

TERMS AND CONDITIONS - TOOL RENTAL

WHEREAS:

- A. IDSI carries on the business of providing oil and gas drilling and exploration tools, services and equipment;
- B. The Lessee may, from time to time, pursuant to orders, requests and/or delivery tickets issued by the Lessee or by IDSI, as the case may be from time to time, request certain Equipment to be supplied by IDSI for the purposes of rental by the Lessee; and
- C. IDSI and the Lessee wish to set out the terms and conditions which will apply to the rental and lease of the Equipment and govern all orders, requests and delivery tickets issued by the Lessee or IDSI, as the case may be, for supply and rental of such Equipment.

THE FOLLOWING TERMS AND CONDITIONS SHALL GOVERN AND FORM THE BASIS OF THE AGREEMENT BETWEEN IDSI AND THE LESSEE IN CONNECTION WITH THE LEASE OR RENTAL OF EQUIPMENT BY IDSI TO THE LESSEE PURSUANT TO ANY ORDER. TO THE EXTENT OF ANY CONFLICT BETWEEN THE TERMS OF THE ORDER AND THE TERMS AND CONDITIONS SET OUT HEREIN, THE TERMS AND CONDITIONS CONTAINED HEREIN SHALL PREVAIL.

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement, the following terms shall have the following meanings:

- (a) **“Agreement”** or **“Terms and Conditions”** shall mean this agreement, the recitals and schedules hereto, and any amendments to the foregoing;
- (b) **“Applicable Laws”** mean with respect to a Person, property, transaction or event from time to time (including the supply of Equipment by IDSI to the Lessee pursuant to this Agreement and the use and operation of such Equipment by the Lessee), means all applicable laws (including the common law and principles of equity), statutes, regulations, treaties, by laws, ordinances, judgments, decrees and (whether or not having the force of law) all applicable official directives, rules, consents, approvals, authorizations, guidelines, standards, codes of practice, orders (including judicial or administrative orders) and policies of any governmental authority having authority over, or application to, that Person, property, transaction or event, as the same may be amended from time to time during the Term;
- (c) **“Claims”** means all liabilities (statutory or otherwise), obligations, claims (including direct or indirect claims), damages, penalties, demands, causes of actions, costs and expenses, Losses and injuries in any manner relating to or arising out of or with respect to the rental, purchase, transportation, or operation of the Equipment;
- (d) **“Equipment”** means the materials, equipment / tools to be furnished by IDSI to the Lessee pursuant to any Order and this Agreement;
- (e) **“Force Majeure Event”** means the occurrence of an act or event:
 - (i) which is beyond the reasonable control of the claiming Party;

- (ii) which the claiming Party was unable to prevent, provide against, or avoid by the exercise of reasonable diligence;
- (iii) which renders the claiming Party unable to fully or partially comply with its obligations hereunder; and
- (iv) which is not caused by the action, omission, or negligence of the claiming Party;

provided however that lack of finances, insolvency or lack of availability of manpower, materials or equipment shall not in any circumstances constitute a Force Majeure Event;

- (f) “**IDS**” means InFocus Downhole Solutions Inc.;
- (g) “**including**” means including but without limiting the generality of the foregoing, unless the context otherwise expressly provides such as “**including only**”, and “**includes**” shall have a corresponding meaning;
- (h) “**Intellectual Property**” means in respect of the Equipment, collectively, all intellectual property rights of whatsoever nature, kind or description, including:
 - (i) all trade-marks, trade-mark registrations or applications, common-law rights, rights under license agreements, trade names and other trade-mark rights;
 - (ii) all copyrights and copyright applications, including all manuals, brochures, computer software, logos, marketing documents and rights related thereto, including moral rights;
 - (iii) all inventions, industrial designs, design patents, utility models, patents, patent applications and patent rights (including any patents issuing on any patent application);
 - (iv) trade secrets, integrated circuit topography, ideas, processes, formulas, programs, works of authorship, works in progress, know how, materials and Equipment, process information, technical information, improvements, discoveries, developments, designs, facility layout and equipment, materials, techniques and test results;
 - (v) information concerning current and prospective research, experimental work, development and products;
 - (vi) all formula, confidential or proprietary information, trade secrets and know-how and technical information and knowledge;
 - (vii) all other intellectual and industrial property, whether or not registrable or registered or the subject matter for applications or registrations;
 - (viii) any and all records, documents and materials relating to the foregoing, including records of invention, original letters patent, copies of patent applications, log books, reports, files, agreements and assurances; and

- (ix) the original of and copies of all such foregoing information and knowledge, however so recorded and maintained;
- (i) “**Lessee**” means the lessee or renter of the Equipment identified in the Order;
- (j) “**Losses**” mean, with respect to any matter, all liabilities (statutory, contingent or otherwise), obligations, claims, losses, damages, costs and expenses of whatever kind or nature and howsoever arising including, whether directly or indirectly as a consequence of such matter, without limitation, loss of property value, loss of profit or revenue, loss of business, consequential and incidental damages and special damages;
- (k) “**Order**” means the written request or verbal instructions to IDSI, whether prepared by the Lessee or IDSI and whether in the form of a sales order, procurement order, telephone order, online order, delivery ticket, proposal or otherwise, to lease the Equipment;
- (l) “**Parties**” shall mean IDSI and the Lessee and “**Party**” shall mean either of IDSI or the Lessee; and
- (m) “**Person**” means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or government authority, authority or entity however designated or constituted;

1.2 Currency and Payment

All sums due under this Agreement shall be paid in Canadian dollars, unless otherwise expressly indicated to the contrary, and shall be paid by bank draft or in such other manner as may be specified by IDSI from time to time.

1.3 Headings

The division of this Agreement into articles and sections and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion thereof and include any agreement supplementary hereto. Unless something or subject matter or context is inconsistent thereof, references herein to Articles and Sections are to Articles and Sections of this Agreement.

1.4 Number

In this Agreement, words importing the singular number only shall include the plural and vice versa. Words importing the masculine gender shall include the feminine and neuter genders and vice versa and words importing persons shall include individuals, partnerships, associations, trusts, unincorporated organizations and corporations, and vice versa.

ARTICLE 2 APPLICATION AND PRECEDENCE OF AGREEMENT

2.1 Entire Agreement

These Terms and Conditions, together with the applicable Order, contain the entire understanding of the Parties and supersedes all prior negotiations, representations or agreements, either written or oral, including without limitation any bids, proposals or other documents relating to the Equipment whether prepared by IDSI or the Lessee. There are no other promises, terms, conditions or obligations, oral or written, expressed or implied, other than those contained in this Agreement. To the extent of conflict between these Terms and Conditions and the terms of the Order, these Terms and Conditions shall prevail.

2.2 Orders

Each Order will be deemed to be an offer by the Lessee to lease the Equipment subject to these Terms and Conditions and shall be deemed to be accepted by IDSI upon either express acceptance of the offer or impliedly by fulfilling the Order, in whole or in part. Once issued by the Lessee and accepted by IDSI, each Order is incorporated into and forms part of this Agreement.

2.3 Amendments to Orders

No amendment to this Agreement or any Order shall be effective unless expressly agreed to in writing and signed by an authorized representative of IDSI and the Lessee. If any provision of the within terms and conditions of this Agreement are inconsistent with a provision of the Order, this Agreement shall prevail.

2.4 No Obligation to Order

The Parties understand and agree that this Agreement is for supply of Equipment on an as-needed basis as requested by the Lessee through the issuance of an Order and that the Lessee is under no obligation to issue an Order or request supply of Equipment.

2.5 Non-Exclusivity

The Parties agree that this Agreement is non-exclusive and that the Lessee may retain other good suppliers without any obligation to IDSI whatsoever and IDSI may contract with and supply Equipment or other equipment, services, tools and products to any third party, including competitors of the Lessee, without any obligation to the Lessee whatsoever.

ARTICLE 3 ORDERS AND FEES

3.1 Rental Rates, Service Fees and Terms of Payment

The Lessee will pay IDSI the applicable service fees and periodic rates (collectively, the “**Fees**”) in accordance with Schedule “A” and the Order (as applicable). The Lessee shall pay all invoices rendered by IDSI within thirty (30) days of the date of any such invoice.

3.2 Overdue Accounts

All overdue amounts owed by the Lessee to IDSI shall bear interest at the rate of two percent (2%) per month (twenty-four percent (24%) per annum) both before and after default and judgment, calculated from the due date for payment, whether or not the relevant Order or invoice makes any reference to interest on overdue accounts. At any time when amounts payable to IDSI by the Lessee are overdue, IDSI, at its option, may refuse to deliver the Equipment to the Lessee.

3.3 Deposit to Accompany Order

In the event that the Order contemplates a deposit be provided by the Lessee or in the event that IDSI shall require a deposit accompany any Order, the Lessee shall include such deposit (the “**Deposit**”), which Deposit shall be credited to the Lessee on the invoice following delivery of the Equipment and otherwise dealt with in accordance with the following provisions.

3.4 Cancellation of Order by Lessee

The Lessee shall not cancel any Order unless such cancellation is given in writing to IDSI and the cancellation is delivered to IDSI prior to the happening of any of the following:

- (a) any of the Equipment or parts contained in the Order having been purchased or ordered from any third party; or
- (b) any commencement of the engineering, development or manufacturing of any of the Equipment by IDSI or any third party engaged by IDSI;

and further provided that the Lessee shall forthwith reimburse IDSI for any costs incurred in association with the cancellation of such Order by forfeiture of the Deposit, if applicable.

3.5 Other Charges

The Lessee shall be responsible for any and all goods and services taxes, sales taxes, value added taxes, or any other taxes imposed by governmental authority with respect to the sale by IDSI of the Equipment pursuant to this Agreement, whether characterized as goods and services taxes, sales taxes, value added taxes or otherwise.

3.6 Delivery

Unless stated otherwise in the Order, delivery of all Equipment shall be ‘FOB origin’ and the Lessee shall be responsible for all delivery and shipping costs both to and from IDSI.

3.7 Non-Conforming Equipment

In the event that Equipment delivered by IDSI is non-conforming with the specifications as set out in the Order and provided that the reason for non-conformity is not a result of the actions or omissions of the Lessee, the Lessee may:

- (a) reject the non-conforming Equipment and return them to IDSI, at IDSI’s expense, for replacement, credit or refund; or
- (b) accept the non-conforming Equipment and charge IDSI the reasonable cost of reprocessing or correcting the non-conforming Equipment.

The Lessee’s rejection of any non-conforming Equipment shall only be effective if the Lessee notifies IDSI, in writing, of the non-conformity and rejection within thirty (30) days of delivery of the non-conforming Equipment.

ARTICLE 4 TITLE

4.1 Title to Equipment

The Lessee acknowledges that the ownership of the Equipment shall remain vested in IDSI. The Lessee shall have no right, title or interest in the Equipment other than, conditional upon the Lessee's compliance with the fulfillment of the terms and conditions herein contained, the right to maintain possession and use of the Equipment.

4.2 Security Interest

IDSI at all times reserves the right to register its deemed security interest in the Equipment in the Personal Property Registry in the Province of Alberta and/or any other permitted jurisdiction(s) and the Lessee hereby waives its right to receive notice or a copy of any financing statement or financing change statement registered in respect of such security.

ARTICLE 5 INSPECTION AND RISK

5.1 Inspection by Lessee

Upon taking of possession of the Equipment, the Lessee shall inspect and examine the Equipment. Unless rejected for non-conformance in accordance with Article 3.7, the Equipment shall be deemed for all purposes hereof to have been accepted by the Lessee as in good condition and running order on an 'as-is, where-is' basis. The Lessee acknowledges and agrees that except for those express representations and warranties of IDSI contained herein, the lease of the Equipment to the Lessee is without any representation or warranty of any nature or kind, including, but not limited to, warranties and representations of fitness, merchantability, suitability for purpose and condition.

5.2 Risk

The Equipment shall be at the sole risk of the Lessee, and the Lessee assumes the risk of liability and shall pay for any Losses or damage arising from or pertaining to the possession, operation or use of the Equipment or from any cause whatsoever and, without limiting the generality of the foregoing, liability or loss arising out of personal injury, death, fire, theft, loss, confiscation or expropriation. For no reason shall IDSI be responsible or liable to the Lessee or any third party for any economic, indirect, financial or consequential losses or damages of any nature whatsoever, howsoever caused, that may be suffered or sustained by the Lessee or any third party in respect of the Equipment or the use, misuse, transport, storage and/or loss thereof by the Lessee.

ARTICLE 6 USE AND COMPLIANCE

6.1 Use

The Lessee shall use the Equipment for its intended purpose and for no other purpose whatsoever.

6.2 Compliance

The Lessee, at its own cost and expense, shall comply with all applicable laws, ordinances, regulations and legislation any way relating to the ownership, possession, use, operation, repair, maintenance, servicing or transport of the Equipment. The Lessee, at its own cost

and expense, shall keep the Equipment free of all levies, liens and encumbrances and shall pay when due all licence fees, registration fees, assessments, charges and taxes (municipal, provincial and federal) which may be levied or assessed directly or indirectly against or on account of the Equipment or any interest therein or use thereof. If the Lessee shall fail to pay such items when due, IDSI may pay such licence fees, registration fees, assessments, charges or taxes, as the case may be, but IDSI shall not be obligated to pay the same. In such event, the cost thereof shall be repayable to IDSI by the Lessee forthwith, and all outstanding amounts shall bear interest at a rate of two percent (2%) per month (twenty-four percent (24%) per annum) both before and after default and judgment.

ARTICLE 7 COVENANTS OF THE LESSEE

7.1 Covenants of the Lessee

The Lessee covenants and agrees:

- (a) to use the Equipment for its intended purpose and for no other purpose whatsoever;
- (b) that the Equipment shall be used only in Canada or in such other jurisdictions as may be permitted by IDSI in its sole and unfettered discretion (the “**Permitted Jurisdiction(s)**”) and that the Equipment shall not be removed from the Permitted Jurisdiction(s) without the prior written consent of IDSI;
- (c) to immediately notify IDSI of any change in the Lessee’s name, business address or contact information;
- (d) to, at its own cost and expense, maintain the Equipment in good repair and operating condition and in accordance with the manufacturer’s specifications and/or the instructions of IDSI;
- (e) to, at its own cost and expense, comply with all Applicable Laws, in any way relating to the possession, use, operation, repair, maintenance, servicing and transport of the Equipment;
- (f) to at all reasonable times permit IDSI access to the Equipment for the purposes of inspection, testing or reparation, in accordance with the terms of this Agreement;
- (g) to keep the Equipment free of all liens, levies or encumbrances of any kind or nature whatsoever and to pay when due all license fees, registration fees, assessments, charges, or taxes which may be levied or assessed against the Equipment;
- (h) not, without the prior consent of IDSI, to make alternations, additions or improvements to the Equipment;
- (i) to comply with all provisions of this Agreement; and
- (j) to be responsible and liable for any and all damages and Losses of any kind or nature whatsoever or howsoever arising to the Equipment during the Term.

ARTICLE 8 SERVICING AND REPAIR

8.1 Servicing

All servicing and repair of the Equipment shall be performed by IDSI (Nisku Location), or at an authorized service provider approved by IDSI, and the costs of all such servicing and repair, as set out in Schedule "A" hereto, shall be the sole responsibility of the Lessee and shall be charged to the Lessee in accordance with Article 3.

ARTICLE 9 ASSUMPTION OF RISK AND INDEMNITY

9.1 Assumption of Risk

The Lessee acknowledges and agrees that use and operation of the Equipment involves risks, dangers and hazards to both person and property and the Lessee hereby accepts and assumes all such risks, dangers and hazards, howsoever caused. IDSI shall not be responsible or liable for any Losses resulting to the Lessee, its agents, employees, contractors, subcontractors, directors, officers, assigns or successors or to any third party for any Claims.

9.2 Indemnity

The Lessee hereby covenants and agrees to indemnify and save harmless IDSI and, if applicable, its officers, directors, employees, agents and representatives from and against any and all Claims, actions, suits, proceedings, costs, expenses, Losses, damages and liabilities, including solicitors' fees on a solicitor and own client full-indemnity basis, arising out of, connected with or resulting from the possession, use and operation of the Equipment by the Lessee, including, without limitation, the following:

- (a) Any injury, disability or death occasioned to or suffered by any person, including damage to any property arising from the transport, use, handling or operation of the Equipment during the Term;
- (b) Any damage of any kind or nature whatsoever or howsoever arising to the Equipment;
- (c) The failure by the Lessee, its agents or employees to observe or perform any of its obligations pursuant to this Agreement; and
- (d) Any Claim or proceeding made by any person with respect to the subject matter of this Agreement.

9.3 Indemnity Procedure

If the Lessee has knowledge of or receives notice of any Claim or action or proceeding with respect to or arising from the transport, use or operation of the Equipment during the Term, the Lessee shall promptly provide IDSI with written notice thereof and provide all relevant information in respect of such Claim, action or proceeding. With respect to any such Claim, the Lessee shall, at its own cost and expense, assume control of the defence of the Claim; provided, however, that the defence shall be through legal counsel acceptable to IDSI, acting reasonably, and that no admission of liability and no settlement may be made by the Lessee without first obtaining the written consent of IDSI. If the Lessee fails to assume the defence or settlement of any such Claim, action or proceeding in a manner acceptable to

IDSI and in any event, within fourteen (14) days of the Lessee receiving notice of same, IDSI may defend against or settle such Claim, action or proceeding and the Lessee shall pay and indemnify IDSI for any costs and Expenses, including solicitors' fees, incurred by IDSI in negotiating, contesting, settling or defending such Claim, action or proceeding.

ARTICLE 10 EVENTS OF DEFAULT

10.1 Default

The happening of any one or more of the following events shall constitute an event of default ("**Event of Default**"):

- (a) The failure by the Lessee to pay any amount that is due to IDSI;
- (b) The Lessee's default in observation or performance of any term, condition, covenant or provision of this Agreement;
- (c) The Equipment becoming subject to any lien, levy, charge, privilege, seizure, attachment or other encumbrance whatsoever;
- (d) If all or any part of the Equipment is or may be in immediate danger of being confiscated, sequestered or seized under the process of law, provided that the Equipment is not confiscated, sequestered or seized under the process of a law as a result of the acts or negligence of IDSI;
- (e) The Lessee filing a petition in bankruptcy, or filing a petition seeking any reorganization, arrangement, composition or similar relief under any federal, provincial or local law regarding the insolvency or relief for debtors or making an assignment for the benefit of creditors, or if a receiver, trustee or similar officer is appointed for the business or property of the Lessee, or if any involuntary petition or proceeding under bankruptcy or insolvency laws is instituted against the Lessee;
- (f) The Lessee transferring, renting, subletting or otherwise giving up possession of the Equipment contrary to the terms of this Agreement;
- (g) The Equipment being, in the sole, absolute and unfettered opinion of IDSI, in danger of loss, damage or destruction;
- (h) Any act by the Lessee reducing the value of usefulness of the Equipment, including failure to maintain or repair the Equipment as required; or
- (i) Any event which, in the sole, absolute and unfettered opinion of IDSI, constitutes an adverse change with respect to the ability of the Lessee to meet its obligations hereunder or the value of enforceability of any security held by IDSI for such obligations.

ARTICLE 11 REMEDIES UPON AN EVENT OF DEFAULT

11.1 Consequences of Default

Upon the occurrence of an Event of Default, IDSI, in its sole, absolute and unfettered discretion and without prior notice to the Lessee, shall have the right to:

- (a) treat the Event of Default as a repudiation by the Lessee of this Agreement or, in the sole option of IDSI, terminate the Agreement;
- (b) enter upon the land or premises where the Equipment is located for the purpose of taking or repossessing the Equipment without Court order or without liability to IDSI for or by reason of the taking of possession, and sell, lease, use or otherwise dispose of the Equipment for such consideration and upon such terms and conditions as IDSI may reasonably deem fit in its sole and unfettered discretion;
- (c) claim or sue for all arrears of the Fees and other amounts owing to IDSI and all prospective Fees, amounts, expenses or Losses arising from the occurrence of an Event of Default,

and IDSI may exercise any of the above remedies or steps alternatively or cumulatively and in addition to any other rights or remedies which may be available to it under this Agreement or at law or in equity. The Lessee covenants and agrees to allow IDSI access onto the land or premises where the Equipment is located for the purpose of IDSI taking or repossessing the Equipment as contemplated above. The Lessee shall pay IDSI all costs and Expenses, including solicitors' fees, incurred by IDSI in exercising any of its rights and remedies hereunder or in enforcing any of the terms, conditions or provisions hereof, including any costs of removal of the Equipment. Upon the happening of an Event of Default where the Agreement is terminated and IDSI takes possession of the Equipment, IDSI may repair, or obtain estimates to repair, all damage related to the Equipment while used by the Lessee and deemed not "normal conditions". In such event, the cost thereof shall be repayable to IDSI by the Lessee forthwith and all outstanding amounts shall bear interest at a rate of two percent (2%) per month (twenty-four percent (24%) per annum) both before and after default and judgment.

ARTICLE 12 INTELLECTUAL PROPERTY

12.1 Ownership of Intellectual Property

IDSI is and shall be deemed to be the sole and exclusive owner of all right, title and interest in and to the Intellectual Property. The Lessee acknowledges and agrees that IDSI possesses the absolute and exclusive authority to license and exploit the Intellectual Property. The Lessee further acknowledges and agrees that this Agreement does not give the Lessee any interest in the Intellectual Property and the Lessee agrees not to use the Intellectual Property granted thereby or any imitation thereof in any manner except as expressly provided for herein. The Lessee agrees that the Intellectual Property rights are valid, and further agrees that during the term of this Agreement and forever thereafter, except as expressly provided for herein, it will not dispute or contest, directly or indirectly, the validity or enforceability of the Intellectual Property rights of IDSI, nor design around or allege infringement of the Intellectual Property rights, nor counsel, procure or assist anyone else to do any of the foregoing activities.

12.2 Prosecution of Intellectual Property Rights

In the event that the Lessee becomes aware that any person, firm, company or entity is infringing or threatening to the Intellectual Property rights of IDSI, the Lessee shall immediately notify IDSI, in writing.

12.3 Limitation of Liability and Indemnity

The Lessee acknowledges and agrees that no representation, warranty or indemnity is given by IDSI to the Lessee in respect of the infringement of intellectual property rights of any third party in respect of the Equipment.

ARTICLE 13 RELATIONSHIP OF PARTIES

13.1 Independent Contractors

It is understood and agreed by the Parties that this Agreement does not create a fiduciary relationship between them, and that IDSI and the Lessee shall be independent contractors and that nothing in this Agreement is intended to make either party a general or specific agent, legal representative, subsidiary, joint venturer, partner, employee or servant of the other Party for any purpose whatsoever. Neither Party shall have any right to obligate or bind the other in any manner whatsoever and nothing contained in this Agreement shall give or is intended to give any rights of any kind to Persons not a party to this Agreement. Each party shall ensure that neither it nor any of its employees represent to any third party that it or they are servants or agents of the other.

ARTICLE 14 ASSIGNMENT

14.1 By IDSI

This Agreement and any part hereof, including the Intellectual Property rights of IDSI may be assigned or licensed by IDSI without the prior written consent of the Lessee. In the event that this Agreement is assigned or the Intellectual Property rights of IDSI are licensed, the Lessee shall thereafter be bound in all respects as if the successor in interest were the original party to the Agreement.

14.2 By the Lessee

Neither this Agreement nor any part hereof shall be assignable or transferable, by operation of law or otherwise, including by way of merger, change in control, amalgamation, or license by the Lessee, except with the prior written consent of IDSI. For the purposes of this Article 14.2, a change of beneficial ownership of more than 50% of the shares of the Lessee shall constitute a "change in control" of the Lessee.

ARTICLE 15 NOTICES

15.1 Notices to Lessee

Unless specifically provided to the contrary herein, all notices, requests, demands and other communication required, pursuant to this Agreement, to be given shall be in writing and shall be deemed to have been validly and effectively given: if transmitted by facsimile, on the date which the Party sending such facsimile receives a facsimile from the receiving Party acknowledging receipt thereof; if delivered, on the date of delivery; or if mailed by registered mail return receipt requested, on the date of the execution of the receipt at the addresses set out below:

to the Lessee:

At the Lessee's place of business or registered office.

to InFocus Downhole Solutions Inc.:

#102, 2317 - 9 St.
Nisku, AB
T9E 7Z7

Attention: Mark Luchak and Allan Pearson

15.2 Change of Address for Notice

Either Party may change its address for service provided for hereunder by giving the other Party notice pursuant to the terms of this Agreement.

ARTICLE 16 GENERAL PROVISIONS

16.1 Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with the laws of Province of Alberta. The Parties hereby irrevocably submit to the exclusive jurisdiction of the courts of the Province of Alberta and waive any objection based on venue or *forum non conveniens* with respect to any Claims arising under this Agreement and/or any Order or any related transactions between the Parties.

16.2 Waiver

No waiver, modification or cancellation of any term or condition or of any breach of any term or condition of this Agreement shall excuse the performance of any act other than the act specifically referred to in such a waiver. No assent to or waiver of any breach of any one or more of the covenants and agreements herein contained, whether such assent or waiver be expressed or implied, shall be deemed to be taken to be a waiver of any succeeding or other breach. The various rights, revenues, powers, options and elections of the Parties hereto expressed or contained herein are cumulative, and no one of them shall be deemed to be exclusive of the others or of such other rights, revenues, powers, options or elections as are now or may hereafter be conferred upon the Parties by law.

16.3 Exclusions of Warranties

Neither of the Parties makes nor has made any warranties, inducements, promises or representations to the other respecting the subject matter of this Agreement, except as may be expressly stated in this Agreement.

16.4 Entire Agreement

This Agreement contains the entire agreement between IDSI and the Lessee with respect to the subject matter thereof as of its date and supersedes all other prior agreements, negotiations, representations and proposals, written or oral, relating to its subject matter.

16.5 Specific Performance/Injunctive Relief

Nothing herein contained shall bar either IDSI's or the Lessee's right to obtain specific performance of the provisions of this Agreement and injunctive relief against threatened conduct that will cause its loss or damages, under customary equity rules, including applicable rules for obtaining restraining orders and preliminary injunctions. The Lessee and

IDSI agree that either Party may have injunctive relief, without bond, in addition to such further and other relief as may be available in equity or at law or otherwise provided for in this Agreement.

16.6 Rights of Parties are Cumulative

The rights of the Parties hereunder are cumulative. The exercise or enforcement by either IDSI or the Lessee of any right or remedy hereunder shall not preclude the exercise or endorsement by either the Lessee or IDSI of any other right or remedy hereunder or which IDSI or the Lessee is entitled by law to enforce.

16.7 Costs and Legal Fees

If a claim for amounts owed by the Lessee to IDSI is asserted in any legal proceeding before an arbitral tribunal, or if the Lessee or IDSI is required to enforce this Agreement in a legal proceeding, the Party prevailing in such proceedings shall be entitled to reimbursement of its costs and expenses, including reasonable accounting and legal fees, on a solicitor and client basis.

16.8 Time of Essence

Time shall be of the essence of this Agreement.

16.9 Counterpart Execution

This Agreement may be executed in one or more counter, including facsimile and e-mail transmission thereof, each of which shall be deemed an original and when so executed all such counter taken together shall form one agreement and shall be valid and binding on all parties to this Agreement.

16.10 Fees and Expenses

The Parties agree that all expenses incurred by or on behalf of the Parties, including fees and expenses of agents, solicitors and accountants employed by the Parties in connection with the authorization, preparation, execution and performance of this Agreement shall be born solely by the Party or Parties who have incurred same, unless otherwise specifically provided to the contrary in this Agreement.

16.11 Strict Compliance

Failure by either Party to insist upon strict compliance with any of the terms, covenants or conditions of this Agreement shall not be deemed to be a waiver of such term, covenant or condition, nor shall any waiver by any Party of any term, covenant or condition contained herein on any one (1) or more occasion be deemed to be a waiver of such term, covenant or condition with respect to the subsequent occurrence of any event unless such waiver specifically contains a provision to that effect.

16.12 Amending Procedure

This Agreement may be amended in writing from time to time upon the mutual agreement of the Lessee and the IDSI, such amendments to be signed by authorized corporate officers of the Parties hereto.

16.13 Contra Proferentum

The Parties expressly acknowledge and agree that they are of equal bargaining strength and agree that the doctrine of *contra proferentum* shall not apply to this Agreement.

16.14 Force Majeure

In the event of an inability or failure by IDSI to manufacture or supply any of the Product herein by reason of any fire, explosion, war, riot, strike, walkout, labour controversy, flood, excess of water, shortage of water, excessive or unusual rain, power, labour or transportation difficulties of necessary materials or supplies, default or failure of carriers, breakdown in or loss of production or anticipated production from plant or equipment, act of God or public enemy, any law, act or order of any Court, board, government or other authority of jurisdiction, or any other direct cause (whether or not of the same character as the foregoing) out of the reasonable control of IDSI, then IDSI shall not be liable to the Lessee during the period and to the extent of such inability or failure. Delivery of Product omitted in whole or in part while such inability remains in effect shall be cancelled.

16.15 Binding Agreement

This Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

SCHEDULE "A" FEES

OPERATIONAL FEES

The following operational fees are applicable to every Order (for rental of Equipment):

1. HOURLY RENTALS

Ten (10) hour minimum. All Fees are in accordance with applicable Order. Charges apply to all drilling and circulating hours, including reaming hours.

2. DAILY RENTALS (FOR ANTI-TORQUE SWIVELS ONLY)

Three (3) day minimum, chargeable on a per tool per day basis. All Fees are in accordance with applicable Order. Charges commence upon Equipment departing IDSI facility and cease upon return to IDSI facility. Daily rentals are based on calendar days, not 24 hour operating periods and are not prorated. Partial days constitute full days, portal to portal. (the "**Daily Rental Rate**").

3. MONTHLY LEASES

One (1) month minimum, chargeable on a per tool per 30-day basis (rounded up to the nearest whole 30-day period). All Fees are in accordance with the applicable Order. Charges commence upon Equipment departing IDSI facility and cease upon return to IDSI facility.

ANCILLARY FEES

1. STAND-BY DAYS

In accordance with an applicable Order. Chargeable on a calendar day basis and partial days are charged as a full day. Applies on a tool-by-tool basis to all Equipment that are being used as backup Equipment and are not being billed an operational fee. This charge is billed portal to portal.

2. RESTOCKING FEE

A ten (10) day minimum standby fee at the Daily Rental Rate is charged on all IDSI Equipment, on a per tool basis, where such Equipment is returned unused and operational fees have not been charged.

3. EQUIPMENT SERVICING

Servicing of all Equipment are to be performed by IDSI (Nisku Location), or at an a authorized service centre approved by IDSI, in writing. All parts and labour required to repair Equipment following return to IDSI will be charged to Lessee based on IDSI standard pricing, subject to change from time to time.

4. SERVICE CHARGES

Includes inspections, redress charges and normal wear on tools rented on an hourly basis as per applicable Order. This does not include OD wear, damaged connections, etc., or parts consumed on monthly leases. All service charges will be charged to Lessee based on IDSI standard pricing, subject to change from time to time.

5. DAMAGED TOOLS

Any tool exhibiting excessive or abnormal wear will be repaired or replaced at IDSI's published parts price list at the expense of the Lessee. All parts and labour required to repair or replace Equipment following return to IDSI will be charged to Lessee based on IDSI standard pricing, subject to change from time to time. Repair charges will apply if Equipment is operated out of IDSI specifications. In no case will the damages exceed the LIH price of the Equipment.

6. LOST TOOLS

Equipment lost or not recovered will be billed at the current lost-in-hole ("LIH") price. LIH prices do not include stabilization on motors. Stabilization varies depending on stabilizer size, type and configuration. Accrued rental charges will still be applied.

7. LIFT SUBS

Lift subs will be provided at no cost to the Lessee unless they are not returned with the tools to IDSI facility. IDSI reserves the right to invoice lift subs to the Lessee at current list price.

8. TEMPERATURE LIMITATIONS (IF APPLICABLE, EXCLUDES AMP: ALL METAL POWER SECTIONS)

Motors that encounter temps >125° C, in the sole determination of IDSI, will require an automatic reline based on IDSI standard pricing, subject to change from time to time.

9. STATOR RELINE (IF APPLICABLE, EXCLUDES AMP: ALL METAL POWER SECTIONS)

Applies where:

- a) stator exceeds temperature limitations (temps greater than 125° C) in the sole determination of IDSI;
- b) stator is visually damaged; or
- c) motor is run in nitrogen, air, air or oil based mud, synthetic mud or other corrosive environments.

Charges based on IDSI standard pricing, subject to change from time to time.

10. RECHROME FEE

This charge applies anytime a rotor is damaged due to running on junk, nitrogen, air or other corrosive environments. Charges based on IDSI standard pricing, subject to change from time to time.

11. TRANSPORTATION

All transportation costs are borne directly by Lessee. Transportation costs billed to IDSI will be invoiced back to customer at invoice cost + 15%. All Equipment shall be delivered to the Lessee F.O.B. IDSI facility in Nisku, Alberta.

12. OTHER CHARGES

See attached page for other standard charges that may apply depending on tool configuration, well type or damage to Equipment.

13. EQUIPMENT SERVICE

All Equipment will be serviced upon return to IDSI and rebuilt to conform to original specifications. Parts will be charged to the Lessee.

PRICING

(Any and all prices are subject to change at any time.)

Any change in price schedules will be done in a 30 day period and be effective only when made in writing and signed by an authorized IDSI representative.