



CRAIG INTERNATIONAL MIDDLE EAST DMCC
& C R A I G INTERNATIONAL MECHANICAL
AND ENGINEERING EQUIPMENT TRADING LLC

TERMS AND CONDITIONS OF SALE

Effective Date: 12 October 2018

These **TERMS AND CONDITIONS OF SALE** ("**Terms and Conditions**") shall apply to all Orders covering the rental of goods, the sale of goods, and/or the provision of services which are issued to **CRAIG INTERNATIONAL MIDDLE EAST DMCC**, a company incorporated in the United Arab Emirates (C.R. No: 143598) and having an office at Floor 22-Office 22K, Gold Tower, Cluster I, Jumeirah Lakes Tower, Dubai ("**CI**") and **C R A I G INTERNATIONAL MECHANICAL AND ENGINEERING EQUIPMENT TRADING LLC**, a company incorporated in the United Arab Emirates (DED License; 828219) and having an office at **Office 1609 16th Floor, Citadel Tower, Business Bay, 119380, Dubai, UAE.**

1 **DEFINITIONS**

In these Terms and Conditions:

- 1.1 "**Affiliate**" means any Subsidiary or holding company of any company or any other Subsidiary of such holding company. For the purposes of this definition, "holding company" shall have the meaning assigned to it under Section 1159 of the Companies Act 2006;
- 1.2 "**CI Group**" means CI, CI's suppliers and Subcontractors, its and their Affiliates, and its and their directors, officers and employees (including without limitation agency personnel), but shall not include any member of the Customer Group;
- 1.3 "**Claim**" means claims, liens, judgments, penalties, awards, remedies, debts, liabilities, damages, demands, costs, losses, expenses (including without limitation legal costs and expenses) or causes of action, of whatever nature;
- 1.4 "**Consequential Loss**" means:
 - 1.4.1 indirect or consequential loss under English law; and
 - 1.4.2 loss and/or deferral of production, loss of product, loss of use and loss of revenue, profit or anticipated profit (if any) whether direct or indirect, business interruption; loss of, damage to or corruption of data or software; to the extent that these are not included in Clause 1.4.1, whether or not foreseeable at the date of the Order;



- 1.5 "**Co-Venturer**" means any other entity with whom the Customer is or may be from time to time a party to a joint operating agreement, unitisation agreement or similar agreement relating to the operations for which Work is being performed and the successors in interest of such co-venturer or the assignees of any interest of any such co-venturer;
- 1.6 "**Customer**" means the organisation which is intimating the Order to CI;
- 1.7 "**Customer Group**" means the Customer, its Co-Venturers, its third party contractors of any tier, its and their respective Affiliates and its and their respective directors, officers and employees (including without limitation agency personnel) but shall not include any member of the CI Group;
- 1.8 "**Designated Location**" means the location where the Customer instructs CI to perform the Services and/or to deliver the Sale Goods and/or the Rental Equipment;
- 1.9 "**Force Majeure Occurrence**" has the meaning given to that term in Clause 12.1;
- 1.10 "**Order**" means an order which is intimated by the Customer to CI via the Portal or by email or another form of written correspondence or telephone or communication system integration with the Customer (as applicable);
- 1.11 "**Rental Equipment**" means any goods and/or equipment to be supplied by CI to the Customer on a rental basis;
- 1.12 "**Rental Period**" means the period of time commencing when either (a) the CI Group delivers the Rental Equipment at the Designated Location or (b) the Customer (or any third party on behalf of the Customer) uplifts the Rental Equipment from the CI Group at the beginning of the duration of the rental (as applicable); and terminating when either (a) the CI Group uplifts the Rental Equipment at the end of the rental period or (b) when the Rental Equipment is returned to the CI Group (as applicable);
- 1.13 "**Sale Goods**" means any goods and/or equipment to be sold to the Customer;
- 1.14 "**Services**" means services to be provided to the Customer by the CI Group together with any necessary supervision;
- 1.15 "**Subcontractors**" means sub-contractors of any tier who are performing work, their Affiliates, their directors, officers and employees (including without limitation any agency personnel);
- 1.16 "**Subsidiary**" means a "subsidiary" as defined in Section 1159 of the Companies Act 2006 (the "Act") and a company shall be treated, for the purposes only of the membership requirement contained in Subsections 1159(1)(b) and (c) of the Act, as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee. In case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, Section 1159 of the Act is amended so



that (a) references in Subsections 1159(1)(a) and (c) of the Act to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership and (b) the reference in Section 1159(1)(b) of the Act to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights;

- 1.17 "**Tax**" means any tax, duty or charge including without limitation any interest or penalty thereon which may be properly and lawfully assessed upon the CI Group by any appropriate governmental authority upon, or measured by or incident to the performance of CI's obligations under an Order;
- 1.18 "**Third Party**" means any individual, entity or party which is not a member of the CI Group or the Customer Group; and
- 1.19 "**Work**" has the meaning given to that term in Clause 3.1.1.

2 **PREAMBLE**

- 2.1 No terms and conditions endorsed upon, delivered with or set out in any documentation whatsoever issued by or relating to the Customer Group will be incorporated in the Order and the Customer waives any rights which it might otherwise have to rely on such terms and conditions.
- 2.2 The terms and conditions incorporated in an Order may not be amended unless expressly agreed to by CI in writing.
- 2.3 No binding contract shall be concluded between the parties until the Order submitted by the Customer has been explicitly confirmed in writing by CI.

3 **CI'S OBLIGATIONS**

- 3.1 CI shall:
 - 3.1.1 supply the Sale Goods, the Rental Equipment and/or the Services which are ordered pursuant to each Order which has been confirmed by CI (such Sale Goods, Rental Equipment and Services being collectively referred to as the "**Work**");
 - 3.1.2 ensure that the quantity and specification of the Sale Goods and the Rental Equipment which it supplies pursuant to an Order is in accordance with the terms of the Order;
 - 3.1.3 ensure that the Sale Goods and Rental Equipment supplied pursuant to an Order are free from defects, are of good quality and workmanship and are fit for their intended purpose or suitable for their ordinary purpose where no purpose is specified in the Order;



- 3.1.4 carry out all Work with due care and diligence and with the skill to be expected of a reputable supplier experienced in the types of Work to be carried out under the Order; and
- 3.1.5 comply with all applicable laws, by-laws and regulations when performing its obligations under the Order.

4 DEFECTS CORRECTION

- 4.1 CI warrants that it has performed and shall perform the Work in accordance with the provisions of the Order, and that all Work shall be free from defects.
- 4.2 If the Customer notifies CI of any defect in the Sale Goods in writing within twelve (12) months of delivery to the Customer, CI shall at CI's sole option either:
 - 4.2.1 repair the defective Sale Goods; or
 - 4.2.2 replace the defective Sale Goods.
- 4.3 If any Rental Equipment ceases to operate properly in CI's sole opinion during any Rental Period, CI shall at CI's sole option either:
 - 4.3.1 repair the Rental Equipment; or
 - 4.3.2 replace the Rental Equipment with alternative equipment which is of at least the equivalent specification.
- 4.4 The Customer shall have no liability to make payment of any Rental Payments in respect of any Rental Period when CI has acknowledged to the Customer that the Rental Equipment has failed to operate properly.
- 4.5 If the Customer notifies CI in writing of any defects in the Services which arise within twelve (12) months of the completion of the Services to be performed pursuant to an Order, CI shall as soon as is practicable carry out all works necessary to correct any defects in the Services.
- 4.6 If any rectification works are performed pursuant to Clause 4.5, CI shall be obliged to carry out all works necessary to correct any further defects in the Services which arise during the remainder of the twelve (12) month defects correction period specified in Clause 4.5.
- 4.7 The Customer shall comply with CI's reasonable operating instructions regarding the Sale Goods and/or the Rental Equipment which are advised to the Customer in writing at the time of delivery of the Sale Goods and/or the Rental Equipment.

5 TAXES

- 5.1 CI shall pay Tax and shall procure the due payment of Tax by any Subcontractor.



- 5.2 CI shall indemnify the Customer for any payments of Tax made by the Customer which are lawfully assessable on CI or any Subcontractor (as applicable).
- 5.3 To the extent that payments to be made under an Order attract Value Added Tax (or any equivalent tax or charge), the proper amount of such Value Added Tax shall be shown as a separate item on the invoices issued by CI. Value Added Tax shall be added to the net Order price as appropriate.

6 **INDEPENDENT CONTRACTOR**

CI shall perform its obligations under an Order as an independent contractor and not as an employee or agent of the Customer. CI shall maintain complete control over its employees and Subcontractors.

7 **INDEMNITIES**

- 7.1 Subject to Clause 8, the Customer shall be responsible for and shall save, indemnify, defend and hold harmless the CI Group from and against all Claims in respect of:
- 7.1.1 loss of or damage to the property of the Customer Group whether owned, hired, leased or otherwise provided by the Customer Group arising from or relating to the performance of any Order; and
 - 7.1.2 loss of or damage to Rental Equipment which is sustained during the Rental Period; and
 - 7.1.3 personal injury including without limitation death or disease to any person employed by the Customer Group arising from or relating to the performance of any Order; and
 - 7.1.4 subject to Clause 7.3, personal injury including without limitation death or disease or loss of or damage to the property of any Third Party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the Customer Group.
- 7.2 Subject to Clause 8, CI shall be responsible for and shall save, indemnify, defend and hold harmless the Customer Group from and against all Claims in respect of:
- 7.2.1 loss of or damage to property of the CI Group (excluding any Rental Equipment) arising from or related to the performance of the Order; and
 - 7.2.2 personal injury including without limitation death or disease to any person employed or provided by the CI Group arising from or relating to the performance of any Order; and
 - 7.2.3 subject to Clause 7.3, personal injury including without limitation death or disease or loss of or damage to the property of any Third Party to the extent that any such injury, loss or damage is caused by the negligence or breach of duty (whether statutory or otherwise) of the CI Group.



- 7.3 Except as provided by Clauses 7.2.1 and 7.2.2, the Customer shall save, indemnify, defend and hold harmless the CI Group from and against any claim of whatsoever nature arising from pollution or contamination (including without limitation pollution or contamination occurring on the premises of the Customer Group or emanating from the property and equipment of the Customer Group (including but not limited to marine vessels) or substances in the Customer Group's possession or control) arising from, relating to or in connection with the performance or non-performance of any Order.
- 7.4 All exclusions and indemnities given under this Clause 7 (save for those under Clauses 7.1.4 and 7.2.3) and Clause 8 shall apply irrespective of cause and notwithstanding the negligence or breach of duty (whether statutory or otherwise) of the indemnified party or any other entity or party and shall apply irrespective of any Claim in tort, under contract or otherwise at law.
- 7.5 If either party becomes aware of any incident likely to give rise to a Claim under the above indemnities, they shall notify the other party and both parties shall co-operate fully in investigating the incident.

8 CONSEQUENTIAL LOSS

To the extent permitted by law, in order to reflect the balance of the consideration received by CI in providing the Work in comparison to the potentially disproportionate extent of liability exposures to the Customer in relation to the nature of the matters dealt with under the Work:

- 8.1 the Customer shall save, indemnify, defend and hold harmless the CI Group from any Consequential Loss suffered by the Customer Group arising from, relating to or in connection with the performance or non-performance of any Order; and
- 8.2 CI shall save, indemnify, defend and hold harmless the Customer Group from any Consequential Loss suffered by the CI Group arising from, relating to or in connection with the performance or non-performance of any Order.

9 INSURANCE

- 9.1 CI shall procure and maintain and shall also ensure that its Subcontractors procure and maintain during the period of performance of the Order, the following insurances as a minimum:
- 9.1.1 employer's liability insurance covering personal injury to or death of the employees of CI to the minimum value required by any applicable legislation including without limitation extended cover where required for working offshore; and
- 9.1.2 third party liability insurance sufficient to ensure CI's obligations (and where relevant CI's Subcontractors' obligations) in Clause 7 can be met; and
- 9.1.3 where relevant to the Work, motor insurance as required by applicable law.



9.2 CI's insurances shall be endorsed to provide that underwriters waive any rights of recourse including in particular subrogation rights against the Customer Group, and its Affiliates.

10 **HEALTH, SAFETY AND ENVIRONMENT**

CI shall comply with (and shall ensure that all of its Subcontractors comply with) all of the Customer's safety rules and procedures which are intimated to CI in writing.

11 **TERMINATION**

CI may terminate any Order or any part thereof in the event of the Customer becoming bankrupt or making a composition or arrangement with its creditors or a winding-up order of the Customer being made, or (except for the purposes of amalgamation or reconstruction) a resolution for its voluntary winding-up being passed or a provisional liquidator, receiver, administrator or manager of its business or undertaking being appointed or presenting a petition or having a petition presented applying for an administration order to be made, or possession being taken by or on behalf of the holders of any debenture secured by a floating charge of any property comprised in or subject to the floating charge, or any equivalent act or thing being done or suffered under any applicable law.

12 **FORCE MAJEURE**

12.1 Neither party shall be liable to the other or be deemed to be in breach of its obligations by reason of any delay or failure in performing any obligations arising under any Order, if the delay or failure was due to any cause that is beyond that party's reasonable control and which by the exercise of reasonable diligence the party in question is unable to provide against (a "**Force Majeure Occurrence**").

12.2 Without limitation, the following shall be regarded as Force Majeure Occurrences: act of god, explosion, earthquake, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, or civil disturbance; changes to acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; interruption of internet access or telecommunications system, official strikes, lock-outs or other official industrial actions or trade disputes.

13 **DELIVERY**

13.1 Delivery of any Sale Goods or any Rental Equipment to be supplied under an Order shall be made to the location specified in the Order or such other alternative location which is agreed in writing between the parties. Dates quoted for delivery of the Sale Goods, delivery of the Rental Equipment or completion of any Services are approximate only.

13.2 The type and route of shipment of any Sale Goods and/or any Rental Equipment shall be agreed in writing between the parties.

13.3 The Customer shall be liable for all costs relating to the packaging of the Sale Goods and/or the Rental Equipment unless the Parties agree otherwise in writing.



- 13.4 The cost of the delivery of the Sale Goods and/or the Rental Equipment shall be borne by the Customer unless the Parties agree otherwise in writing.
- 13.5 The Customer shall be responsible for obtaining all and any necessary import and/or export licences or permits necessary for the entry of the Sale Goods and/or the Rental Equipment into any country for their delivery to the Designated Location unless the Parties agree otherwise in writing. The Customer shall be responsible for payment and/or discharge of any customs duties, clearance charges, taxes, brokers' fees, withholding tax and other amounts payable in connection with the importation, exportation and delivery of the Sale Goods and/or the Rental Equipment unless the Parties agree otherwise in writing.
- 13.6 If CI fails to deliver the Work or part of the Work within the dates specified in the Order, the Customer shall be entitled to terminate the Order or that part thereof without notice and without liability. If CI fails to deliver the Work or part of the Work, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods and/or equipment and/or services of similar description and quality in the cheapest market available, less the price of that Work or part of the Work. CI shall have no liability for any failure to deliver the Work or part of the Work to the extent that such failure is caused by a Force Majeure Occurrence or the Customer's failure to provide CI with adequate delivery instructions or any other instructions that are relevant to the delivery of that Work or part of the Work. The Customer requires to make any Claim in respect of such failure within seven (7) days following such failure. CI shall have no liability in respect of any Claim in respect of such failure raised after the expiry of such period of seven (7) days.
- 13.7 If the Customer refuses or fails to take delivery of the Sale Goods and/or Rental Equipment within the Customer's normal working hours on the agreed delivery date, or if CI is unable to deliver the Sale Goods and/or Rental Equipment on time because the Customer has not provided appropriate instructions, documents, licences or authorisations, CI may store the Sale Goods and/or Rental Equipment and the Customer shall in addition to the price payable pay all related costs and expenses (including without limitation, the costs for storage and insurance) and additional delivery costs incurred by CI and if the Customer refuses or fails to take delivery of or to collect the Sale Goods and/or Rental Equipment (as appropriate) after fourteen (14) days following the agreed delivery date, CI may rescind the Order and recover damages.

14 **TITLE AND RISK**

- 14.1 Title in any Sale Goods to be supplied hereunder to the Customer shall pass to the Customer upon payment to CI of the purchase price.
- 14.2 Notwithstanding Clause 7, risk in any Sale Goods to be supplied hereunder shall pass to the Customer upon delivery of the Sale Goods to the Designated Location.
- 14.3 Title in all Rental Equipment shall vest in CI or its Subcontractor (as applicable) at all times.



15 PATENTS AND OTHER PROPRIETARY RIGHTS

15.1 Where any potential patent or registrable right or other protected right in any country in the world results from:

15.1.1 developments by the Customer Group which are based wholly on data, equipment, processes, substances and the like in the possession of the Customer Group at the date of the Order or otherwise produced outside the Order; or

15.1.2 enhancements of or in the existing intellectual property rights of the Customer Group,

such rights shall vest in the Customer or another company within the Customer Group as the case may be.

15.2 Where any potential patent or registrable right or other protected right in any country in the world results from:

15.2.1 developments by the CI Group which are based wholly on data, equipment, processes, substances and the like in the possession of the CI Group at the date of the Order or otherwise produced outside the Order; or

15.2.2 enhancements of or in the existing intellectual property rights of the CI Group,

such rights shall vest in CI and its Affiliates as the case may be.

15.3 Except as provided in Clauses 15.1 and 15.2, where a potential patent or registrable right or other protected right in any country in the world arises out of the Work and is invented during the term of the Order, such rights shall vest in CI.

16 ASSIGNMENT AND SUBCONTRACTING

16.1 The Customer agrees not to assign or transfer any Order in whole or in part, except with the prior written consent of CI.

16.2 CI may subcontract any aspect of an Order at its sole discretion.

17 PAYMENT

17.1 The Customer shall be liable for payment for the supply of the Sale Goods, the supply of the Rental Equipment for the Rental Period and the performance of the Services by or on behalf of CI at the rates and prices specified in the Order.

17.2 Payment is required immediately on the confirmation by CI of the Order, unless it is agreed in writing with the Customer that CI shall invoice the Customer on a monthly basis. Payment of undisputed amounts shall be made within thirty (30) days after receipt of CI's invoice. Unless immediate payment is required, disputed items shall be resolved without delay and any amounts agreed to be payable shall then be settled promptly. Interest for the



late payment of any correctly prepared invoices shall be charged at a rate that is equal to the current Bank of England Base Rate plus three (3) percent.

18 **RECORDS AND AUDITS**

CI shall maintain true and correct records in connection with the Order and shall retain all such records for at least twenty four (24) months after completion of the Order. The Customer may from time to time and at any time after the date of the Order until twenty four (24) months after performance of the Order, upon reasonable prior written notice to CI, make an audit of all records held by CI in connection with the specific Order.

19 **LIMITATION OF LIABILITY**

- 19.1 Subject to Clause 19.2, CI's total cumulative liability to the Customer arising out of or in relation to the performance or non-performance of the Order (including without limitation any liability arising as a result of suspension and/or termination of the Order) shall be limited to the value of the Order in question. This limitation shall not apply in relation to any indemnity given by CI under Clauses 7 and 8.
- 19.2 Nothing in the Order or these Terms and Conditions shall limit or exclude either party's liability for death or personal injury resulting from its negligence or for any damage or liability incurred by the other party as a result of fraud or fraudulent misrepresentation.
- 19.3 Subject to Clause 19.2, any exclusion or limitation of liability under the Order shall exclude or limit such liability not only in contract but also in tort or otherwise at law.

20 **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT**

Except to the extent that the indemnified parties shall be entitled to enforce Clauses 7 and 8, the parties intend that no provision of any Order shall, by virtue of the Contracts (Rights of Third Parties) Act 1999, confer any benefit on, nor be enforceable by any person who is not a party to any Order, which Order may be rescinded, amended or varied without notice to or the consent of any third party even if, as a result, that third party's right to enforce a term of any Order may be varied or extinguished.

21 **CONFIDENTIALITY**

- 21.1 Each party agrees to hold strictly confidential and not (without the prior written consent of and in accordance with any conditions imposed by the other party) to disclose to any third party any information provided by the other party during and for a period of two (2) years following completion of performance of the Order.
- 21.2 Clause 21.1 shall not apply: (a) where the information was in the public domain before it was furnished to the other party or, after it was forwarded to the other party, entered into the public domain otherwise than as a result of a breach by the other party of this Clause 21; or (b) where disclosure is necessary in order to comply with an order of a court or



administrative body of competent jurisdiction, applicable legislation or regulatory requirements.

22 **ENTIRE REPRESENTATION**

Once confirmed by CI, an Order supersedes all prior agreements, understandings and commitments, whether oral or in writing between the parties concerning the subject matter.

23 **GENERAL**

23.1 No modifications to any Order shall be binding unless agreed in writing between the authorised representatives of both parties.

23.2 Should any provision of these Terms and Conditions be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability shall not affect the other provisions of these Terms and Conditions and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties agree to attempt to substitute, for any invalid or unenforceable provision, a valid and enforceable provision which achieves to the greatest possible extent, the economic legal and commercial objectives of any invalid or unenforceable provision.

23.3 CI and the Customer shall each respectively comply with all applicable laws, rules, regulations, decrees and/or official governmental orders of the United Kingdom and any other applicable jurisdiction in relation to anti-corruption and anti-bribery requirements. Any breach of this obligation shall constitute a material breach of the Order.

23.4 If the Customer wishes to raise a complaint regarding an Order with CI, please contact Jill MacDonald, Joint Managing Director, via steve.gibson@craig-group.com or UAE+971 43681702.

24 **GOVERNING LAW**

The Order and these Terms and Conditions shall be governed by and construed according to the laws of England with the exception of its private international law. The United Nations Convention on the International Sale of Goods shall not apply to this Agreement. All disputes (including without limitation all non-contractual disputes and claims) which are not resolved through negotiation shall be subject to the exclusive jurisdiction of the English Courts.