

TERMS AND CONDITIONS APPLYING TO SALES OF D&L PRODUCTS

1. **General.** The terms and conditions contained herein shall apply to all transactions between D&L Oil Tools ("Seller") and Buyer, whether Seller offers to sell to Buyer or accepts Buyer's offer to purchase Seller's standard products or parts or any nonstandard or specially manufactured products or parts ("Products"). This purchase agreement represents the entire agreement between the parties and supersedes all previous communications and representations or agreements, whether written or verbal, and no modification of this agreement or its terms and conditions shall be binding on Seller unless made in writing and signed by its duly authorized representative.
2. **Price.** The prices for Products purchased hereunder shall be those prices listed in Seller's then current price lists in effect on the date a purchase order is received by Seller. Seller expressly reserves the right to alter the prices, discount schedules, and freight allowances of the Products at any time without notice.
3. **Taxes.** Any sales, use or other taxes imposed on this sale or on this transaction are not included in the price. Buyer shall be solely responsible for all state, local and federal taxes (including sales and use taxes) imposed as a result of the purchase of Products except for taxes on Seller's net income.
4. **Terms of Payment.** All sales are cash on delivery ("C.O.D.") or paid in advance in U.S. Dollars unless Seller in its sole discretion extends, in writing, credit purchase privileges to Buyer. When credit purchase privileges are extended, all purchases must be paid in U.S. Dollars net thirty (30) days from the date of Seller's invoice, without withholding, deduction or offset of any amounts for any purpose. Buyer agrees to sign a financing statement, security agreement and any other documents required by Seller as a condition to being extended credit purchase privileges. Buyer shall receive a cash discount allowance of one percent (1%) of the entire invoiced amount, if such amount is paid in full within ten (10) days of the date of invoice. C.O.D. sales and paid in advance sales are not entitled to a one percent (1%) cash discount. Buyer agrees to pay interest at the lesser of twenty-four percent (24%) per annum or the maximum rate allowed by law on any amount unpaid after thirty (30) days.
5. **Shipments; Risk of Loss; Title.** All shipments are freight on board ("F.O.B.") point of shipment (D&L Oil Tools, Tulsa, Oklahoma). Risk of loss or damage and responsibility shall pass from Seller to Buyer upon delivery to and receipt by carrier. Any claims for shortages or damages suffered in transit are the responsibility of Buyer and shall be submitted by Buyer directly to the carrier. Shortages or damages must be acknowledged and signed for at the time of delivery. While Seller will use all reasonable commercial efforts to maintain the delivery date(s) acknowledged or quoted by Seller, all shipping dates are approximate and not guaranteed. Seller reserves the right to make partial shipments. If the shipment of the Products is postponed or delayed by Buyer for any reason, Buyer agrees to reimburse Seller for any and all storage costs and other additional expenses resulting therefrom. Products will be delivered by Seller to the Buyer's location(s) only as agreed to by the parties in writing. Seller has no obligation to deliver to other locations. Seller, at its option, shall not be bound to tender delivery of any Products for which Buyer has not provided shipping instructions. When possible, Buyer's preference in the selection of the type of freight transport and the brand of carrier will be respected; however, when Seller provides freight allowances, Seller specifically reserves the right to select both the type and brand of carrier. Shipments that require more expedient delivery than is Seller's usual practice become the sole responsibility of Buyer both in total cost and carrier selection. Cost of return shipments, which are to be made only if permitted by Seller, shall be borne by Buyer with risk of loss remaining Buyer's until such goods are delivered to and accepted at Seller's factory in Tulsa, Oklahoma. Notwithstanding the foregoing F.O.B. terms, title to goods shipped shall remain with Seller until such goods are fully paid for by Buyer.
Acceptance; Claims by Buyer. In selecting and ordering Products, Buyer has performed reasonable due diligence. All Products purchased hereunder shall be finally inspected and accepted within twenty (20) days from the date of invoice. Products are deemed accepted if Buyer does not notify Seller otherwise within said twenty (20) day period. There shall be no revocation of acceptance. All claims whatsoever by Buyer (including claims for shortages) excepting only those provided for under the **LIMITED WARRANTY AND LIMITATION OF LIABILITY** clauses contained herein must be asserted in writing by Buyer within said twenty (20) day period or they are waived. All claims involving partial performances must be asserted within said twenty (20) day period or they are waived. Buyer agrees to accept Products substantially complying with Buyer's purchase specifications and will reject a Product only for a defect substantially impairing its value. Buyer's remedy for lesser defects shall be limited to those set forth in the **LIMITED WARRANTY AND LIMITATION OF LIABILITY** clause contained herein.
6. **Limited Warranty and Limitation of Liability.** Subject to the limitations of this Section, Seller warrants that the products it manufactures shall be free of all defects in material and workmanship for a period of twelve (12) months from the date of delivery. Products purchased by Seller from a third party for resale to Buyer shall carry only the warranty extended by the original manufacturer. The obligation of Seller under this limited warranty shall be limited exclusively to the replacement or repair of the defective product during the warranty period at the sole option of Seller. **THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ARISING BY LAW OR OTHERWISE, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ORIGINALITY, ALL OF WHICH ARE EXPRESSLY DISCLAIMED.** Seller shall in no event be otherwise liable for damages of any kind, including, but not limited to direct, indirect, special or consequential damages or loss of production or loss of profits, arising out of contract, negligence or manufacturer's product liability, resulting from any cause whatsoever including, but not limited to any delay, act, error or omission of Seller. Notwithstanding anything to the contrary herein, under no circumstances shall Seller's aggregate cumulative liability hereunder, whether in contract, tort (including without limitation negligence), or otherwise, exceed the total amount of dollars actually paid to Seller by Buyer. Buyer assumes all risk and liability for the results obtained by the use of any Products purchased in combination with other articles or materials or in the practice of any process, whether in terms of operating cost, general effectiveness, success or failure. It is further understood and agreed that any item specially manufactured or modified by the Seller pursuant to a request of the Buyer is sold "as is" **WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED.** Any references by Seller to Buyer's specifications and similar requirements whether in a quotation or otherwise are only to describe the product and work covered hereby, and shall not give rise to any warranties, express or implied. The limited warranties contained herein do not cover loss or damage attributable to the use of replacement or redress parts other than genuine D&L Oil Tools' Products.
7. **Returns.** Under no circumstances may a Product be returned to the Seller unless advance written authorization and shipping instructions have been received from the Seller or its duly authorized representative. Products specially manufactured for Buyer are not returnable. Standard Products, in an unused and undamaged condition, subject to written authorization above, may be returned at Buyer's expense within thirty (30) days after receipt. Returns will only be accepted weekdays between the hours of 8:00 AM and 5:00 PM Central Standard Time. No returns may be made of Products which have been altered, modified or misused by Buyer. Upon acceptance of an authorized returned non-defective Product and completion of an operational inspection, Seller shall issue a "Merchandise Exchange Credit" which can be used only in payment for Seller's Products. The amount of credit to be issued will be determined by Seller based upon the condition, resaleability and/or required re-work on the part of Seller to make the returned products saleable. All credits issued will be based upon the original price paid for the products by Buyer to Seller and will be subject to a restocking charge, with a minimum of fifteen percent (15%), to cover the costs of handling. If equipment or parts claimed to be defective are lost downhole or otherwise unable to be returned to Seller for inspection, Buyer shall furnish proof reasonably satisfactory to Seller that such equipment or parts were manufactured by Seller and were defective. Upon substantiating a claim of a Product defect, Seller shall at its option either (1) repair or replace the Product at the original F.O.B. point (D&L Oil Tools, Tulsa, Oklahoma), or (2) refund an equitable portion of the purchase price.
8. **Design Changes.** Seller reserves the right to change or modify the design of any Product without obligation to furnish or install such change or modification on products previously or subsequently sold.
9. **Default; Seller's Remedies.** Upon Buyer's failure to adhere to any condition of sale herein, including but not limited to Buyer's failure to make prompt payment for Products purchased hereunder, Seller may, in addition to any other lawful remedies, revise credit terms, impose interest charges, limit or terminate future sales, and reclaim any Products for which payment has not been made. Seller shall retain a security interest in such Products and may, at its sole option and without any further agreement, consent or signature of Buyer, file and record evidence of such security interest in accordance with the provisions of the Uniform Commercial Code or other statutes. Seller may avail itself of all the remedies afforded it under the Uniform Commercial Code for the breach of a contract for the sale of goods and for the enforcement of the security interest granted herein. Seller may recover for each shipment hereunder as a separate transaction, without reference to any other shipment. If Buyer is in default with respect to any of the foregoing terms or conditions or the terms or conditions of any other agreement with Seller, Seller may, at its option, defer further shipments hereunder until such default is remedied and pursue any other course of action available to it without prejudice to any other legal remedy. Failure to enforce any or all of the terms herein in a particular instance shall not constitute a waiver by Seller of its rights hereunder or preclude subsequent enforcement thereof.
10. **Indemnification.** Buyer agrees to indemnify, defend and hold harmless Seller, its directors, officers, agents, consignees, employees and representatives from and against all damages, claims, suits, settlements, expenses (including attorneys fees), or liabilities of any kind whatsoever including, but not limited to, breach of warranty, accident, injury to and loss of any person or property whatsoever, which may arise or be claimed based in whole or in part on Buyer's alteration, modification, use or misuse, redress, assembly or reassembly of any of Seller's Products.
11. **Force Majeure.** Seller shall not be responsible for nonperformance or delays in performance occasioned by any causes beyond Seller's reasonable control, including, but not limited to, Acts of God or public enemies, civil war, insurrection or riot, terrorist attacks, fire, flood, explosion, earthquake or serious accident, labor difficulties, delays of vendors or carriers, governmental actions or inactions and material shortages. Any delays so occasioned shall effect a corresponding extension of Seller's performance dates which are, in any event, understood to be approximate. In no event shall Buyer be entitled to incidental or consequential damages for late performance or a failure to perform.
12. **Assignment.** Neither party shall assign its rights or obligations under this agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. All terms and provisions of this agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted transferees, successors and assigns.
13. **Governing Law; Jurisdiction; Venue.** This agreement shall be governed by and construed in accordance with the laws of the State of Oklahoma, without reference to conflict of laws principles. Buyer hereby irrevocably consents to the jurisdiction of the state and federal courts sitting in Tulsa County, State of Oklahoma. Buyer and Seller agree that any suit or proceeding under, in connection with, or arising out of this agreement shall be instituted only in the state or federal courts situated in Tulsa County.
14. **Export Regulations.** Buyer shall, at its own expense, comply with any laws or regulations, including trade restrictions and embargoes, relating to the Products and shall procure all licenses and pay all fees and other charges required thereby. Buyer shall limit its actions to conform to applicable laws and regulations regarding the use, licensing, import, export or re-export of the Products, including the regulations of the U.S. Department of Commerce and/or the U.S. State Department, to the extent applicable.
15. **Notice Of Service.** Service of all notices under this agreement shall be sufficient if made by registered mail to the specific party involved herein at its respective address noted on the invoice for the purchase of Products.
16. **Severability.** In the event any one or more of the provisions of this agreement is held to be invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired.
17. **Execution.** This agreement may be executed in one or more counterparts, each of which shall be considered and original, but all of which together shall constitute one and the same instrument.