

ORI - Oil & Gas Resources Italy Srl
TERMS AND CONDITIONS OF BUSINESS – SALE OF GOODS Edition 2014 rev 0

1. **DEFINITIONS:**
- 1.1 **Buyer** means the person firm or company purchasing or agreeing to purchase Goods from the Company in accordance with the Conditions
- 1.2 **Company** means ORI Oil & Gas Resources Italy Srl – Via Cesare Ajraghi 30 – 20156 Milano – Italy
- 1.3 **Conditions** means the terms and conditions set out in this document and any special terms and conditions agreed in writing between the Company and the Buyer
- 1.4 **Contract** means the contract for the provision of Goods
- 1.5 **Delivery Date** means the date in the Order Acknowledgement specified by the Company when the Goods are to be delivered
- 1.6 **Goods** means all items, replacements, materials or any part thereof (together with any services or workmanship) the Buyer agree to purchase from the Company as detailed on the Order Acknowledgement
- 1.7 **Order Acknowledgement** means our written acknowledgement of order as provided to you
- 1.8 **Price** means the price calculated in accordance with the rates or charges set out in any quotation or the Company's quoted price for the Goods (or where no price has been quoted a reasonable price) excluding VAT
2. **CONDITIONS APPLICABLE:**
- 2.1 The Conditions shall apply to the Contract to the exclusion of all other terms and conditions including any terms or conditions which you may purport to apply under your purchase order, acknowledgement of order or similar document
- 2.2 Acceptance by the Company of any offer occurs and the Contract with the Buyer is formed only upon the Company dispatching to the Buyer its Order Acknowledgement. A quotation by the Company does not constitute an offer and for the avoidance of doubt a quotation given by the Company may be withdrawn at any time prior to acceptance by the Buyer and in any event shall lapse sixty (60) days after the date of any quotation
- 2.3 No variation to these Conditions (including any special terms and conditions agreed between the parties) shall be binding unless agreed in writing between a director or other authorized representative of the Company and the Buyer
- 2.4 Any representations made by the Company's employees or agents concerning the Goods shall not be incorporated into the Contract unless confirmed in writing by the Company and in entering into the Contract the Buyer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed
- 2.5 Any typographical clerical or other error or omission in any sales literature quotation price list Order Acknowledgement invoice or other documentation issued by the Company shall be subject to correction without any liability on the part of the Company
- 2.6 Where applicable (and unless otherwise provided in the Conditions) any terms referred to in these Conditions any Order Acknowledgement or other documentation issued by the Company relating to the rights and obligations of the parties to the Contract with respect to the delivery of the Goods shall have the meaning set out in "Incoterms 2010"
3. **ORDERS & SPECIFICATIONS:**
- 3.1 The Company reserves the right to make any changes in specification of the Goods which are required to conform with any applicable safety or other statutory requirements or (where the Goods are to be supplied or installed to the Buyer's specification) which do not materially affect their quality or performance. Unless specifically stipulated in the contract, the Company will provide Goods based on its own approved vendor list without limitation of sourcing of raw materials or finished products.
- 3.2 Where the Buyer requires the Goods to comply with a specification such specification shall be supplied to the Company at the time of the request for quotation.
- 3.3 The Buyer shall be liable for all drawings, specifications and instructions ("Specification(s)") issued to the Company with orders or pursuant to the Contract and shall indemnify and keep indemnified the Company against all loss directly or indirectly arising out of any error in or omission from such Specifications and against all costs, claims, demands and expenses whatsoever in respect of the infringement or alleged or potential infringement of any patent, copyright, registered design or other third party right arising out of the Company's use of such Specifications
- 3.4 The Goods shall be supplied in such quantities and instalments as detailed on the Order Acknowledgement
- 3.5 Any alteration to the Contract specification required by the Buyer must be notified to the Company within forty eight (48) hours of the Company's acceptance of the Buyer's order for the Goods in which case the Company may at its sole discretion accept such alteration and the Contract specification shall be amended accordingly
- 3.6 Except as otherwise provided no order which has been accepted by the Company may be cancelled by the Buyer except with the Company's agreement in writing and on terms that the Buyer shall indemnify the Company in full against all expenses incurred up to the time of the cancellation together with a reasonable amount by way of liquidated damages for breach of contract as specified by the Company, such sum being acknowledged by the Buyer as representing a genuine pre-estimate of the Company's loss of profit
- 3.7 The Buyer acknowledges that the disposition, shape, dimensions, materials, weights and any other particulars of the Goods as appear in any leaflets drawings illustrations or advertisements relating to the Goods are for guidance purposes only and are subject to change and to the extent that such change does not materially affect the performance (or intended performance) of the Goods such change shall not be deemed as a change to the Contract specification
- 3.8 The Buyer acknowledges that it shall be its responsibility to notify the Company of all governmental statutory local authority requirements (or other requirements) relating to the supply of the Goods of which the Buyer is aware (or in respect of which it is reasonable for the Buyer to be aware)
4. **DELIVERY:**
- 4.1 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any loss suffered by the Buyer arising from any delay in the delivery of the Goods.
- 4.2 The Buyer shall make all arrangements necessary to take delivery of the Goods whenever they are tendered for delivery and the Buyer shall not be entitled to refuse to accept and/or receive late delivery of the Goods
- 4.3 Time for delivery shall not be of the essence unless previously agreed by the Company in writing and it is agreed that the Buyer shall not be entitled to terminate the Contract by reason of the Company's failure to deliver by the Delivery Date
- 4.4 Delivery shall take place and risk shall pass to the Buyer upon the earliest of the following:-
 - (a) The Company handing the Goods to the Buyer or its agent at the Company's premises, or
 - (b) The Goods leaving the Company's premises, or
 - (c) On the eighth day following notification that the Goods are ready for dispatch except in the case of export orders which, unless agreed otherwise in writing, will be delivered F.O.B at an Italian port of the Company's choosing
- 4.5 If the Buyer fails to:-
 - (a) take delivery of the Goods or fails to give adequate delivery instructions before or at the Delivery Date (otherwise than by reason of the Company's fault); and
 - (b) collect the Goods on the expiry of the seventh day following notification of readiness for despatchthen without prejudice to any other right or remedy available to the Company it may:-
 - (a) store the Goods until actual delivery and charge the Buyer the reasonable costs (including transportation and insurance) of storage; or
 - (b) treat the Contract as repudiated and sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the Price or charge the Buyer for any shortfall below the Price
- 4.6 The Buyer shall inspect the Goods immediately on delivery and shall within seven (7) days of delivery notify the Company of any alleged defect damage or failure to comply with description or sample. The Buyer shall afford the Company an opportunity to inspect the Goods within a reasonable time following delivery and before any use is made of them. If the Buyer shall fail to comply with these provisions the Goods shall be conclusively presumed to be in accordance with the Contract free from any defect or damage which would be apparent on a reasonable examination of the Goods and the Buyer shall be deemed to have accepted the Goods
- 4.7 The Buyer shall be responsible for obtaining all necessary licenses and permissions for the import and use of the Goods into the country of destination
- 4.8 Save as otherwise provided in writing, in respect of export orders, any stated Delivery Dates shall commence only upon receipt of a letter of credit complying in all respects with the Company's requirements.
5. **RETURNS:**

Should the Buyer wish to return a standard stock item to the Company it shall be subject to a cancellation and handling charge of 50% of the Price (or such part of the Price as is attributable to that item) other than in the case of faulty goods returned in accordance with clause 7. Non-standard items are non-returnable and non-refundable unless faulty.
6. **LOSS OR DAMAGE IN TRANSIT:**
- 6.1 The Company shall not be liable for loss or damage to Goods in transit unless:-
 - (a) The Company has agreed to effect delivery to a place other than the Company's premises; and
 - (b) The loss or damage occurs prior to arrival at delivery point, and either
 - (c) Damage or shortage is notified within seven days of arrival at delivery point; or
 - (d) In the case of total loss, non-arrival is notified to the Company within seven (7) days after dispatch of advice note
- 6.2 The Company's liability for Goods lost or damaged in transit shall in all circumstances be limited to (at the Company's absolute discretion) the repair or replacement or crediting the Buyer with the invoice value of the Goods in question.
7. **PRICE AND PAYMENT:**
- 7.1 The Price of the Goods shall be the price stated or referred to in or calculated in accordance with the Order Acknowledgement of the Company.
- 7.2 Unless otherwise expressly agreed in writing, on giving prior notification to the Buyer, the Company reserves the right to vary the Price of Goods by any amount attributable to a change in or insufficiency of the Buyer's instructions or to any difficulty in procuring raw materials or components or to any increase in the cost of materials, components, labour, transport, governmental, statutory or local authority duties, taxes, exchange rates or any other costs of whatsoever nature prevailing at the date of invoice.
- 7.3 In the case of partial completion of an order the Company shall be entitled in respect of all Goods manufactured and work done to be paid at the contract rate or if there is no such rate the Company shall be entitled to a quantum meruit but in either event without prejudice to the Company's rights should non-completion be occasioned by an act or default of the Buyer.
- 7.4 Subject to satisfactory trade, banker's and other requisite references, and where no other terms of payment have been specifically agreed in writing and subject as hereinafter mentioned, the Company's terms are cash payment in full to be made in EURO by the last working day of the month following that in which the invoice for the Goods is dispatched ("the Due Date"). Unless otherwise specifically agreed in writing payment for any export order shall be by irrevocable letter of credit confirmed by an international AAA Bank and issued under the Incoterms then in force. No discount or allowance will be made unless specifically stated by the Company in writing.
- 7.5 It is agreed that time is of the essence for making payment of the Price under the Contract and all other sums due hereunder
- 7.6 If the Buyer fails to make payment on the Due Date then without prejudice to any other right or remedy available to the Company, it shall be entitled to:-
 - (a) cancel the Contract and/or suspend any further deliveries to the Buyer; and
 - (b) charge the Buyer interest (before and after any judgment) on the amount unpaid at the rate of 4% per annum above Bank of Italy base rate from time to time until payment in full is made (a part of the month being treated as a full month for the purpose of calculating interest); or
 - (c) charge the Buyer in accordance with the provisions of the Late Payment of Commercial Debts (Interest) Act 1998

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- 7.7 The Company may at any time, in its absolute discretion, appropriate any payment made by the Buyer in respect of Goods to such outstanding debt as the Company thinks fit, notwithstanding any purported appropriation to the contrary by the Buyer.
- 7.8 The Company shall be entitled to cancel the Contract or to postpone any delivery until payment has been received, in the event that the Company has reasonable doubts about the Buyer's ability or willingness to pay on the Due Date.
- 7.9 The Company reserves the right at any time at its discretion to demand payment of the Price or part thereof in advance or to demand security for payment before continuing with an order or delivering Goods or any instalment thereof
- 7.10 Value Added Tax ("VAT") will be charged at the rate ruling at the time of dispatch of the Goods or, if different, the basic tax point (as defined in regulations governing VAT from time to time in force).
- 8. WARRANTY AND LIABILITY:**
- 8.1 The Company warrants that within eighteen (18) months from the date of dispatch of the Goods or twelve (12) months from the date of first use of the Goods by the Buyer (whichever the earlier) the Goods shall be free of all material defects
- 8.2 The Company warrants that the Goods will conform to the Contract specification
- 8.3 Any defects in the Goods or failure to conform to the Contract specification which should be apparent upon reasonable inspection to the buyer on delivery of the Goods must be detailed on the delivery note by the Buyer or the Buyer's representative. The Company shall have no liability to the Buyer in respect of any such alleged defects or failure unless so detailed
- 8.4 Any warranty given by the Company in respect of the Goods supplied shall be subject to the following conditions:
- (a) The Company shall be under no liability in respect of any defects in the Goods arising from drawing design or specification supplied by the Buyer
- (b) The Company shall be under no liability in respect of any defects arising from fair wear and tear the Buyer's negligence abnormal working conditions failure to follow the Company's instructions (whether oral or in writing, including as set out in the Company's service manual) misuse or alteration or repair of the Goods without the Company's approval.
- (c) The Company shall be under no liability under any warranty condition or guarantee if the Price and VAT has not been paid by the Due Date
- (d) No warranty given by the Company extends to Goods not manufactured by the Company in respect of which the Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Company
- (e) Unless agreed in writing the Company shall be under no liability in respect of any alleged defects in respect of any failure of the Goods to comply with any governmental statutory or other provisions relating to the Goods in the country of destination of the Goods and the Buyer acknowledges that it shall be its responsibility to ensure that the Goods comply with such provisions as may apply to the Goods
- 8.5 The Company's sole obligation for breach of the warranties set out in clauses 7.1 and 7.2 above shall be at its discretion to grant the Buyer a credit at the price at which the Goods were invoiced or to repair or replace the defective Goods within a reasonable period provided that in all cases the allegedly defective Goods are promptly returned to the Company carriage paid and have been found after examination by the Company not to have complied with the aforesaid warranties
- 8.6 Subject as expressly provided in these Conditions all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by Law
- 8.7 Except in respect of death or personal injury caused by the Company's gross negligence the Company shall not be liable to the Buyer by reason of any representation or any implied warranty condition or other term or any duty at common law or under the express terms of the Contract for any consequential loss or damage (whether for loss of profit or otherwise) costs expenses or other claims for consequential compensation whatsoever (and whether caused by the Company's negligence or that of its employees or agents or otherwise) which arise out of or in connection with the supply of Goods or their use or resale by the Buyer except as expressly provided in the Conditions
- 8.8 The Company's liability hereunder for any delay in performing or any failure to perform any of its obligations in relation to the Goods shall be limited to the excess (if any) of the cost to the Buyer in the cheapest available market of similar Goods to replace those not performed over the Price. In any case the maximum company's Liability shall not exceed 33% of the Contract value.
- 8.9 The Buyer shall indemnify the Company against all claims losses costs and expenses made against or suffered by the Company arising from or incurred by reason of any loss injury of damage suffered by a third party and arising out of the Buyer's use of the Goods
- 9. TITLE AND RISK:**
- 9.1 Risk of damage to or loss of the Goods shall pass to the Buyer upon delivery of the Goods in accordance with clause 4 above
- 9.2 Notwithstanding delivery and the passing of risk in the Goods or any provision of these Conditions legal and beneficial property in the Goods shall not pass to the Buyer until the Company has received in actual cleared funds payment in full of the Price and VAT and the price of all other goods agreed to be sold by the Company to the Buyer for which payment is then due.
- 9.3 Until such time as the property in the Goods passes to the Buyer, it shall hold the Goods as the Company's fiduciary agent and bailee and shall keep the Goods separate from those belonging to the Buyer and third parties and properly stored, protected and insured and identified as the Company's property
- 9.5 The Buyer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the Company's property but if the Buyer does so all monies owing to the Company by the Buyer shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable
- 10. TERMINATION:**
- Without prejudice to any other right or remedy available to the Company, it shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability on its part to the Buyer and if the Goods have been delivered but not paid for the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary in the event that:-
- (a) the Buyer makes any voluntary arrangement with its creditors or become subject to an administration order or (being an individual or a firm) becomes bankrupt or goes into liquidation (otherwise for the purposes of amalgamation or reconstruction); or
- (b) an encumbrancer takes possession or a receiver is appointed of any of the Buyer's property or assets; or
- (c) the Buyer ceases or threatens to cease to carry on business; or
- (d) the Buyer breaches any of the Conditions; or
- (e) the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Buyer and notifies it accordingly
- 11. FORCE MAJEURE:**
- 11.1 The Company shall not be liable for delay or non-delivery by reason of (but without limitation) Acts of God, lock-outs strikes, labour disturbances stoppage or other action by employees or third parties in contemplation or furtherance of any dispute or owing to any inability to procure parts or materials required for the performance of the Contract, riots, malicious damage, civil commotion, trade disputes, government action (including action by any local or statutory authority) fire, floods, drought, break down of machinery, war or any other cause whatsoever beyond the Company's control
- 11.2 In the event of such a contingency the Company may, within its absolute discretion, suspend or cancel the Contract or, withhold, reduce or suspend performance of its contractual obligations, so far as prevented or hindered by such contingency, without liability to the Buyer for any loss or damage whatsoever suffered directly or indirectly by reason of any such cancellation, withholding, reduction or suspension.
- 11.3 If the Contract is cancelled pursuant to Condition 11.2 above, the Company will refund any payment which the Buyer has already made on account of the Price (subject to deduction of any amount the Company is entitled to claim from the Buyer for any Goods delivered or work otherwise performed) but the Company shall have no further liability to the Buyer.
- 12. GENERAL:**
- 12.1 The Company may perform any of its obligations or exercise any of its rights hereunder by itself or through its employees agents or suppliers
- 12.2 The headings in these Conditions are for convenience only and shall not affect the interpretation
- 12.3 No waiver of any of the Company's rights under the Contract shall be effective unless in writing signed by a Director or other authorized person on behalf of the Company. A waiver shall apply only to the specific circumstances in which it is given and shall be without prejudice to the enforcement of a Company's rights in relation to different circumstances or the recurrence of similar circumstances.
- 12.4 No failure by the Company to exercise any power given to it or to insist upon the strict compliance by the Buyer with any obligation hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute any waiver of any of the Company's rights under the Contract
- 12.5 If any provisions of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part then such provisions shall apply with such modification (if possible) as may be necessary to make it valid and effective and the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby
- 12.6 Any notice under these Conditions shall be properly given if in writing and sent by first class post, registered letter or facsimile to the address of the intended recipient as stated in the contract or to such address as the Company and the Buyer from time to time notify to each other as their respective addresses for service and shall be deemed served in the case of postal notice, on the expiry of 72 hours from time of posting, and in the case of facsimile, on the expiry of 15 minutes from completion of transmission by the sender.
- 12.7 Except as otherwise provided nothing in this Contract shall confer on any third party any benefit or the right to enforce any terms of this Contract
- 12.8 The Buyer shall not assign the Contract without the Company's prior written consent
- 12.9 The Contract shall be governed by the Laws of Italy and subject to the exclusive jurisdiction of the Italian Courts