

CONDITIONS OF BUSINESS

INTRODUCTION

1. IN these conditions "the Buyer" shall mean the person, firm, or company to whom the Company agrees to sell or supply the Goods. "the Goods" shall mean the article or things or any of them described in the contract between the Company and the Buyer for the sale or supply of goods (including any part or parts of them). The Company shall mean Schoeller-Bleckmann (UK) a company registered in England with number 229550 whose registered office is at European Business Park, Taylors Lane, Oldbury, West Midlands B69 2BN. Contract means any contract between the Company and the Buyer for the sale and purchase of the Goods incorporating these conditions.
2. Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to buy Goods subject to these conditions. No order placed by the Buyer shall be deemed to be accepted by the Company until a written acknowledgement of order is issued by the Company or (if earlier) the Company delivers the Goods to the Buyer.
3. ALL contracts for the sale of Goods by the Company to the Buyer incorporate these Conditions so far as such Conditions are not varied by any special terms or conditions agreed in writing between the parties. Any terms and conditions of the Buyer which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document, shall have no effect. Any variation of the Contract will become binding only if confirmed in writing by the Company.
4. THE rights of the Company or the Buyer shall not be prejudiced or restricted by any indulgence or forbearance extended by either party to the other and no waiver by either party in respect of any breach of any Contract shall operate as a waiver in respect of any subsequent breach.

RISK

5. The risk in the Goods shall pass to the Buyer on delivery.

RESERVATION OF TITLE

6. Ownership of the Goods shall not pass to the Buyer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
 - a. the Goods; and
 - b. all other sums which are or which become due to the Company from the Buyer on any account
7. Until ownership of the Goods has passed to the Buyer, the Buyer shall
 - a. hold the Goods on a fiduciary basis as the Company's bailee;
 - b. store the Goods (at no cost to the Company) separately from all other goods of the Buyer or any third party in such a way that they remain readily identifiable as the Company's property;
 - c. not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
 - d. maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company. On request the Buyer shall produce the policy of insurance to the Company.
8. The Buyer may resell the Goods before ownership has passed to it solely on the following conditions:
 - a. any sale shall be effected in the ordinary course of the Buyer's business at full market value; and
 - b. any such sale shall be a sale of the Company's property on the Buyer's own behalf and the Buyer shall deal as principal when making such a sale.
9. The Buyer's right to possession of the Goods shall terminate immediately if:
 - a. the Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose

only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

- b. the Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or
 - c. the Buyer encumbers or in any way charges any of the Goods.
10. The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
11. The Buyer grants the Company, its agents employees and suppliers an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where the Buyer's right to possession has terminated, to recover them.
12. Where the Company is unable to determine whether any Goods are the goods in respect of which the Buyer's right to possession has terminated, the Buyer shall be deemed to have sold all goods of the kind sold by the Company to the Buyer in the order in which they were invoiced to the Buyer.
13. On termination of the Contract, howsoever caused, the Company's (but not the Buyer's) rights contained in conditions 7 to 13 (inclusive) shall remain in effect.

DELIVERY

14. Unless otherwise agreed in writing by the Company, delivery of the goods shall take place at the Company's place of Business.
15. The Buyer shall take delivery of the Goods within 7 days of the Company giving it notice that the Goods are ready for delivery.
16. Any dates specified by the Company for delivery of the Goods are intended to be an estimate and time for delivery shall not be made of the essence by notice. If no dates are so specified, delivery shall be within 48 hours for Goods supplied from stock held by the Company and 12 months for other Goods.
17. Subject to the other provisions of these conditions the Company shall not be liable for any direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill, loss of anticipated savings, loss of goodwill, cost of mitigation, cost of any wasted expenditure and similar loss), costs, damages, charges or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Company's negligence), nor shall any delay entitle the Buyer to terminate or rescind the Contract unless such delay exceeds 365 days.
18. If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:
- a) risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);
 - b) the Goods shall be deemed to have been delivered; and
 - c) the Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including without limitation, storage and insurance).
19. The Buyer shall provide at the place, where delivery takes place and at its expense adequate and appropriate

equipment and manual labour for unloading the Goods.

20. If the Company delivers to the Buyer a quantity of Goods up to 20% more than the quantity the Company has agreed to deliver in the Contract, the Buyer shall not be entitled to reject the Goods or any part of them by reason of the surplus and shall pay for such goods at the pro rata Contract rate.
21. Where the Contract provides for delivery of the Goods at such place other than the Company's premises, the Company will only entertain a claim by the Buyer in respect of loss of or damage to the Goods in transit only if the Buyer gives written notice to the Company within 10 days after the date of the Company's Advice Note or other notification of the despatch of the Goods in case of non delivery, or within 7 days after delivery of the Goods in any other case.
22. Any liability of the Company for non delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

SEPARATE CONTRACTS

23. The Company may deliver the Goods by separate instalments. Each separate instalment shall be invoiced and paid for in accordance with the provisions of the Contract.
24. Each instalment shall be a separate Contract and no cancellation or termination of any one Contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other Contract or instalment.

QUALITY

25. The Company warrants that (subject to the other provisions of these conditions) upon delivery and for a period of 3 Months from the date of delivery, the Goods shall:
 - a) be of satisfactory quality within the meaning of the Sale of Goods Act 1979;
 - b) be reasonably fit for any particular purpose for which the Goods are being bought if the Buyer had made known that purpose to the Company in writing and the Company has confirmed in writing that it is reasonable for the Buyer to rely on the skill and judgement of the Company;
 - c) correspond with the Buyer's specification where the Buyer has specified the chemical composition of the Goods;
 - d) have a weight which conforms with the quality tolerances agreed between the Buyer and the Company in writing or if no such tolerances have been agreed, weight at least as much as the weight agreed in the Contract.
26. The Company shall not be liable for a breach of any of the warranties in condition 25 unless:
 - a) where the defect in the Goods is one which would be apparent on reasonable examination (with the exception of any discrepancy in weight) the Buyer has given written notice to the Company within 14 days after the receipt of the Goods specifying the matters complained of and the Company is given a reasonable opportunity after receiving the notice of examining such Goods and the Buyer (if asked to do so by the Company) returns such Goods to the Company's place of business for the examination to take place. In the event that the Goods or any part thereof are returned to the Company's place of business the cost of returning the Goods shall be paid by the Company and the Buyer in equal proportions;
 - b) where the defect in the Goods is one which would not be apparent on reasonable examination the Buyer has given written notice to the Company forthwith upon discovery of such defect specifying the matters complained of and the Company is given a reasonable opportunity after receiving the notice of examining such Goods [and the Buyer (if asked to do so by the Company)] returns such Goods to the Company's place of business at the [Company's] cost for the examination to take place there. In the event that the Goods or any part thereof are returned to the Company's place of business the cost of returning the Goods shall be paid by the Company and the Buyer in equal proportions;
 - c) where the defect is a shortfall in the weight of Goods supplied the Buyer has given the Company a written notice of the shortfall in weight and afforded the Company an opportunity to witness the weighing of the Goods supplied.

27. The Company shall not be liable for a breach of any of the warranties in condition 25 if:
- a) the Buyer makes any further use of such Goods after giving such notice; or
 - b) the defect arises because the Buyer failed to follow the Company's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or
 - c) the Buyer alters or repairs such Goods without the written consent of the Company.
28. Subject to conditions 26 and 27, if any of the Goods do not conform with any of the warranties in condition 25 and the Goods were supplied by the Company from stock then the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate or (where the breach was a shortfall in the weight of Goods supplied) supply additional Goods provided that, if the Company so requests, the Buyer shall, return the Goods or the part of such Goods which is defective to the Company. In the event that the Goods or any part thereof are returned to the Company's place of business the cost of returning the Goods shall be paid by the Company and the Buyer in equal proportions.
29. Subject to conditions 26 and 27, if any of the Goods do not conform with any of the warranties in condition 25 and the Goods were manufactured specifically to meet the Company's order then:
- a) the Company and the Buyer shall attempt to agree a price at which the Buyer will agree to purchase the defective goods or part thereof; or
 - b) if the Company and the Buyer cannot agree such a price then the Company shall as its option:
 - i) make good the Goods or the defective part thereof at the Company's expense; or
 - ii) repay to the Buyer the invoice price of the defective Goods (on a pro rata basis) [together with the costs of transport of the said goods from the Buyer's premises to the place nominated by the Company]; or
 - iii) replace the defective Goods.
30. If the Company complies with condition 28 or condition 29 (whichever is applicable) it shall have no further liability for breach of any of the warranties in condition 25 in respect of such Goods.
31. Any Goods replaced shall belong to the Company and any repaired or replacement Goods shall be guaranteed on these terms for the unexpired portion of the 3 month period.
32. Where the Goods supplied are defective and it is not possible to determine whether the Company is in breach of the warranties in Condition 25 until technical investigations are carried out, the Company and the Buyer shall each pay half of the anticipated costs of such investigations into a special account designed for this purpose, prior to such investigations being carried out, as a contribution to the costs of the technical investigations. In the event that the technical investigations establish that there was a breach of warranty by the Company, it shall reimburse to the Buyer the Buyer's contribution to the costs of the technical investigations. In the event that technical investigations establish that there was no breach of warranty by the Company, the Buyer shall reimburse to the Company, the Company's contribution to the costs of the technical investigations.

LIMITATION OF LIABILITY

33. Subject to Condition 17, Condition 21 and Condition 30 the provisions of Conditions 31 to 39 (inclusive) set out the Company's entire liability (including any liability for the acts and omissions of its employees, agents and sub-contractors) to the Buyer in respect of:
- a) any breach of its contractual obligations arising under these Conditions; and
 - b) any representation statement or tortious act or omission including negligence arising under or in connection with the Contract.

AND THE BUYER'S ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF CONDITIONS 33 TO 42 (INCLUSIVE)

34. Any act or omission on the part of the Company or its employees agents or sub-contractors falling within Condition 33 above shall for the purposes of Conditions 33 to 42 (inclusive) be known as an "Event of Default".

35. All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by Section 12 of the Sale of Goods Act 1979) are, to the fullest extent permitted by law, excluded from the Contract.
36. Nothing in these Conditions excludes or limits the liability of the Company for:
- death or injury resulting from its own or that of its employees' agents' or subcontractors' negligence
 - all damage suffered by the Buyer as a result of the implied statutory undertakings as to title possession and freedom from encumbrances;
 - fraudulent misrepresentation.
37. Subject to the provisions of Condition 36 above the Company's entire liability in respect of and Event of Default shall be limited to damages of an amount equal to:
- €5,000,000 in case of physical damage to the tangible property (excluding the Goods themselves) of the Buyer caused by the Goods;
 - €2,000,000 in the case of pure financial loss arising from the physical damage to the tangible property (excluding the goods themselves) of the buyer caused by the Goods.
 - the purchase price of the Goods in the case of any other Event of Default.
38. Subject to the provision of Condition 36 and 37 above the Company shall not be liable to the Buyer in respect of any Event of Default for any loss or damage which may be suffered by the Buyer, whether the same is suffered directly or indirectly or is immediate or consequential, which falls within any of the following categories:
- special damage even though the Company was aware of the circumstances in which such special damage could arise; or
 - loss of:
 - profits;
 - anticipated savings;
 - business opportunity; or
 - goodwill; or
 - cost of removal of defective Goods, costs of return of defective Goods to the Company, installation of replacement or repaired Goods and any rectification work required in connection with such removal or installation;
 - cost of any wasted expenditure; or
 - cost of mitigation.
39. If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under the Contract.
40. The Buyer hereby agrees to afford the Company not less than 30 days in which to remedy any Event of Default hereunder.
41. Except in the case of an Event of Default arising under condition 36 above the Company shall have no liability to the Buyer in respect of any Event of Default unless the Buyer shall have served notice of the same upon the Company within 1 year of the date it became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.
42. Nothing in Conditions 33 to 41 inclusive shall confer any right or remedy upon the Buyer to which it would not otherwise be legally entitled.

TERMINATION

43. The Company shall be entitled, without prejudice to its other rights and remedies, either to terminate wholly or in part any or every contract between itself and the Buyer, or to suspend any further deliveries under any or every such contract in any of the following events:
- If any unpaid debt is payable by the Buyer to the Company under any contract between the Buyer and the Company;
 - If the Buyer has failed to provide any Letter of Credit, Bill of Exchange or any other security required by the

Contract provided that in such an event, the aforesaid rights of termination or suspension shall apply only in regard to the particular contract in respect of which the Buyer shall have so failed;

- c) If the Buyer has failed to take delivery of any goods under any contract between them and the Company otherwise than in accordance with the Buyer's contractual rights;
 - d) If the Buyer becomes insolvent or being a body corporate has passed a resolution for voluntary winding up (except where solely for the purpose of reconstruction or amalgamation) or has suffered an Order of Court for their winding up to be made, or have had a Receiver and/or manager, administrator or administrative receiver appointed or has suspended payment of his or their debts in whole or in part or have proposed or entered into any composition or arrangement with his or their creditors or has a Receiving Order in bankruptcy made against him or them or allow distress to be levied against its, his or their goods; and
 - e) If the Buyer is in breach of these conditions.
44. The Company shall be entitled to exercise its aforesaid rights of termination or suspension at any time during which the event or default giving rise thereto has not ceased or been remedied and in the event of any such suspension the Company shall be entitled as a condition of resuming delivery and any contract between it and the Buyer to require pre-payment of or such security as it may require for the payment of the price of any further delivery and to require the price for such goods to be revised upwards if the Company considers it necessary.
45. Where the Buyer cancels a Contract for Goods which are not to be supplied from stock held by the Buyer, in the event of cancellation of the Contract in accordance with Condition 45 the Buyer:
- a) shall indemnify and keep indemnified the Company for all costs incurred by the Company as a result of the Buyer's cancellation of the Contract; and
 - b) shall purchase at the pro rata Contract rate any Goods manufactured prior to the date of cancellation.

PAYMENT

46. Unless the Contract provides expressly otherwise, the price payable by the Buyer for each delivery of Goods shall be the Company's ruling price for such Goods at the date of despatch. Unless otherwise expressly stated in the Contract, the price of such delivery shall be paid in full and received by the Company by the last day of the month following the month in which the Goods were invoiced. The Company shall be entitled to charge interest at the rate of 8% above current Lloyds TSB Base Rate (payable monthly) on any sums not so paid.

CURRENCY PROVISIONS

47. In the event that the Buyer is to make the payments due under the Contract in a currency other than Sterling, the conversion from Sterling into the currency of the Contract shall be made on the basis of the buying rate for the said currency published by the Bank of England applicable on the date the Company acknowledges the Buyer's order. In the event that the value of the currency of the Contract decreases in relation to Sterling between the date of acknowledgement of the order and the date payment is made, the purchase price shall be recalculated based on the buying rate for the currency of the Contract published by the Bank of England on the date payment is made the purchase price payable shall be revealed.

INSPECTION

48. Where the Contract provides for tests or inspection of the Goods by or on behalf of the Buyer before delivery then if the Buyer does not inspect or test the Goods within a reasonable time (not later than 14 days after notice) or if having inspected or tested the Goods does not within seven days thereafter notify the Company in writing of any claim that the Goods are not in conformity with the Contract, (specifying the matters complained of), then the Buyer shall be conclusively deemed to have accepted the Goods as being in conformity with the Contract and shall not thereafter be entitled to reject the Goods on the grounds of anything which ought to have been disclosed upon test or inspection.

FORCE MAJEURE

49. The Company reserves the right to defer the date of delivery or to cancel the Contract or reduce the volume of the Goods ordered by the Buyer (without liability to the Buyer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond the reasonable control of the Company including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's

workforce) or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, provided that, if the event in question continues for a continuous period in excess of 365 days, the Buyer shall be entitled to give notice in writing to the Company to terminate the Contract.

GOVERNING LAW

If not actually the case, the Contract shall be deemed to have been made in England and the construction, validity and performance of the Contract shall be governed in all respects by English Law and the parties hereby submit to the non-exclusive jurisdiction of the English courts.

THIRD PARTY RIGHTS

A person who is not a party to a Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of that Contract but this does not affect any right or remedy of a Third Party which exists or is available apart from that Act.

50. **TRADE WITH IRAN**

'The customer is aware of (i) the Regulation (EC) No 961/2010 on restrictive measures against Iran replacing Regulation (EC) No 423/2007, (ii) the U.S. Iran Sanction Act of 1996, as amended By the Comprehensive Iran Sanction, Accountability, and Divestment Act of 2010, (iii) similar regulations and statutory provisions in this respect in place globally and (iv) our group policy to control that none of our products are delivered into the oil and gas industry of the Islamic Republic of Iran (collectively "Regulations"). The customer will fully obey these Regulations no matter if they are applicable on him or not and will not deliver the products, directly or indirectly, into the oil and gas industry of the Islamic Republic of Iran or resell the products to anyone he knows will do so or to circumvent this agreement in any other way.'