

Quail Tools, L.P.

Payment/Purchase Order Terms and Conditions

- 1. Payment.** Quail Tools, L.P. ("Quail") will pay invoices within 45 days of receipt. Payment shall not be construed as Quail's acceptance, which shall remain subject to Quail's right to inspect and other rights hereunder or available under applicable law.
- 2. Warranties.** Vendor warrants that items furnished hereunder will: (i) be free from material defects in design, material and workmanship; (ii) be new and suitable for ordinary purposes, as well as any particular purposes made known to Vendor in advance; (iii) perform materially in accordance with their specifications; (iv) materially conform with any related sample, model, documentation, description, labeling or literature supplied by Vendor, and (v) strictly conform to any specific requirements of the purchase order. Any services provided by Vendor will be diligently performed in a good and workmanlike manner. Unless otherwise agreed in writing, all hardware and items shall be transferred to Quail free and clear of all liens and encumbrances. Unless agreed in writing by Quail, all hardware and replacement parts are warranted to be in new condition. Vendor warrants products for a period equal to the earlier of (i) eighteen (18) months from the date of delivery to Quail, or (ii) twelve (12) months from date the products are placed in service. Quail at its option may require any nonconforming or deficient items to be removed and corrected or may return all such items (and other items supplied by Vendor that are materially diminished thereby) to Vendor, at Vendor's expense, for replacement or credit at the option of Quail. Replacement work or work re-performed shall be subject to the same warranties as the original work. All warranties hereunder shall be fully assignable and transferable.
- 3. Indemnity.** (a) Unless otherwise specified, an agreement to indemnify herein means the indemnitor agrees to release, indemnify, hold harmless and defend (including payment of attorney's fees, expenses and costs of litigation and specifically including any attorney's fees incurred in enforcing this indemnity obligation) the indemnitee "Group" from and against any and all claims, demands, causes of action, damages, judgments and awards of every kind and character, without limit and ***WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF INCLUDING THE NEGLIGENCE OR FAULT (ACTIVE OR PASSIVE) OF ANY PARTY OR PARTIES (INCLUDING THE SOLE, JOINT, GROSS OR CONCURRENT NEGLIGENCE OF THE INDEMNITEE'S GROUP)***, preexisting conditions, whether such conditions be patent or latent, any theory of strict liability and defect of premises, the unseaworthiness of any vessel, breach of representation or warranty (express or implied), tort, breach of contract, statutory liability, or any other theory of legal liability arising in connection with the subject matter of any purchase order. As used herein, a Party's "Group" means the Party and its officers, directors, employees, agents, representatives or assigns, parents, subsidiaries, affiliates, subcontractors, and invitees; and all of their respective officers, directors, employees, agents, representatives and assigns.

(b) Vendor agrees to and hereby does release, hold harmless, defend and indemnify Quail Group from and against any and all claims, suits, liabilities, damages, judgments, costs, and expenses (including, without limitation, reasonable attorney's fees) ("claims") arising out of or relating in any way to (i) Vendor's breach of these terms and conditions or any purchase order; (ii) Vendor's warranty obligations or the goods or services provided by Vendor hereunder; (iii) any catastrophic damage resulting from or in any way associated with x) the activities of the Vendor Group; or y) any products or equipment sold or provide to Quail by Vendor (the "Products and Services"), including damage to any reservoir or productive formation or the loss of oil or gas therefrom; loss or damage to the wellbore, including the cost of well control and re-drill; the use of contractors' or subcontractors' radioactive tools or any contamination resulting therefrom (including, without limitation, retrieval and/or containment and clean-up); damage to, or escape of any substance from, any pipeline or storage facility; blowout, fire, explosion, cratering or any uncontrolled well condition (including, without limitation, the costs to control a wild well and the removal of all debris), and the loss of oil or gas caused by or resulting from a blowout or explosion; and (iv) any actual or alleged infringement of any patent, copyright, trademark or other intellectual property or proprietary right, or any litigation based thereon, with respect to x) the activities of the Vendor Group; or y) any products or equipment sold or provide to Quail by Vendor. If any Products and Services or use thereof, become or are likely to become the subject of an infringement claim, Vendor shall (x) procure for Quail the right to continue the use thereof, or (y) replace or modify the same so that it becomes non-infringing (provided that the same level of functionality is maintained). Nonetheless, Vendor shall also be liable for any damages assessed against Quail Group or its clients arising out of the use of the same prior to the date upon which Vendor performed any of the foregoing remedial actions, as set forth above.
- 4. Insurance.** Vendor will procure insurance with coverage of no less than \$5,000,000 per occurrence and which will be primary to any other insurances provided by the indemnitee to support the indemnity obligations voluntarily assumed by Vendor under these terms and conditions. The limits and coverages of the said insurances will in no way limit the liabilities or obligations assumed hereunder.
- 5. Delivery.** Time is of the essence for delivery by Vendor and Vendor shall deliver all items on or before the date specified in the purchase order, which time shall be deemed a material requirement. Vendor promptly shall notify Quail of any delay and, in addition to other remedies available, Quail shall have the right to cancel the purchase order and obtain a full refund. Vendor shall bear all risk of loss on items covered by each purchase order until final delivery and acceptance at the destination specified in the purchase order.
- 6. Waiver of Consequential Damages.** In connection with any purchase order, Quail and Vendor each agree to waive and release the other from any claim, whether in tort or contract for any special, incidental or consequential losses or damages, including without limitation, loss of revenue or profit.
- 7. Inspection.** All items may be inspected and tested by Quail at reasonable times and places, and Vendor shall reasonably assist Quail in arranging for inspection and testing. Copies of all test reports, test data, etc., in the number of copies specified shall be mailed by Vendor to Quail at its address shown on the purchase order. Neither inspection nor failure to inspect shall relieve Vendor of any responsibility. Substitutions will not be permitted except on written authorization of Quail. Goods delivered in error or any excess of quantity ordered will be returned at Vendor's expense. If any items covered by the purchase order are defective or nonconforming, Quail may upon its election: (i) rescind the purchase as to such items, (ii) accept such items with an equitable reduction in price, or (iii) reject such items and require the delivery of conforming replacements. No inspection, tests, approval (including design approval), or acceptance of items shall relieve Vendor from responsibility for latent defects, material misstatements or omissions, or Vendor's warranty obligations. Rejected items and scrap materials shall be promptly removed by Vendor, at its sole cost.
- 8. Rules and Regulations.** The Parties agree to comply with all laws, rules, and regulations, which are now or may become applicable to the terms or performance of any purchase order. If either Party is required to pay any fine or penalty resulting from the other Party's failure to comply with such laws, rules, or regulations, the Party failing to comply will immediately reimburse the other for any such payment. In the event the provisions of any purchase order are inconsistent with or contrary to any applicable law, rule, or regulation, said provision will be deemed to be modified to the extent required to comply with said law, rule, or regulation, and these terms and conditions as so modified, will remain in full force and effect.
- 9. Governing Law and Dispute Resolution.** The validity, interpretation and construction of these terms and conditions and any Purchase order incorporating these terms and conditions will be governed by general maritime law when the activities and obligations are related in any way to maritime activities. When general maritime law does not apply, the laws of the state of Texas will apply without reference to that state's conflicts of law provisions. The Parties will submit to binding arbitration under the Commercial Rules of the American Arbitration Association and that the arbitration hearing will take place in Houston, Texas. Discovery is limited to the exchange of relevant and material documents which must be submitted with any statement of claim/defense, and any counterclaim/reply. Notwithstanding anything to the contrary, either party can file and pursue a lawsuit in the state or federal courts situated in Houston, Texas for the collection of any undisputed debts owed under any purchase order.
- 10. Assignments.** Quail and Vendor agree that neither will assign nor delegate any of the work, services, or obligations required under any purchase order without prior written consent of the other Party, such consent not to be unreasonably withheld.
- 11. Miscellaneous.** To the extent of any conflict between these terms and conditions and terms and conditions contained on any purchase order, these terms and conditions shall govern unless the Parties expressly agree in a written contract to any other terms and conditions. Either Party may terminate any purchase order hereunder by giving 10 days written notice to the other Party. Paragraphs 2, 3, 6 and 9 shall survive termination of any purchase order.