

**Schenck Process LLC**  
**Standard Terms and Conditions of Sale**

Issue date: January 26, 2017

- 1. Entire Agreement, Proposal Acceptance.** The items described in this document and other documents including other confirmations provided by Schenck Process, LLC, its subsidiaries and authorized distributors ("Seller") are hereby offered for sale at prices to be established by Seller. The offer and its acceptance by any buyer ("Buyer") shall be governed by all of the following Terms and Conditions. Buyer's order for any item described in its document, when communicated to Seller verbally, or in writing, shall constitute acceptance of this offer. All equipment or parts described will be referred to herein as ("Goods"). All work, including, but not limited to, design, engineering, installation, integration, training, maintenance, consulting and professional services, which services may be provided by Seller or by Seller's agent will be referred to herein as ("Services"). Seller hereby objects to and rejects any different, contradictory or additional terms contained in any additional or subsequent order or communication from Buyer and any such different, contradictory or additional terms shall be deemed to be material alterations and notice of objection to them is hereby given. Any amendment, waiver or other alteration of these Terms and Conditions by a party shall be effective only if made in a writing signed by a designated officer or director of both parties. No course of prior dealings or usage of trade shall be relevant to supplement or explain any term used herein. This agreement constitutes the entire agreement between Seller and Buyer (the "Agreement").
- 2. Price, Price Change, Quotations.** Prices quoted are FCA the specified shipping point unless otherwise stated by Seller. Prices quoted are subject to acceptance by Seller, and thereafter are subject to change as follows: Prices on Goods of Seller manufacture are firm for shipment up to four months from the date of acceptance by Seller. Such prices are subject to adjustment if shipment is made after four months and up to 12 months from the date of acceptance by Seller at an increase not to exceed 15% where delay is not caused by Seller or its subcontractors. If Goods are shipped after 12 months from the date of acceptance by Seller, prices will be adjusted to the price in effect at the time the order is released to manufacturing. All complete component accessory material manufactured by others and furnished with Seller's Goods such as motors, drives, blowers or other completely assembled component structures, are subject to adjustment to the price at time of shipment regardless of the date of acceptance by Seller. Stenographic, clerical and mathematical errors are subject to correction. Seller may change quoted prices without notice. Minimum order value is \$100.00. All orders are sold in US Dollars and are subject to approval by Seller at its corporate headquarters in Kansas City, MO.
- 3. Scope of Supply.** The Seller's scope of supply of Goods shall be as stated in the Seller's "Terms". Seller may make such changes in design, materials and construction of Goods, components or parts as Seller considers desirable, provided that such changes do not have a material adverse effect on the performance of the Goods. Further, Seller may furnish suitable substitutes for materials unobtainable on reasonable terms because of shortages, or because of priorities or regulations established by governmental authorities. Buyer may at any time request from Seller an estimate of the impact on price, delivery date and/or any other Term of any change in any Goods required by Buyer. Seller shall submit such estimate within a reasonable time, and Buyer may at his discretion issue a change order on the express Terms submitted by Seller.
- 4. Credit Sales, Collection Costs.** Seller reserves the right to withdraw credit and require full payment before production, shipment, delivery or erection if Seller, within its sole discretion, determines Buyer's financial condition does not merit Seller's extension of credit. A finance charge of 2% per month (or up the maximum amount permitted under applicable state law) will be assessed on all past due balances. Buyer shall be liable for all of Seller's collection costs (including attorneys' fees and expenses).
- 5. Payment Terms.** All Payments are due in US Dollars. Standard payment terms are Net 30 days from invoice date. Invoice dates shall be based on shipment dates unless both the Buyer and Seller have agreed to specific project invoicing milestones. Sales orders in excess of \$10,000 must be supported by a hard copy Purchase Order. Payments from Buyer to Seller shall not be contingent upon payment from Owner to Buyer. Freight invoices are due upon receipt of invoice. Payments may be made by either check or wire transfer. All payments shall be without deductions for back charges, set-offs, other accounts between Seller and Buyer, and the like, which shall be settled independently of the payment of the invoice.

**Standard Invoicing Milestones:**

**For orders under \$50,000:**

Invoiced at shipment, Due Net 30 days from invoice date.

**For orders \$50,000 and over:**

30% Invoiced at order placement.

70% Progressively invoiced based upon equipment shipment.

**International Orders:**

Sales under \$50,000 shall be approved on a secured basis as determined by Management. For orders \$50,000 and over, payment terms are 30% of total order value due to Seller with Purchase Order with remaining balance due on a secure basis acceptable to Seller or via irrevocable standby letter of credit payable on sight. If final payment is to be made via a letter of credit, it is to be made in U.S. funds upon presentation of a sight draft accompanied with a clean Bill of Lading drawn against an acceptable Irrevocable Letter of Credit issued to a U.S. bank per Seller's published document, "Letter of Credit Requirements". The Letter of Credit will show all shipping instructions. Partial payments on partial shipments shall be allowed. For major equipment orders the Letter of Credit must be issued a minimum of ninety (90) days prior to the ship date and valid for sixty (60) days after the ship date, for all other orders the Letter of Credit must be issued prior to shipment.

- 6. Taxes.** Federal, State or local taxes, duties, and import fees are not included in Seller's prices and will be added to the purchase price, where applicable. Where Seller is required by law to collect any taxes they will be billed to Buyer at the time of delivery unless Buyer furnishes Seller with a proper tax exemption certificate.
- 7. Delivery, Title and Risk of Loss.** All sales are CPT Prepaid and Add the specified shipping point per INCOTERMS® 2010. Title to goods and risk of loss passes to Buyer at the shipping point. Buyer shall inspect the goods upon receipt thereof and immediately report any damage or shortage to Seller and the carrier. Buyer shall file any claims for shortages or damage with the carrier. Buyer shall pay a handling charge equal to 10% of total freight charges if Buyer requests Prepaid Freight. All shipment dates are subject to strikes, accidents, shortage of material or labor, delays of carriers or causes that are unavoidable or beyond the control of Seller.

Shipping Methods with accepted INCOTERMS.

**Domestic**

FCA – Collect and 3rd party billing.

CPT – Prepaid and Add, Freight Allowed and Freight Included.

**International**

FCA – Collect and 3rd Party Billing / Buyer arranged shipment.

CIF – Ocean Door to Port.

CIP – Air Door to Airport.

DAP – Air and Ocean Door to Door.

- 8. Freight Charges.** Except as specifically agreed to and stated in the body of the Purchase Order, regardless of the INCOTERMS 2010 freight method utilized in shipping the Goods for this order, all outbound freight costs will be pre-paid and added to the equipment invoices as a separate line item. In the event freight charges are not known at the time of the equipment invoice, a separate corresponding freight invoice will be issued.
- 9. Transfer of Title.** Regardless of INCOTERMS referenced in Buyer's Purchase Order or Purchasing Agreement, title transfer is separate from risk of loss transfer, and as such, title transfer is not determined by INCOTERMS@2010. Title to equipment shall pass to Buyer at shipment or payment, whichever occurs first.
- 10. Force Majeure.** Neither Seller nor Buyer will be considered to be in default of performance of their obligations hereunder to the extent that such performance of such obligations is affected by Force Majeure, including but not limited to, wars, strikes, fires, floods, earthquakes, explosions, blockades, embargoes, terrorism, piracy or any acts of God.
- 11. Cancellation.** Orders shall not be subject to cancellation by Buyer for any reason, except with Seller's written consent and upon terms that will indemnify, defend and hold harmless Seller against all direct, incidental and consequential loss or damage. Buyer agrees to pay reasonable cancellation charges.
- 12. Inspection and Acceptance.** Buyer shall promptly, but no later than ten (10) days from the date of delivery, inspect all Goods upon delivery. Goods and Services are deemed accepted two weeks after Seller's notice of start-up or initial operation unless Buyer issues a written notice of major defects within this period. Buyer may only refuse acceptance if the defect significantly reduces the normal and/or contractually stipulated use of the Goods or Services. If the Goods or Services contain defects not entitling Buyer to refuse acceptance, acceptance shall be made under the reservation that the defects are remedied. The Buyer's use of the Goods and/or Services shall be deemed to be acceptance. No claims for shortages will be allowed unless reported to the Seller within 10 days of delivery. No other claims against Seller will be allowed unless asserted in writing within 60 days after delivery.
- 13. Warranty; Exclusive Remedy.** Seller warrants to the original Buyer for 1 year from date of operation, or 18 months from shipment, whichever occurs first, that the Seller manufactured goods that are the subject of this sale conform to Seller's published specifications. **Structural Components** - Seller warrants to the original Buyer that the structural components of the goods will be free from defects in materials and workmanship for 15 years from the date of shipment, if properly installed, maintained and operated under normal conditions. **Tuf-Flex Vinyl and Polyurethane Hoppers** - Seller warrants Tuf-Flex Vinyl and Polyurethane hoppers installed in feeders for 60 months from delivery date. Buyer shall provide written notice to Seller within the warranty period of any failure of the Goods to conform to specifications or a defect in material or workmanship. Seller will correct any such failure or defect within a reasonable time after such notification at a location designated by Seller. If Seller is unable to repair the Goods, Seller will, at its option: (a) replace the Goods, or (b) refund the purchase price. These remedies are the Buyer's **exclusive** remedies for breach of warranty. Any action for breach of warranty must be commenced within 6 months following expiration of the applicable warranty period. Seller makes no warranties with respect to any Goods sold by, but not manufactured by Seller. Buyer agrees to look solely to the warranty (if any) of the manufacturer or supplier of that Goods, and not to Seller, for any defects in that Goods. Any description of any Goods whether in writing or made orally by Seller or Seller's agents, any sample, model, bulletin, drawing, diagram, engineering sheet or similar material used in connection with Buyer's order are for the sole purpose of identifying Goods, and shall not be construed as an express warranty. Any suggestions by Seller or Seller's agents regarding use, application or suitability of the products shall not be construed as an express warranty unless confirmed as such in writing by Seller.
- 14. Title Infringement.** Seller warrants to Buyer that the Goods shall be delivered free of any encumbrance, and that the Goods designed and manufactured by Seller shall be delivered free from the rightful claim of any third person for direct infringement of patent or copyright. Seller will defend and indemnify Buyer against any claim of direct infringement provided that: (a) Buyer promptly notifies Seller in writing of any claim, and (b) Seller has sole control of the defense and settlement negotiations. Seller may procure Buyer's right to continue using the Goods, replace or modify the Goods so that it becomes non infringing, or grant Buyer a refund of the purchase price in exchange for the infringing Goods. Buyer assumes liability for patent and copyright infringement for Goods made to Buyer's specifications, and will defend and indemnify Seller from all related costs (including attorneys' fees).
- 15. Exclusions.** Seller does not warrant: (a) defects caused by failure to provide a suitable installation environment, (b) damage caused by use of the Goods for purposes other than those for which it was designed, (c) damage caused by fire, flood, wind, and lightning, (d) damage caused by unauthorized attachments or modifications, (e) damage during shipment, (f) damage as a result of abrasion, corrosion, or erosion, (g) springs, rubber components, longitudinal rails and / or other wear and tear items, or (h) any other abuse or misuse by the Buyer.
- 16. Disclaimer of Implied Warranties.** **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SUCH IMPLIED WARRANTIES ARE EXPRESSLY DISCLAIMED.**
- 17. Limitation of Liability.** **IN NO CASE SHALL SELLER BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, WHETHER BASED UPON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT TORT, OR ANY OTHER LEGAL THEORY. IN NO EVENT SHALL SELLER BE LIABLE FOR MORE THAN THE PURCHASE PRICE OF THE GOODS IN THIS CONTRACT OR FEES PAID BY BUYER HEREUNDER FOR THE PRODUCTS OR SERVICES GIVING RISE TO THE LIABILITY.**
- 18. Indemnification.** Buyer agrees to defend, indemnify and hold Seller harmless from all liability, costs, and expenses (including attorney fees), that Seller may incur or for which Seller may be held liable in connection with any damage or injury to any person or to any property resulting from: (a) Buyer's failure to supply the necessary fire and explosion detection and suppression equipment, (b) Buyer's improper or abnormal operation of equipment, (c) Buyer's failure to place any necessary safety devices, warning device or danger labels on the equipments, (d) any modification or alteration of the equipment, and/or (e) any breach of Buyer's obligations under the terms of the Agreement. Further, Seller agrees to indemnify and save harmless Buyer, from any liabilities, lawsuits, penalties, claims, or demands finally awarded or settled (including the costs, expenses, and reasonable attorneys' fees on account thereof) ("Claims") that may be made by any third party for injuries, including death to persons, resulting solely from the Seller's negligent or willful acts or omissions or those of persons employed by the Seller, its agents, contractors, or subcontractors. Buyer and Seller respectively agree to notify the other party promptly of any Claims against them for which the other (the indemnifying party) is responsible under this section. The indemnifying party shall have the right to defend Claims for which it is responsible and, at the indemnified party's request, will undertake the defense of such Claims. The parties' indemnification obligations under this Section shall not be limited by applicable Worker's Compensation or other disability or employee benefit laws, and, solely with respect to the indemnities set forth in this Section, each party hereby expressly waives any rights it may have to assert any immunities or defenses that it may have under such laws against any indemnified party.
- 19. Returns.** No Goods may be returned to Seller without Seller's advance written approval. Such approved returns must be made via prepaid freight and securely packaged so as to reach Seller without damage. Any such returned item must be clean and free of defects. Reasonable costs incurred by Seller in cleaning or refurbishing returned items may be charged to Buyer. Seller may invoice Buyer for a reasonable restock charge on approved return items if Buyer placed an incorrect order. Seller may invoice Buyer for freight costs and a reasonable handling fee in the event of unapproved "collect" returns.
- 20. Replacement Parts.** If the Agreement is for replacement parts, Buyer warrants that any original components in which these replacement parts will be placed are in satisfactory working condition to the extent such original components were manufactured by Seller, are within their respective warranty periods, and are not subject to the exclusions provided above, and when said replacement parts are installed, subject to such limitations, the resultant installation will operate in a safe manner, at speeds and temperatures for which the original Goods was purchased.

- 21. Shipment Date; Storage.** Should delivery or acceptance be delayed or not take place as a result of circumstances not attributable to Seller, risk shall pass to Buyer as of the day of the notice of readiness for shipment or acceptance. Any claim for loss of the Products in transit should be made by the Buyer against the carrier. If Products cannot be delivered by reason of Buyer's failure to give shipping instructions, to remit advanced payment or for any other cause attributable to the Buyer, Seller may store Products, at Buyer's cost and risk, in a manner deemed appropriate by Seller. Buyer shall pay \$400 per week for each trailer load stored longer than one (1) week. Storage charges are invoiced with payment terms of Net 10 days.
- 22. Security Interest.** Buyer hereby grants to Seller a security interest in all Goods delivered by Seller under the Agreement until paid in full.
- 23. Proprietary Information.** Any proprietary information concerning Seller or its suppliers' Goods Services or manufacturing process which is so designated by Seller or its suppliers and disclosed to Buyer incident to the performance of this order shall remain Seller's or its suppliers property and is disclosed in confidence. Buyer shall not publish or otherwise disclose it to others without Seller's prior written approval and no rights implied or otherwise are granted to produce or have produced any such Goods or to practice or cause to be practiced any such manufacturing processes, Services or other processes.
- 24. Software.** The general terms and conditions of software manufacturers for their software products contained in Seller's Goods shall have priority over these General Terms and Conditions. Buyer acknowledges and agrees that the software manufacturer's standard license agreement shall govern Buyer's right to use the software and may be in the form of a "click-to-accept" or "shrink-wrap" license.
- 25. Buyer's Property.** Seller has no duty to insure any property of Buyer placed in Seller's custody, and Seller assumes no liability in the event of loss or damage to such property.
- 26. Hazardous Properties of Buyer's Products and Ingredients.** Seller's expertise is in moving customers' products and their constituent ingredients around customers' manufacturing processes. Seller cannot be as knowledgeable as its customers are in the chemical and biological properties of each customer's own products and ingredients. Therefore: (a) before processing or handling any materials that are or can react to become flammable, explosive, toxic or otherwise hazardous, the Buyer must conduct a thorough process hazard analysis and risk assessment of its entire process per NFPA regulations (including upstream and downstream equipment), including contingency plans for dealing with processing errors and upset conditions. (b) Much of the Goods Seller manufacturers can be fitted with a wide variety of options that could be used to reduce specific hazards created by the product that it handles, including, for example, explosion relief panels, fire suppression/detection equipment, electrically grounded components, the ability to maintain an inert atmosphere, and remote sampling and cleaning, etc. Unless specifically set out in the Agreement, the Goods quoted does not contain these available safety features and Buyer shall be solely responsible for knowing or determining the hazards of its product and its process and for contacting Seller to learn about the availability of these safety features. (c) If Buyer's products and ingredients are combustible or explosive, per NFPA 652 Buyer must provide Seller with combustibility properties for its particular material as well as a dust hazard analysis report for relevant equipment or system. If such information has been supplied by the Buyer, Seller will design and provide explosion protection per NFPA requirements based on Buyer's data. (d) Seller's explosion protection recommendations are strictly based upon the information supplied by the Buyer and, should Buyer change materials or processes, it shall be Buyer's sole responsibility to perform an additional DHA and ensure adequate explosion protection. Seller is not responsible for any future changes in the material handled and/or changes to those supplied material values. (e) Fire and explosion detection and suppression systems vary depending on what materials the Buyer is processing and handling, and they are something that the Buyer must coordinate throughout its facility. Thus, the Buyer is solely responsible for and will determine what fire and explosion protection and/or suppression, if any, is necessary for its particular facility, including for the Goods covered by the Agreement, and the Buyer must supply any necessary fire and explosion detection and suppression equipment Goods or systems, whether purchased from Seller or another supplier. (f) Buyer will contact its property/fire insurer to determine what other equipment features may be required or desirable.
- 27. Severability.** In the event that a portion of this agreement is found unlawful, then that portion shall be deemed to have been amended to the extent necessary to be lawful, and the remainder of this agreement shall be enforceable to the fullest extent permissible by law.
- 28. Waiver of Subrogation.** Seller, Buyer and any party claiming through them each release the other from all claims, liabilities, damages, or losses related to the Goods or Services provided under the Agreement, ("Damages") regardless of the cause thereof, to the extent such Damages are covered by any insurance carried by the party suffering such Damages.
- 29. Tools.** Any dies, jigs or tools which Seller manufactures or acquires for performance of this contract shall remain the property of Seller, notwithstanding any payment by Buyer therefore. Tool charges, if levied, convey to Buyer exclusively the right to have the tools used by Seller for performance of Seller's obligations to Buyer, and they do not convey or imply title or right of possession. Seller shall be responsible for routine maintenance and repair of such tools, dies and jigs. Major overhauls, replacements or changes shall be charged to Buyer.
- 30. Customs and Export Control Laws of the United States.** Buyer acknowledges that the Goods and/or Services may include hardware and software, which are subject to the customs and export control laws and regulations of the United States and of the country in which the Goods are manufactured and/or received. Buyer acknowledges that it is solely responsible for its compliance with all laws and regulations, and Buyer certifies that its actions are in compliance with all laws, including the Foreign Corrupt Practice Act ("FCPA"). Buyer agrees not to disclose, use, export or re-export, directly or indirectly, any information provided by Seller or the "direct product" thereof as defined in the Export Control Regulations of the United States Department of Commerce, except in compliance with such Regulations. Should any provision in this Agreement be found unlawful or otherwise struck down, the remaining provisions shall remain valid. Buyer agrees to defend, indemnify and hold Seller harmless for any fine, penalty, claim, suit, demand, liability, cause of action, damage or cost (including reasonable attorney's fees) for any actual or alleged violation of Export laws arising from the sale of Goods or performance of Services under this Agreement. Buyer shall procure at its own expense all of the licenses and/or import/export papers for using the Goods. Should the Buyer violate this Section 28, Seller shall be entitled to terminate this Agreement immediately with no liability to Buyer.
- 31. Assignment.** The Parties may not assign any portion of this Contract in any manner whatsoever without the prior written consent of the other Party, and the Contract shall be binding on the Parties, their successors and assigns.
- 32. Governing Law and Settlement of Disputes.** This Agreement and the sale and delivery of Goods or Services hereunder and the Parties rights and liabilities shall be deemed to have taken place in and shall be governed in accordance with the laws of the State of Missouri, USA without regard to conflicts of law principles. Buyer agrees that all cause of action under this Agreement shall be brought in the Circuit Court of Platte County, Missouri or the United States District Court for the Western District of Missouri. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply.