree to procure and maintain, at their sole expense, policies of insurance or qualified self- insurance, no less than the following minimum limits:

Workers Compensation	Statutory;
Employer's Liability	\$1,000,000 per occurrence;
Comprehensive General Liability	Combined Single Limits for Bodily Injury and Property Damage shall be \$1,000,000 per occurrence;
Automobile Liability	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence.

It is understood that to the extent of each party's indemnity obligations under this Agreement, its policies shall be primary and shall receive no contribution from any insurance policies maintained by or on behalf of the other party. Each party, on request, shall furnish the other party with insurance certificates evidencing the aforementioned minimum limits of insurance. Such insurance certificates shall state that insurers shall endeavor to give the other party thirty (30) days' written notice in the event of any material change in or

cancellation of the aforementioned insurance policies. Buyer and DYNA-DRILL shall arrange for any insurance covering the liabilities under Section 3 to be extended to include waivers of subrogation in respect to the relevant indemnified parties.

5. **Price and Payment**

- 5.1 All Goods are priced in U.S. dollars, unless otherwise stated, and will be invoiced upon shipment. Net payment is due within thirty (30) days after invoice date. Interest charges at eighteen percent (18%) per annum (or at maximum lawful rate) will be applicable to delinquent accounts unpaid after due date. Prices quoted are subject to change without notice if not accepted within thirty (30) days, unless specifically stated otherwise. If Buyer fails to pay any portion of the Agreement price as required by this Agreement, (a) DYNA-DRILL may suspend its performance, in which event Buyer shall reimburse DYNA-DRILL for all costs related to such suspension, and (b) DYNA-DRILL's time for performance of its Agreement obligations shall be extended for a period equal to the period of Buyer's failure to pay and such additional time as may be reasonably necessary in the circumstances. If Buyer does not correct such failure within thirty (30) days of the required payment date, then DYNA-DRILL may, at its option, terminate this Agreement with respect to the portion of the Goods not shipped, in which event Buyer shall pay DYNA-DRILL its reasonable termination charges plus interest charges. If the Goods are complete or substantially complete at the time of suspension of performance by DYNA-DRILL, then, in addition to the recovery of costs related to the suspension, DYNA-DRILL shall be entitled to recover from the Buyer the full sales agreement price for the Goods.
- 5.2 Unless otherwise quoted, Buyer will pay, in addition to the purchase price of the Goods, all charges for export, packing and processing, insurance and transportation, and the price of Goods does not include personnel or equipment required to install the Goods.
- 5.3 If in DYNA-DRILL's reasonable opinion Buyer's financial condition at any time does not justify continuation of DYNA-DRILL's performance of this Agreement on the terms of payment set forth in the Agreement, DYNA-DRILL may either require full or partial payment in advance or terminate this Agreement. If Buyer becomes bankrupt or insolvent, or if any proceeding is brought against Buyer, voluntarily or involuntarily, under any bankruptcy or insolvency law, DYNA-DRILL may terminate this Agreement. In the event of either such termination, Buyer shall pay DYNA-DRILL its reasonable termination charges.

6. **Transportation**

Unless otherwise specified in DYNA-DRILL's sales quotation, sales agreement, or Invoice, the transportation charges, including transportation documents and contracts with carriers, shall be based upon the point of manufacture and shall be paid by Buyer.

7. **Delivery and Title**

7.1 **Point of Delivery.** DYNA-DRILL agrees to deliver the Goods to Buyer "Ex Works DYNA-DRILL's manufacturing facility" unless otherwise agreed in writing for an order. Title and risk of loss to Goods shall pass to Buyer when available for shipment from DYNA-DRILL's manufacturing facility. DYNA-DRILL shall maintain a purchase money security interest in the Goods for any portion of the purchase price not paid at the time of delivery and shall retain this interest until DYNA-DRILL has received the full purchase price for the Goods. If the Goods cannot be shipped to Buyer when ready due to any cause not attributable to DYNA-DRILL, DYNA-DRILL may, upon notice to Buyer, place the Goods in storage, in which case (a) title and all risk of loss shall thereupon pass to Buyer if it has not already passed, (b) any amounts otherwise payable to DYNA-DRILL upon delivery or shipment shall be payable upon presentation of DYNA-DRILL's invoices and certification as to cause for storage, (c) all expenses incurred by DYNA-DRILL, such as for preparation for and placement into storage, handling, inspection, preservation, insurance, storage, removal, value added taxes and any other taxes shall be reimbursed by Buyer upon submission of DYNA-DRILL's invoices, and (d) when conditions permit and upon payment of all amounts due hereunder, DYNA-DRILL shall resume delivery of the Goods.

7.2 **Delivery Dates.** Delivery commitments are given as accurately as information permits, and reasonable efforts will be made to make deliveries as scheduled. All shipping dates are based upon receipt of complete orders, performance of routine quality control and Buyer's inspection/testing requirements which, if the normal production sequence is affected, will be considered as extending shipping dates appropriately. DYNA-DRILL assumes no liability for damage or losses arising out of failure to deliver materials as scheduled.

8. **Cancellation or Rescheduling of Orders**

8.1 Orders, once placed and accepted, may be canceled only with DYNA-DRILL's written consent and upon terms which will save DYNA-DRILL from loss. No Goods may be returned for credit, warranty claim or adjustment without the written consent of authorized DYNA-DRILL employees. Buyer may terminate this Agreement or orders only upon paying DYNA-DRILL all costs incurred by DYNA-DRILL including such costs incurred in satisfying all other obligations, commitments and claims which DYNA-DRILL may have undertaken with third

parties in connection with this Agreement. Termination of this Agreement shall not relieve either party of any obligation arising prior to termination.

- 8.2 DYNA-DRILL may, but is not obligated to, accept a written request by Buyer to delay shipment of the Goods. If rescheduling is accepted by DYNA-DRILL, Buyer shall pay any additional costs incurred by the delay and the price for the balance of the order shall be adjusted to reflect prices and costs in effect at time of actual shipment. DYNA-DRILL shall not be obligated to proceed with the changed or extra work until the price of such change and its effect on the scheduled delivery date(s) have been agreed upon and effectuated by a change order.

9. Taxes, Licenses or Other Charges

- 9.1 All taxes or other charges imposed by law on the sale or production of Goods or the performance of Services under this Agreement, including, but not limited to, those from all governmental authorities, as well as all foreign taxes, surcharges, customs duties, consular fees, assessments or other applicable charges, if any, shall be borne by the Buyer, unless the law specifically provides that such payment must be borne by DYNA-DRILL. Buyer shall pay for and hold DYNA-DRILL harmless from all such governmental charges.
- 9.2 Buyer shall, at its own expense, obtain all licenses, permissions or authorizations to use, purchase, export or import the Goods, as may be required by any governmental authority. The procurement of consular fees for legalizing invoices, stamping Bills of Lading or other such documents and declarations required by the law of any country or destination, are not included in DYNA-DRILL's Quotations or sales prices. Although it is not DYNA-DRILL's policy to make such arrangements, if instructed by the Buyer and agreed to in writing by DYNA-DRILL, DYNA-DRILL will make arrangements for any consular documents and declarations needed, as agents of the Buyer. DYNA-DRILL assumes no liability whatsoever as a result of making such arrangements and all costs and liability shall be borne by the Buyer.

10. Services

Upon the request of the Buyer, DYNA-DRILL may provide, at its sole discretion, appropriate services and/or technical information and/or assistance (the "Services"), as available, regarding the Goods and their uses, and will use reasonable efforts to provide personnel to assist the Buyer in effecting field installations. The Buyer acknowledges that any such information, service or assistance so provided, whether with or without charge, shall be in an advisory capacity only. The Buyer further agrees that DYNA-DRILL assumes no liability for any damage or loss at any location arising out of, resulting from, or caused, in whole or in part, by any information, service, advice or assistance provided by DYNA-DRILL, its agents, assigns, employees or subcontractors.

11. **Packaging/Insurance**

11.1 When obligated to do so in the specifications, DYNA-DRILL shall attempt to pack and prepare all shipments in such a manner as to prevent breakage, rust or deterioration in transit. DYNA-DRILL does not, however, guarantee against such damage and the risk of any damage to the Goods in-transit shall be borne by the Buyer at all times.

11.2 Unless requested by the Buyer and agreed to in writing by DYNA-DRILL, no shipments are insured by DYNA-DRILL against damage or loss in transit and DYNA-DRILL assumes no liability whatsoever in regard to the obtaining of such insurance.

12. **Changes and Modifications in Design**

DYNA-DRILL hereby reserves the right to change or modify the specification and construction of any of its Goods without incurring any obligation to furnish or install such changes or modifications on Goods previously or subsequently sold.

13. **Patent Infringement Indemnity; Trademarks**

13.1 DYNA-DRILL shall indemnify Buyer and hold Buyer harmless from any rightful claim of any third party that any Goods manufactured by DYNA-DRILL and furnished hereunder infringe upon any valid patent of the United States; provided, however, that Buyer notifies DYNA-DRILL promptly of the receipt of any claim, does not take any position adverse to DYNA-DRILL regarding such claim and gives DYNA-DRILL information, assistance and exclusive authority to settle and defend the claim. In such event, DYNA-DRILL shall, at its own expense and option, either (a) settle or defend the claim or any suit or proceeding and pay all damages and costs awarded in it against Buyer, or (b) procure for Buyer the right to continue using the Goods, or (c) modify the Goods so that they become non-infringing, or (d) replace the Goods with non-infringing Goods; or (e) remove the infringing Goods and credit the Buyer the purchase price paid for the Goods. If, in any suit arising from such a claim, the continued use of the Goods for the purpose intended is forbidden by any court of competent jurisdiction, DYNA-DRILL shall at its option take one or more of the actions under (b), (c), (d), or (e) of the previous sentence. The foregoing states the entire liability of DYNA-DRILL for patent infringement.

13.2 Buyer acknowledges that DYNA-DRILL's trademarks include the DYNA-DRILL[®], MATRIX-3[®] and DYNA-LIFT[™] marks, plus any other marks that DYNA-DRILL may place on its Goods, packaging or literature (collectively, the "DYNA-DRILL Marks"). Buyer shall not remove or deface any of the DYNA-DRILL Marks from the Goods, packaging or literature on which they are found, and shall further take no action that might cause confusion or mistake that DYNA-DRILL is the source thereof. If Buyer

is furnishing DYNA-DRILL's Goods to a third party by contract, Buyer shall obtain from such third party a provision affording DYNA-DRILL the protection of this Section 13.2.

14. **Force Majeure**

14.1 DYNA-DRILL shall not have any liability or be in breach of its contract obligations to the extent that performance of such obligations is delayed or prevented, directly or indirectly, by: (a) causes beyond its reasonable control; or (b) acts of God, acts (or failures to act) of governmental authorities, fires, severe weather conditions, earthquakes, strikes or other labor disturbances, floods, war (declared or undeclared), epidemics, civil unrest, riot, delays in transportation, or car shortages; or (c) acts (or omissions) of Buyer, or (d) shipment to storage of the Goods, or (e) DYNA-DRILL's inability (due to causes beyond its reasonable control) to obtain necessary materials, components or services. DYNA-DRILL shall notify Buyer in the event of any such excusable delay, and the date of delivery or of performance shall be extended for a period equal to the time lost by reason of such delay, plus such additional time as may be reasonably necessary to overcome the effect of such delay. If DYNA-DRILL is delayed by acts or omissions of Buyer, or by the prerequisite work of Buyer's other contractors or suppliers, DYNA-DRILL shall also be entitled to an equitable adjustment of the Agreement price and scheduled delivery date.

14.2 If a delay excused by this Section extends for more than ninety (90) days and the parties have not agreed upon a revised basis for continuing the work, including an adjustment of the Agreement price, then either party (except where delay is caused by Buyer, in which event only DYNA-DRILL), upon thirty (30) days written notice, may terminate this Agreement with respect to the unexecuted portion of the work, whereupon Buyer shall promptly pay DYNA-DRILL for the Goods that can be delivered plus any documented costs incurred as a consequence of such termination.

15. **Governing Law; Venue; Dispute Resolution**

15.1 This Agreement, including all matters relating to the validity, construction, performance, and enforcement thereof, shall be governed by the laws of the United States of America and the State of Texas, without reference to the conflict of laws principles of either body of law. For purposes of determining venue in the event that legal action is brought by either party for this Agreement, this Agreement shall be deemed performable in Houston, Harris County, Texas, in all respects, and the parties specifically agree to bring any and all legal action(s) regarding interpretation, enforcement, and/or any other aspect of this Agreement in the federal or state courts of Houston, Harris County, Texas.

15.2 The parties agree that, if the United Nations Convention on International Sale of Goods 1988 (CISG), as amended from time to time, is applicable to this Agreement, the utilization of the CISG is excluded.

- 15.3 Should any governmental law, regulation, ruling and/or policy (including, but not limited to, import/export restrictions, license requests, exchange controls or requirements, or any document for certifications or information which may tend to discriminate or favor DYNA-DRILL's customers) effectively prohibit or restrict DYNA-DRILL or its affiliates from delivering Goods or Services, or restrict DYNA-DRILL or its affiliates from receiving or remitting currency payments or the equivalent thereof, in full payment for Goods or Services, then DYNA-DRILL or its affiliates shall not be liable for any damages. DYNA-DRILL shall endeavor to promptly notify Buyer of any known restrictions or prohibitions.
- 15.4 Any dispute arising out of or in connection with this Agreement shall be submitted to mediation in Houston, Texas, applying the governing law as stated above, as a prerequisite to either litigation or arbitration.

16. **Compliance with Laws, Codes and Standards**

- 16.1 The Agreement price is based on DYNA-DRILL's design, manufacture and delivery of the Goods pursuant to (a) its design criteria, manufacturing processes and procedures and quality assurance program, (b) those portions of industry specifications, codes and standards in effect as of the date of the proposal which DYNA-DRILL has deemed applicable to the Goods, (c) United States Federal, State and local laws and rules in effect on the date of the proposal and (d) the specification.
- 16.2 The Agreement price shall be equitably adjusted to reflect additional costs incurred by DYNA-DRILL resulting from (a) relevant changes after the date of the DYNA-DRILL proposal in those applicable standards and regulations, (b) compliance with regulatory or industrial requirements in the country where the Goods will be installed, and/or (c) a change in the degree of difficulty or expense due to such causes as increased wages, prices of raw materials and supplies, including, but not limited to the price of fuel, or costs of construction.
- 16.3 Reasonable adjustments will be made to the scheduled delivery date and performance evaluation criteria as may be appropriate to comply with the foregoing. If DYNA-DRILL determines that a change or compliance is not possible, DYNA-DRILL will so notify Buyer and Buyer may terminate this Agreement or direct completion without change and assume responsibility for obtaining any necessary waivers.
- 16.4 Buyer shall not re-export United States originated Goods other than to the ultimate country of destination specified in Buyer's order and/or declared as the country of ultimate destination on DYNA-DRILL's invoice, except as may be permitted by US export laws and regulations, as may be amended. Without the prior written authorization of the US Export Administration, Buyer shall not re-export to the countries designated in Export Administration Regulations Section

779.4(f) any prohibited subject matter as set forth therein, such as any technical data or software (nor the direct product thereof) provided by DYNA-DRILL.

- 16.5 Buyer acknowledges that the laws of the United States and certain Executive Orders of the President of the United States prohibit the sale of certain goods, including oilfield and drilling supplies, to certain foreign countries deemed hostile to the United States, collectively known as the Trading with the Enemy Act (TWEA). Buyer represents and warrants that the Goods that are the subject of any sales agreement between DYNA-DRILL and Buyer are not destined for delivery to an end user in a prohibited country under the TWEA or to an entity located in such country. Further, to the extent that Buyer can determine with the exercise of reasonable diligence, Buyer represents and warrants that it shall not resell the Goods that are the subject of any sales agreement between DYNA-DRILL and Buyer to entities that (1) Buyer actually knows will use or resell the Goods in a prohibited country under the TWEA, or (2) have a known history of selling to prohibited countries in violation of U.S. trade laws. Buyer shall indemnify, defend and hold DYNA-DRILL harmless against any penalty, loss or damage incurred by DYNA-DRILL as a result of Buyer's failure to comply with U.S. trade laws.
- 16.6 Buyer further certifies, represents and warrants that, in connection with its activities conducted under any sales agreement between DYNA-DRILL and Buyer, it: (a) is familiar with and will comply with the laws, rules and regulations of all applicable jurisdictions including, but not limited to, the Foreign Corrupt Practices Act (FCPA), and with any applicable laws, regulations, and administrative requirements promulgated under the OECD Convention on Combating Bribery of Foreign Public Officials; (b) has not made or authorized and will not, directly or indirectly, make or authorize any payments or gifts, or offers or promises of payments or gifts or things of value, directly or indirectly, to any official or employee of any U.S. or foreign national, state, or local (including EEU) government or any agency or instrumentality thereof; to any candidate for public office; to any political party, or any officer or employee thereof; (c) has not paid, or offered, or agreed to pay, and will not pay, any political contributions in respect of any business for which it provides or may have provided services to, including any subsequent buyer of the Goods, and that Buyer will not do so in the future; (d) shall maintain adequate books, records and controls to detect and/or deter any violations of the FCPA, and DYNA-DRILL shall have the right, upon reasonable notice, to examine or audit all books, records and controls maintained by Buyer from time to time in this regard in order to verify Buyer's compliance with this provision; and (e) will fully cooperate in any investigation, including making employees available for interviews, in the event that the DYNA-DRILL requests such cooperation.
- 16.7 Notwithstanding anything to the contrary herein, Buyer shall be responsible for timely obtaining any required authorization, such as an export license, import

license, foreign exchange permit, work permit or any other governmental authorization, even though any such authorization may be applied for by DYNA-DRILL. Buyer and DYNA-DRILL shall provide each other reasonable assistance in obtaining required authorizations. DYNA-DRILL shall not be liable if any authorization is delayed, denied, revoked, restricted or not renewed, and Buyer shall not be relieved thereby of its obligations to pay DYNA-DRILL for the Goods.

17. **Health and Safety Matters**

- 17.1 Buyer shall take all necessary precautions and implement appropriate safety procedures for the safety of DYNA-DRILL's personnel engaged in the performance of Services at the installation site. If DYNA-DRILL's personnel require medical attention, Buyer will arrange for appropriate attention locally.
- 17.2 If in DYNA-DRILL's opinion the safe execution of Services at the installation site is or may be imperiled by local conditions, DYNA-DRILL may remove some or all of its personnel from the installation site, and any resulting delay in the performance of Services shall be considered an excusable delay.
- 17.3 DYNA-DRILL's personnel will have at least one (1) day of rest in any seven (7) consecutive days; provided, however, that with DYNA-DRILL's written consent and where the nature of the assignment requires, DYNA-DRILL personnel may work seven (7) days a week for a maximum of thirty (30) days. Without DYNA-DRILL's prior written consent, DYNA-DRILL's personnel shall not work more than one hundred and forty (140) hours in any two (2) consecutive weeks or more than sixteen (16) hours in any one day.
- 17.4 DYNA-DRILL shall promptly and, if feasible, before such conditions are disturbed, notify Buyer in writing of (a) subsurface or latent physical conditions at the installation site differing materially from those indicated in the Agreement documents, or (b) unusual physical conditions at the installation site. Buyer shall promptly investigate such conditions, and if it is determined that such conditions do materially differ and cause an increase in DYNA-DRILL's cost of, or the time required for, performance of any part of the work under this Agreement, an equitable adjustment shall be made in the Agreement price and time of performance.

18. **Hazardous Materials**

If toxic substances, hazardous substances or hazardous wastes ("Hazardous Materials", as such term may be defined in any statute or ordinance or regulations promulgated by any federal, state or local governmental authority of the United States or the country of the site) which require special handling and/or disposal are encountered at the site, Buyer shall immediately take whatever precautions are required to legally eliminate such hazardous conditions so that the work under this Agreement may proceed safely. If any such Hazardous Materials cause an increase in DYNA-DRILL's cost of or the time required for performance of any

part of the Services, an equitable adjustment shall be made in this Agreement price and time of performance. Buyer agrees to properly dispose of all Hazardous Materials produced or generated in the course of DYNA-DRILL's work at the installation site. Buyer shall indemnify DYNA-DRILL for any and all claims, damages, losses, causes of action, demands, judgments and expenses arising out of or relating to (a) the presence of any Hazardous Materials which are present on the installation site prior to the commencement of the site work or (b) improperly handled or disposed of by Buyer or (c) brought on to the installation site or produced thereon by parties other than DYNA-DRILL.

19. **Termination for Cause**

In the event of Buyer's (a) actual or anticipated breach of or default under any provision of any sales agreement between DYNA-DRILL and Buyer, or (b) organizational or operational change as stated in Section 20.4 adversely affecting, or which may adversely affect in DYNA-DRILL's opinion, Buyer's performance under any sales agreement between DYNA-DRILL and Buyer, or (c) bankruptcy, reorganization, receivership, insolvency, or making an assignment for the benefit of creditors, or (d) evidencing financial or organizational instability, or (e) if in its sole discretion, exercised in good faith, DYNA-DRILL determines that the Buyer or a direct or indirect owner, shareholder, director, officer, manager, employee, agent, representative, consultant or sponsor of Buyer has engaged in any action or omission to act which would be prohibited by or penalized under the laws or regulations of the United States of America including, but not limited to, the Foreign Corrupt Practices Act (FCPA), the Trading with the Enemy Act (TWEA), the Occupational Safety and Health Act (OSHA), and with the import and export laws and regulations of the United States of America including the Bureau of Export Administration Regulations (EAR) or the laws or regulations of any other jurisdiction or country as may be applicable, DYNA-DRILL has the right, in addition to any rights or remedies it may have in law, in equity, or under any sales agreement between DYNA-DRILL and Buyer, to immediately cancel any such sale for cause by written notice to Buyer, and DYNA-DRILL shall not be liable for any costs of cancellation. Upon termination by DYNA-DRILL as a result of Buyer's default under such sale, Buyer shall be obligated to pay DYNA-DRILL for the Goods and shall be liable to and will immediately reimburse DYNA-DRILL for all costs of any nature in excess of such sales agreement price which may be incurred by DYNA-DRILL to effect completion of performance of the sale.

20. **General Clauses**

20.1 **Assignment.** DYNA-DRILL may assign or novate its rights and obligations regarding the Goods in part or in whole, to one or more of its affiliates upon written notice to Buyer setting forth the effective date of such assignment or novation. Buyer agrees to execute such documents as may be necessary to effect



the assignment or novation. The delegation or assignment by Buyer of any or all of its duties or rights under this Agreement without DYNA-DRILL’s prior written consent shall be void. DYNA-DRILL shall have the right at all times to assign to third parties any and all credits under this Agreement subject to prior notification in writing to Buyer.

20.2 **Notices and Other Communications.** All notices, requests or other communications required or permitted to be given under this Agreement (i) must be in writing; and (ii) may be served (a) by depositing the same in the United States mail, properly addressed as provided below, postage prepaid, registered or certified mail, and with return receipt requested; (b) by delivering the same in person; or (c) by telecopier or other form of electronic transmission, provided that confirmation is promptly received. For the purpose of notice hereunder, the addresses and telecopier numbers of the parties hereto are as follows:

DYNA-DRILL: Dyna-Drill Technologies, Inc.
Attn: Leif Syversen, President
4660 World Houston Parkway
Houston, Texas 77031
Telephone: (281) 227-1250
Telecopier: (281) 227-1255.

BUYER: _____
Attn: _____

Telephone: _____
Telecopier: _____

Any party hereto may change its address for the purpose of notice hereunder by giving written notice of such change of address to the other party as specified in this Section. Notices shall be deemed given when sent in accordance with this Section.

20.3 **Confidentiality.** Information provided by DYNA-DRILL to Buyer including, but not limited to, information concerning DYNA-DRILL’s operations, manufacturing processes or techniques, designs, drawings, studies and all technical documentation related to the Goods or Services are and shall remain the exclusive property of the DYNA-DRILL (the “Confidential and/or Trade Secret Information.”) Buyer shall take all reasonable steps to assure that Buyer’s officers, directors, employees, agents, representatives, consultants, and subcontractors do not divulge such Confidential and/or Trade Secret Information to any third party without authorization from DYNA-DRILL as long as such results are not in the public domain or except as required by law or legal process.

- 20.4 **Change of Control.** Buyer shall notify DYNA-DRILL immediately upon any change in the ownership of more than fifty percent (50%) of Buyer’s voting rights or in Buyer’s controlling interest. If Buyer fails to do so or DYNA-DRILL objects to the change, DYNA-DRILL may (a) terminate this Agreement, (b) require Buyer to provide adequate assurance of performance (including but not limited to payment), or (c) put in place special controls regarding DYNA-DRILL’s Confidential and/or Trade Secret Information.
- 20.5 **Government Contracts.** For direct and indirect U.S. government contracts only, all Goods provided by DYNA-DRILL shall be considered “commercial items” as defined in FAR Part 2, 2.101 and in accordance with FAR 52.244-6. If the reasonableness of the price cannot be established, if cost or pricing data is required for any other reason, or if the Goods or Services cannot be considered “commercial items,” DYNA-DRILL may cancel this Agreement without liability.
- 20.6 **Use of Suppliers.** DYNA-DRILL reserves the right to use qualified sub-suppliers in connection with the provision of the Goods, and shall provide Buyer with a list of such sub-suppliers upon Buyer’s request. In the event Buyer requires the use of specific sub-suppliers and such sub-suppliers are not qualified and approved by DYNA-DRILL, DYNA-DRILL may propose alternatives, provided that such alternatives will not have an adverse impact on the quality and delivery performance required by the Agreement documents.
- 20.7 **Amendment; Entire Agreement; No Waiver.** No modification of this Agreement shall be of any force or effect unless in writing and signed by an authorized signatory of both parties. This Agreement constitutes the entire understanding between the parties with respect to the sale of the Goods or Services and supersedes all prior agreements, negotiations and discussions of the parties in relation to its contents. The right of DYNA-DRILL to require strict performance of the Terms shall not be affected by any prior waiver or course of dealing.
- 20.8 **Invalidity.** The invalidity, in whole or in part, of the Terms, or any provision or any part thereof, shall not affect the validity or enforceability of any other terms or provisions.
- 20.9 **Conflicts of Interest.** Buyer shall not offer to DYNA-DRILL’s employees, agents, representatives or officers, gifts, entertainment or other favors beyond the common courtesy usually associated with business practices. Additionally, in all cases, any such gifts, entertainment or other favors shall comply with DYNA-DRILL’s internal guidelines in respect thereof. In addition, Buyer shall not pay any commission or fees or grant any rebates or other remuneration or monetary gratuity to any employee, agent, representative or officer of DYNA-DRILL. DYNA-DRILL shall have the right to examine or audit all books and records

maintained by Buyer from time to time in order to verify Buyer's compliance with this provision upon reasonable notice.

- 20.10 **Construction.** This Agreement shall be construed as though drafted by both parties and shall not be construed against or in favor of any party.
- 20.11 **Counterparts.** This Agreement may be executed in multiple counterparts that together shall constitute one agreement.
- 20.12 **No Third Party Beneficiaries.** Except as provided in Section 3.6 ("Limitation of Liability,") this Agreement is for the benefit of the parties and not for any third party.
- 20.13 **Survival.** In the event of termination, cancellation or avoidance of this Agreement, the following Sections shall remain in full force and effect: Section 2 (Limited Warranty); Section 3 (Liability); Section 9 (Taxes, Licenses and Other Charges); Section 13 (Patent Warranties); Section 15 (Governing Law); Section 16 (Compliance with Laws); and Section 20 (General Clauses).