

AGREEMENT OF PURCHASE AND SALE

BUYER: Buyer Name Street Address City, State, Zip Code ATTN: Buyer Representative Name	SELLER: ExxonMobil Supply Chain on behalf of XTO Energy Inc, a Division of Exxon Mobil Corporation
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Effective Date: **As of last signature**

Buyer and Seller have, in consideration of the terms and conditions set out below, agreed as follows:

1. Buyer shall purchase from Seller the following equipment:

Description: **Surplus Mateirals, As Referenced on AllSurplus Seller's Certificate: 272-0123456789-12345**

Quantity: 1 Lot

Equipment Location: XTO Energy Big Eddy Yard
6169 Hobbs Hwy
Carlsbad, NM 88220

- **Buyer is responsible for all transportation and freight costs from the noted material storage facility.**

Purchase Price: **\$X.XX**

2. **Buyer shall pay Seller, together with all applicable sales and use taxes, Purchase Price for Equipment, which sum shall be due and payable within three (3) working days of notice by Seller to Buyer.**

3. Seller shall, upon receipt of Purchase Price or initial Deposit (when applicable), allow Buyer to pick-up Equipment at Equipment Location. Title and risk of loss to Equipment shall pass to Buyer when Equipment is loaded on vehicle(s) at Equipment Location for transportation to Buyer. Buyer hereby expressly agrees and binds itself to remove Equipment from Equipment Location at its sole risk and expense within fifteen (15) days from the Effective Date of this Agreement. Buyer shall pay a storage fee of no less than \$100.00 per day after the Effective Date for any Equipment not removed from Equipment Location within such fifteen (15) days. Buyer's failure to remove Equipment purchased hereunder within the specified time or to pay the full storage fee assessed will, at Seller's option, entitle Seller to revoke its acceptance of Buyer's offer and otherwise dispose of Equipment. In addition, Seller shall be entitled to keep any portion of the Purchase Price and storage fee paid by Buyer as liquidated damages for default and storage costs.

4. Seller warrants that it has good and marketable title to Equipment, free and clear of any encumbrances.

5. Buyer acknowledges and agrees that:

- (a) Seller has used equipment in an oil and gas facility.
- (b) Buyer is fully familiar with the manner in which such Equipment is and has been used and the effects that such use may have on Equipment, including without limitation, structural stress and exposure to corrosive elements such as water, salt and other chemicals.
- (c) Equipment is surplus and/or junk oil and gas production equipment, it is not designed for structural purposes, and its welding and metallurgical properties vary significantly compared to structural steel.
- (d) Buyer has the expertise to evaluate the condition of Equipment and the suitability of Equipment for the purposes that it intends, and Seller has given Buyer full opportunity to make such evaluation.
- (e) Buyer has not relied on Seller in any way in making any determination as to the suitability or fitness of Equipment for its intended purpose.
- (f) **SELLER SELLS EQUIPMENT ON AN "AS IS WHERE IS" BASIS WITH ALL DEFECTS AND DEFICIENCIES, BOTH PATENT AND LATENT.**
- (g) **SELLER MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER REGARDING EQUIPMENT, WHETHER EXPRESS OR IMPLIED AT LAW OR OTHERWISE (EXCEPT AS SET OUT IN THIS AGREEMENT), INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR THE PRESENCE OR LACK OF PRESENCE OF ANY HAZARDOUS MATERIALS AS PART OF EQUIPMENT.**
- (h) **ALTHOUGH SELLER BELIEVES THAT THE QUANTITIES AND DESCRIPTIONS OF THE MATERIAL AND EQUIPMENT SPECIFIED IN THIS AGREEMENT ARE ACCURATE, SELLER DOES NOT WARRANT THEIR ACCURACY OR COMPLETENESS.**

6. Buyer has made an independent determination of the presence, if any, of hazardous materials and Naturally Occurring Radioactive Materials ("NORM"). Buyer shall notify Seller, before removing Equipment from Equipment Location, of any Equipment that Buyer believes contains NORM. Once Equipment has been removed from Equipment Location, Buyer shall take all measures to ensure, at its sole expense, the proper storage, handling and disposal of all hazardous materials and NORM, if any, contained in Equipment, as required by applicable laws and regulations.

7. **(a) BUYER SHALL BE LIABLE FOR AND SHALL RELEASE, DEFEND, INDEMNIFY AND SAVE COMPLETELY HARMLESS SELLER, ITS AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SERVANTS, AND AGENTS (COLLECTIVELY "SELLER PARTIES") FROM ALL CLAIMS, COSTS, DAMAGES, LOSSES, AND LIABILITIES WHATSOEVER ("COLLECTIVELY "CLAIMS") ARISING AFTER TITLE TO THE EQUIPMENT TRANSFERS TO BUYER FOR PERSONAL INJURY, DEATH, OR LOSS OF OR DAMAGE TO PROPERTY, INCLUDING EQUIPMENT, ASSERTED AGAINST SELLER PARTIES BY ANYONE WHOMSOEVER (INCLUDING, WITHOUT LIMITATION, BUYER AND BUYER'S EMPLOYEES) AND IN ANY WAY RELATED TO EQUIPMENT, WHETHER OR NOT BUYER AT SUCH TIME HAS ANY INTEREST IN EQUIPMENT, INCLUDING WITHOUT LIMITATION (i) CLAIMS ARISING IN WHOLE OR IN PART FROM THE ACTIVITIES OR STRICT LIABILITY OF SELLER PARTIES , (ii) BUYER'S BREACH OF THE TERMS OF THIS AGREEMENT, (iii) BUYER'S NEGLIGENCE OR WILLFUL MISCONDUCT ON SELLER PARTIES' PREMISES, (iv) BUYER'S NEGLIGENCE OR WILLFUL MISCONDUCT IN THE LOADING OF THE EQUIPMENT AND ITS REMOVAL FROM SELLER PARTIES' PREMISES; OR (v) THE EXISTENCE OR USE OF EQUIPMENT.**
7. **(b) NOTWITHSTANDING SECTION 7(a) ABOVE, EACH PARTY IS FULLY RESPONSIBLE, WITHOUT LIMIT, FOR ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT AND IS NOT ENTITLED TO A RELEASE, INDEMNITY, OR DEFENSE FROM THE OTHER PARTY FOR THIS CONDUCT.**

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8. Buyer shall remove from Equipment all markings that identify Seller and its affiliated companies, including without limitation any Seller name, trademark, and local equipment number, as well as any names or marks identifying Equipment Location, before removing that Equipment from the Equipment Location.
9. **SELLER** shall load Equipment on Buyer's safe and appropriate carrier for removal from Equipment Location, it being understood that Buyer or its representative shall inspect Equipment following loading to insure that there is no risk of damage to Equipment or any safety risk.
10. Buyer agrees to render all Equipment listed as scrap by Seller in this Agreement functionless for any purpose whatsoever, other than scrap metal or other scrap material, before removing Equipment from Equipment Location.
11. The Items sold pursuant to this Agreement are subject to U.S and other laws and regulations pertaining to export controls and economic sanctions (collectively, "Export Laws"). The Items may not be used, exported, re-exported, released, or transferred, directly or indirectly, to any individual, entity, country, or territory except in strict compliance with applicable Export Laws.
12. Buyer and Seller agree that the validity and interpretation of this Agreement and the legal obligations of the parties to it shall be governed by the laws of the State of Texas without reference to that state's principles of conflicts of law. Buyer and Seller agree that exclusive venue and jurisdiction of any dispute arising out of or in any way connected with this Agreement shall lie within the courts (state or federal as appropriate) located in Harris County, Texas.
13. If any provision of this Agreement is partially or completely unenforceable pursuant to the applicable law governing this Agreement, then such provision shall be deemed amended to the extent necessary to make it enforceable, if possible. If amendment is not possible, then such provision shall be deemed deleted. If any provision is so deleted, then the remaining provisions shall remain in full force and effect.
14. This Agreement constitutes the entire agreement between Buyer and Seller in regard to Equipment, and it supersedes all prior negotiations, representations, or agreements, either oral or written, related to Equipment and this Agreement.
15. Buyer will hold in confidence all technical and business information made available to Buyer by Seller. Any material/equipment values provided to Buyer by Seller are for reference only and do not reflect potential resale value in the current market.

This Agreement may be executed in any number of counterparts, each which will be deemed to be an original, but all of which together will constitute the same instrument. A party's facsimile, scanned or other electronic image of a signature serves as that party's legally binding signature to this Agreement.

Buyer Name	ExxonMobil Supply Chain on behalf of XTO Energy Inc, a Division of Exxon Mobil Corporation
Buyer	Seller
Signature	Signature
Title	Title
Date	Date