

WEATHERALL EQUIPMENT'S TERMS AND CONDITIONS FOR THE SUPPLY OF ACRYLIC PRODUCTS

1. Definitions and Interpretation

The definitions and rules of interpretation in the Schedule shall apply to these Conditions and the Contract.

2. Basis of contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing and the Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable specification are complete and accurate. As components may be custom made to the Customer's specific requirements, the Customer acknowledges and agrees that, following acceptance of an Order by Weatherall in accordance with clause 2.3 below, Orders are non-cancellable.

2.3 The Order shall only be deemed to be accepted when Weatherall issues a written acknowledgement of the Order, at which point the Order shall be deemed to have been accepted and the Contract shall come into existence.

2.4 Any samples, drawings or advertising produced by Weatherall and any illustrations contained in Weatherall's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

2.5 A quotation for the Goods given by Weatherall shall not constitute an offer. Unless otherwise agreed in writing, a quotation shall only be valid for a period of 20 Business Days from its date of issue.

3. Customer's selection of Goods

It is the Customer's responsibility for the selection of the Goods to achieve their intended results and that the Goods can meet the Customer's requirements. The Customer acknowledges that, unless otherwise agreed and set out in an Order, the Goods have not been developed to meet the Customer's individual requirements.

It is the Customer's responsibility to check that the Goods are appropriate for the use intended by the Customer and any processing of the Goods is undertaken at the Customer's sole risk and discretion. Prior to any application or processing of the Goods, it is the Customer's responsibility to undertake any appropriate testing (including applicable safety and/or environmental tests) of the Goods to ensure they are safe and appropriate for their intended use by the Customer.

4. Delivery

4.1 Weatherall shall ensure that:

(a) each delivery of the Goods is accompanied by a packing list or commercial invoice (as the case may be) that shows the date of the Order, all relevant Customer and Weatherall reference numbers, together with any additional legal information required for delivery of the Goods to the Customer; and

(b) if Weatherall requires the Customer to return any packaging materials to Weatherall, that fact is clearly stated on the packing list. The Customer shall make any such packaging materials available for collection at such times as Weatherall shall reasonably request.

4.2 Weatherall shall deliver the Goods in accordance with the applicable Incoterm 2020 delivery term set out in the Order or, if not such term is including in the Order, as set out by Weatherall in its acknowledgement of the Order. Weatherall shall notify the Customer of the planned Delivery Date, and any associated costs of delivery, of the Goods once the Goods are ready for delivery.

4.3 The Delivery Date is approximate only, and the time of delivery is not of the essence. Weatherall shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide Weatherall with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.4 If the Customer fails to accept delivery of the Goods within three Business Days of Weatherall notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or Weatherall's failure to comply with its obligations under the Contract in respect of the Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which Weatherall notified the Customer that the Goods were ready; and

(b) Weatherall shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.5 If ten Business Days after the day on which Weatherall notified the Customer that the Goods were ready for delivery the Customer has not accepted actual delivery of them, Weatherall may, at its sole option, resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods. If Weatherall declines to exercise its right to, or is otherwise unable to, sell any Goods under this clause, the Customer shall remain liable for payment for the Goods in full.

4.6 Weatherall may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

5. Quality

5.1 Weatherall warrants that on delivery the Goods shall (i) be free from defects in design, material and workmanship and (ii) conform with any material specification relating to the Goods (in each case in all material respects) provided always that any variance which is within any tolerances notified by Weatherall relating to the Goods shall not constitute a breach of this clause.

5.2 Subject to clause 5.3, if:

(a) the Customer gives notice in writing to Weatherall within a reasonable time (being not more than 3 days following the date on which the Goods have been received by the Customer in respect of any damage to the Goods which is apparent on delivery and not more than 14 days following the date of delivery in respect of any other defects) of discovery that some

or all of the Goods do not comply with the warranty set out in clause 5.1;

- (b) Weatherall is given a reasonable opportunity of examining such Goods; and
- (c) the Customer (if asked to do so by Weatherall) returns such Goods to Weatherall's place of business at the Customer's cost,

Weatherall shall, at its option, repair, rework or replace the defective Goods, or refund the price of the defective Goods in full or in part where, following any rework of defective Goods, only a proportion of the Goods can be used with the refund equalling the pro-rata proportion of the Goods which cannot be used. The Customer acknowledges and agrees that only those Goods which are found to be defective may be rejected by the Customer and any remaining Goods which are part of the same Order as any defective Goods shall be deemed accepted by the Customer.

5.3 Weatherall shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 if:

- (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;
- (b) the defect arises because the Customer failed to follow Weatherall's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;
- (c) the defect arises as a result of Weatherall following any drawing, design or specification supplied by the Customer;
- (d) the Customer alters or repairs such Goods without the written consent of Weatherall;
- (e) the defect arises following the Customer's use of the Goods, including the modification or processing of the Goods;
- (f) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions.

5.4 Except as provided in this clause 5, Weatherall shall have no liability to the Customer in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 These Conditions shall apply to any repaired, reworked or replacement Goods supplied by Weatherall.

6. Title and risk

6.1 The risk in the Goods shall pass to the Customer in accordance with the Incoterms 2020 delivery term set out in the Order or, if not such term is including in the Order, as set out by Weatherall in its acknowledgement of the Order.

6.2 Title to the Goods shall pass to the Customer when Weatherall receives payment in full (in cash or cleared funds) for the Goods.

7. Price and payment

7.1 The price of the Goods shall be the price set out in Weatherall's quotation or, if no price is quoted, Weatherall's acknowledgement of the Order.

7.2 The price of the Goods, except where otherwise provided by the relevant Incoterms 2020 commercial term set out in the Order or otherwise agreed by Weatherall:

- (a) excludes amounts in respect of value added tax (**VAT**), which the Customer shall additionally be liable to pay to Weatherall at the prevailing rate, subject to the receipt of a valid VAT invoice; and

- (b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Customer (including any taxes in relation to the import of Goods in relation to any Delivery Address outside the United Kingdom).

7.3 Weatherall may, by giving notice to the Customer at any time 15 Business Days before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

- (a) any factor beyond Weatherall's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or
- (c) any delay caused by any instructions of the Customer or failure of the Customer to give Weatherall adequate or accurate information or instructions.

7.4 The Customer acknowledges that any delivery costs set out within the Order shall be deemed to be an estimate only. The final amount of delivery costs shall be set out in the invoice provided by Weatherall in accordance with clause 7.3 and such costs shall be based upon the costs properly incurred by Weatherall in delivering the Goods.

7.5 Weatherall shall invoice the Customer for the Goods on or at any time after Weatherall's acceptance of the Order.

7.6 The Customer shall, unless otherwise agreed by Weatherall, pay each invoice submitted by Weatherall prior to the Delivery Date and in any event:

- (a) prior to the Delivery Date, unless otherwise agreed in Weatherall's acknowledgement of the Order; and
- (b) in full and in cleared funds to a bank account nominated in writing by Weatherall, and

time for payment shall be of the essence of the Contract.

7.7 If the Customer fails to make a payment due to Weatherall under the Contract by the due date, then, without limiting Weatherall's remedies under clause 10, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 7.7 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

7.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

8. Limitation of liability

8.1 Weatherall has obtained insurance cover in respect of certain aspect of its own legal liability for individual claims. The limits and exclusions in this clause reflect the insurance cover Weatherall has been able to arrange and the Customer is responsible for making its own arrangements for the insurance of any excess liability.

8.2 References to liability in this clause 8 include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

8.3 Nothing in the Contract limits any liability which cannot legally be limited, including liability for:

- (a) death or personal injury caused by negligence;

- (b) fraud or fraudulent misrepresentation;
- (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or
- (d) defective products under the Consumer Protection Act 1987.

8.4 Subject to clause 8.3, Weatherall's total liability to the Customer under any Order shall not exceed the total value of the Goods paid by the Customer to Weatherall under that Order in the 12 months prior to the date of any claim.

8.5 Subject to clause 8.3, the following types of loss are wholly excluded:

- (a) loss of profits;
- (b) loss of sales or business;
- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect or consequential loss.

8.6 Weatherall has given commitments as to compliance of the Goods and Services with relevant specifications in clause 5. In view of these commitments, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

8.7 This clause 8 shall survive termination of the Contract.

9. Change Control Procedure

9.1 Either party may submit a written request (**Change Request**) for change to the Goods or Services (**Change**) to the other party in accordance with this clause, but no Change will come into effect until a written record of any Change agreed or to be agreed by the parties has been signed (**Change Control Note**) has been signed by the authorised representatives of both parties.

9.2 If the Customer requests a Change:

- (a) the Customer will submit a written request to Weatherall containing as much information as is necessary to enable Weatherall to prepare a Change Control Note; and
- (b) within 10 Business Days of receipt of a request, unless otherwise agreed in writing by the parties, Weatherall will send to the Customer a Change Control Note.

9.3 If Weatherall requests a Change, it will send to the Customer a Change Control Note.

9.4 If, following the Customer's receipt of a Change Control Note pursuant to clause 9.2 or clause 9.3:

9.5 the parties agree the terms of the relevant Change Control Note, they will sign it and that Change Control Note will amend the relevant Order relating to the Goods or Services which are the subject of the Change Request;

9.6 either party does not agree to any term of the Change Control Note, then Weatherall shall continue to supply the Goods or Services as if such Change Request had not been submitted.

9.7 Each party will bear its own costs in relation to dealing with any Change Request and negotiating any Change.

10. Termination

10.1 Without limiting its other rights or remedies, Weatherall may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within five Business Days of being notified in writing to do so;
- (b) the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
- (c) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
- (d) the Customer's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

10.2 Without limiting its other rights or remedies, Weatherall may suspend provision of the Goods under the Contract if the Customer becomes subject to any of the events listed in clause 10.1(b) to clause 10.1(d), or Weatherall reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

10.3 Without limiting its other rights or remedies, Weatherall may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment.

10.4 On termination of the Contract for any reason the Customer shall immediately pay to Weatherall:

- (a) all of Weatherall's outstanding unpaid invoices and interest and, in respect of Goods supplied but for which no invoice has been submitted, Weatherall shall submit an invoice, which shall be payable by the Customer immediately on receipt; and
- (b) where Weatherall has agreed a call-off schedule with the Customer for Goods to be delivered in instalments, the price of any Goods which remain in Weatherall's possession on the date of termination.

10.5 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

11. Force majeure

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure Event. The time for performance of such obligations shall be

extended accordingly. If the period of delay or non-performance continues for three months, the party not affected may terminate the Contract by giving seven days' written notice to the affected party.

12. General

12.1 Assignment and other dealings.

- (a) Weatherall may at any time assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.
- (b) The Customer may not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of Weatherall.

12.2 Entire agreement.

- (a) The Contract constitutes the entire agreement between the parties.
- (b) Each party acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

12.3 **Variation.** No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

12.4 Waiver.

- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- (b) A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.

12.5 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 12.5 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

12.6 Notices.

- (a) Any notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- (b) Any notice shall be deemed to have been received:
 - (i) if delivered by hand, at the time the notice is left at the proper address;
 - (ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting.
- (c) This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

12.7 **Third party rights.** The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

12.8 **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England and Wales.

12.9 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

Schedule – Definitions and Interpretation

1. Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 12.3.

Contract: the contract between Weatherall and the Customer for the sale and purchase of the Goods in accordance with these Conditions.

Customer: the person or firm who purchases the Goods from Weatherall.

Delivery Date: the date set out in Weatherall's acknowledgement of the Order.

Force Majeure Event: an event, circumstance or cause beyond a party's reasonable control.

Goods: the goods (or any part of them) set out in the Order.

Order: the Customer's order for the Goods, as set out in the Customer's purchase order form or email.

Weatherall: Weatherall Equipment & Instruments Limited (registered in England and Wales with company number 01594740).

2. Interpretation:

(d) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

(e) A reference to a party includes its successors and permitted assigns.

(f) A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.

(g) Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

(h) A reference to **writing** or **written** excludes fax and email

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