

TERMS AND CONDITIONS OF PURCHASE/HIRE

1. Definitions and Interpretation

1.1 The following terms shall have the following meanings:

"Amendment Order"	means a purchase order or other written instruction issued by IWL (or a written agreement with the Supplier) which amends an Order;
"Completion Date"	means the date or dates specified in the Order by which Performance must be completed;
"Contract"	means the contract (incorporating these Terms and any document referred to in the Order) between IWL and the Supplier for the purchase and/or hire (as the case may be) of the Items;
"Employees"	means any and all employees of the Supplier and of the Subcontractors; "Goods" means Hire Goods and Sale Goods;
"Hire Goods"	means any and all goods which are to be taken on hire by IWL from the Supplier under the Contract, as specified in the Order;
"Items"	means Sale Goods and/or Hire Goods and/or Works (as the case may be);
"Laws"	means all applicable laws, statutory instruments, regulations, directives, codes of practice and standards;
"IWL"	means Innospec Widnes Limited whose registered office is Innospec Manufacturing Park, Oil Sites Road, Ellesmere Port, Cheshire, CH65 4EY;
"Order"	means IWL's purchase order or written instruction for (or written agreement with the Supplier in respect of), the purchase and/or hire of Items together with all documents referred to therein and including any variations thereto made by an Amendment Order;
"Performance"	means delivery of Goods and/or provision of Works (as the case may be);
"Price"	means the price payable to the Supplier for the Items, as set out in the Order;
"REACH"	means European Community Regulation (EC1907/2006) on the Registration, Evaluation, Authorization, and Restriction of Chemical Substances.
"Sale Goods"	means any and all goods which are to be purchased by IWL from the Supplier under the Contract, as specified in the Order and/or any goods, whether or not so specified, which are to be supplied to IWL in connection with the Works (as the case may be);
"Site"	means IWL's premises and/or any other place where Performance is to occur;
"Subcontractors"	means any and all agents and permitted subcontractors of the Supplier;
"Supplier"	means the person, firm or company to whom the Order is issued;
"Terms"	means these terms and conditions of purchase/hire, together with any amendments hereto which may be agreed by IWL and the Supplier; and
"Works"	" means any and all work to be undertaken by the Supplier under the Contract, as specified in the Order.

1.2 In these Terms, unless the context otherwise requires, words denoting the singular shall include the plural and vice versa.

1.3 The headings in these Terms are for convenience only and shall not affect their construction or interpretation.

2. Formation and Incorporation

2.1 These Terms are the only terms and conditions on which IWL is prepared to deal with the Supplier, and shall govern the Contract to the entire exclusion of all other terms and conditions. No terms and/or conditions endorsed upon, delivered with or contained in the Supplier's quotation, acknowledgment or acceptance of order, brochure, specification or other document shall form any part of the Contract and the Supplier waives any right which it otherwise might have to rely on any such terms and/or conditions.

2.2 Each Order is an offer to purchase and/or hire (as the case may be) the Items subject to these Terms, and acceptance by the Supplier of an Order, whether expressly or by conduct, shall be deemed to be an acceptance of (and not a counter offer to) such offer.

2.3 Any variation to these Terms shall have no effect unless expressly agreed by IWL and the Supplier in writing and signed by a duly authorised representative of IWL.

3. Amendments to Orders

3.1 IWL may at any time make changes in respect of an Order (which may include, without limitation, changes in specifications, design, shipment, quantities, and place or time of Performance). IWL shall issue an Amendment Order in respect of such changes, and if such changes result in an increase in the costs of, or the time required for, Performance by the Supplier, an equitable adjustment shall be made to the Price or the Completion Date (or both). Any such adjustment must be approved in writing by IWL before the Supplier proceeds with any such changes.

3.2 IWL may by written notice reduce the quantity or change the nature of Items, cancel the Order or require the Supplier to suspend Performance if IWL is prevented from, or delayed in, the carrying on of its business (or any part thereof) through any circumstances beyond its reasonable control. The Supplier shall not be entitled to any additional remuneration, compensation or other right or benefit in respect of such reduction, cancellation or suspension.

3.3 Without prejudice to the generality of clause 3.2, the following shall be included as causes beyond IWL's reasonable control: (a) act of God, fire, explosion, flood, epidemic or accident; (b) a power failure or breakdown of plant or machinery; (c) governmental actions, war or threat of war, acts of terrorism, national emergency, riot, civil disturbance, or sabotage; (d) import or export regulations or embargoes; (e) labour disputes or strikes; and (f) inability to obtain or difficulties in obtaining materials, transport, fuel, parts, machinery or labour.

4. Standards of Goods and Works

4.1 Goods shall: (a) conform strictly as to quantity, quality and description stated in the Order and/or in any applicable specification supplied or advised by IWL to the Supplier; (b) comply with the Laws (and be manufactured, packaged and delivered in accordance therewith) in particular where of a nature falling within the scope of REACH, have been appropriately pre-registered and registered in accordance with the obligations arising from REAC, whether or not sourced within the European Economic Area; (c) be free from defects in design, materials and workmanship; (d) be in strict compliance with any samples, patterns, drawings or specifications stated in the Order and/or in any applicable specification supplied or advised by IWL to the Supplier; (e) be capable of meeting any standard of performance specified in the Order and/or in any applicable specification supplied or advised by IWL to the Supplier; and (f) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and be fit for the express or implied purpose for which they are to be supplied under the Order.

4.2 Sale Goods shall (in addition to the requirements of clause 4.1) be packaged and marked in accordance with any instructions given by IWL.

4.3 Works shall: (a) conform strictly with the requirements stated in the Order and/or in any applicable instruction, drawing or specification supplied or advised by IWL to the Supplier; (b) be provided in accordance with the Laws; (c) be provided using the best quality materials and workmanship; (d) be provided using all due care, skill and diligence in accordance with best industry practice and to the highest standards of performance which are practised in any industry in which services similar to the Works are carried out; and (e) in respect of any applicable subject matter of Works, produce an end result which is capable of meeting any function and/or standard of performance which has expressly or by implication been made known to the Supplier.

4.4 All Employees who are engaged in the provision of Works at any time shall possess suitable skills, qualifications and experience and shall, whilst engaged in the provision of Works: (a) comply with IWL's reasonable directions and co-operate fully with IWL's employees and contractors; (b) maintain strict discipline and good order and shall not engage in behaviour or activities which are or could be detrimental to IWL's business or reputation.

4.5 IWL reserves the right to require the Supplier to remove from the Site all or any Employees who do not comply with the provisions of clause 4.4. The Supplier shall provide replacements for such Employees as soon as reasonably practicable and at no extra cost to IWL. Any request by IWL to remove Employees pursuant to this clause 4.5 shall be without liability to the Supplier and shall not remove or diminish any of the Supplier's obligations under the Contract.

4.6 Precise conformity of Items with the provision of these Terms is of the essence of the Contract, and IWL shall be entitled to reject any Items which do not so conform, however slight the breach may be.

5. Inspection, Testing and Documentation

5.1 IWL and its representatives shall be granted access to any premises of the Supplier (and those of the Subcontractors) and be allowed to inspect and/or test Goods at any time prior to acceptance or delivery.

5.2 The Supplier shall make available at its own expense all equipment, materials, services and facilities necessary for carrying out such tests on Goods as IWL may require. If requested by IWL or its representatives, Goods shall be completely assembled for tests and/or dismantled for inspection before despatch.

5.3 If, as a result of any such inspection or testing, IWL is not satisfied that Goods will comply in all respects with the Contract and so notifies the Supplier as soon as practicable after the relevant inspection or testing, the Supplier shall take all steps which are necessary to ensure such compliance.

5.4 Notwithstanding any inspection or testing in accordance with this clause 5, the Supplier shall remain fully responsible for Goods and any such inspection or testing shall not remove, diminish or otherwise affect the Supplier's obligations under the Contract (including, without limitation, its responsibility for any defects subsequently found in materials and/or workmanship).

- 5.5 The Supplier shall (at its expense) provide in respect of all Items all applicable certificates (including, certificates of analysis, tests, inspection or origin), operating and safety instructions, warning notices and customs documentation and (on request or where otherwise expressly or by implication required) written assurance that Sale Goods are and will continue to be in compliance with REACH. All such certificates and documentation shall be provided whenever requested by IWL (and, in any event, at the same time as Performance).
- 5.6 The Supplier shall (at its expense) prepare and submit to IWL such drawings, data and other information which IWL may require in respect of any Items. IWL shall have the right to approve all drawings and data but such approval shall not relieve the Supplier of any of its responsibilities under the Contract. Unless otherwise agreed in writing by IWL, the Items shall fully comply with the drawings.
- 5.7 Any drawings, designs specifications or other documents which are provided to the Supplier by IWL shall remain the property of IWL and must be returned (a) whenever a document is superseded by a further document; and (b) upon completion of Performance or upon termination of the Contract (whichever is earlier).
- 5.8 Unless otherwise specified by IWL, all information and documentation to be provided by the Supplier (or the Subcontractors) pursuant to these Terms or otherwise in connection with the Order shall be in the English language.
- 6. Delivery of Goods**
- 6.1 The Supplier shall effect Performance by the Completion Date, time being of the essence of the Contract.
- 6.2 Goods shall be delivered by the Completion Date and in any manner specified in the Order.
- 6.3 The Supplier shall (at its own expense) provide such data as IWL shall deem necessary to ensure that the Order will be completed by the Completion Date.
- 6.4 If the Supplier shall fail to commence Performance on the starting date specified on the Order or if it appears to IWL (in its discretion) that the Supplier may not be able to complete Performance by the Completion Date, IWL may cancel the Order or any part thereof in accordance with the provisions of clause 14.
- 6.5 Goods which are supplied earlier than the specified delivery dates will not be accepted or paid for by IWL unless so agreed by IWL in writing.
- 6.6 Unless otherwise stated in the Order: (a) the Supplier shall be responsible for and bear the cost of packaging, loading, carriage and/or off-loading of Goods; and (b) Goods shall be delivered to IWL's usual place of business during normal hours.
- 6.7 When Sale Goods are delivered to IWL in bulk, their weight as measured on IWL's weighbridge shall (in the absence of manifest error) be deemed conclusive as to the weight of Sale Goods actually delivered.
- 6.8 IWL reserves the right to mark Sale Goods immediately on delivery, for the purposes of security. Notwithstanding any such marking or any signature on IWL's behalf for receipt of Goods in good order, IWL shall be deemed to have not accepted Goods until it has had 30 days following delivery to inspect them or, if later, within a reasonable time after any latent defect in Goods has become apparent. The Supplier shall not be entitled to raise any objection on the grounds of such marking or such signature to any subsequent rejection of Goods by IWL.
- 6.9 Unless otherwise agreed by IWL in writing, all packaging in respect of Sale Goods shall be supplied at no extra cost to IWL. Such packaging will not be returned to the Supplier unless IWL specifies otherwise, in which case the Supplier shall promptly remove the relevant packaging at no cost to IWL and shall be fully responsible for its disposal.
- 6.10 The Supplier shall provide with each delivery of Goods a prominent delivery note stating the Order number, the number of packages, the contents, quantities and (in the case of part delivery) the outstanding balance remaining to be delivered.
- 6.11 Where IWL agrees to accept Performance in instalments, the Contract shall be deemed to be a separate contract in respect of each instalment. However, notwithstanding the foregoing, failure by the Supplier to effect Performance in respect of any one instalment shall entitle IWL (at its option) to treat the whole of the Contract as repudiated.
- 6.12 If Goods are delivered to IWL in excess of the quantities specified in the Order, IWL shall not be bound to pay for the excess, which will be at the Supplier's risk and be returnable to the Supplier (at the Supplier's risk and expense).
- 6.13 In the case of Hire Goods, the applicable hire period shall commence when the relevant Hire Goods are delivered by the Supplier or (where Hire Goods are to be collected by IWL) on the date of such collection.
- 6.14 Hire Goods may at any time be moved by IWL to any location. Whenever reasonably requested by the Supplier, IWL shall inform the Supplier of the location of Hire Goods.
- 6.15 Where Hire Goods are hired for an indefinite period and are to be collected by the Supplier at the end of the hire period, the relevant hire period shall end as soon as IWL notifies the Supplier that the Hire Goods are ready for collection (and, for the avoidance of doubt, the relevant hire charges will cease to be applicable in respect of any period after such notice has been given). For the purposes of this clause 6.15, such notice may be given by or on behalf of IWL verbally or by electronic mail or by other reasonable means.
- 7. Provision of Works**
- 7.1 Works shall be completed by the Completion Date and undertaken in any manner specified in the Order.
- 7.2 All equipment to be used by the Supplier in the provision of Works shall be kept in a good and safe operating condition at all times. All equipment and materials to be so used by the Supplier shall comply, and be used in accordance with, the Laws. The Supplier shall be responsible for ensuring that such equipment and materials which belong to it are adequately protected against theft, adverse weather and (to the extent practicable) other loss or damage.
- 7.3 The Supplier shall effect Performance in a clean and tidy manner and shall keep such part of the Site on which Works are being performed reasonably clean and tidy at all times. Without prejudice to the foregoing, the Supplier shall, on completion of Works and whenever required by IWL, forthwith clear away and remove from the Site its rubbish of every kind and any surplus materials and equipment. The Supplier shall ensure that all such rubbish, materials and equipment are removed and (where relevant) disposed of with due diligence and in accordance with the Laws.
- 7.4 The Supplier shall not at any time interfere in any way with the business or other operations of IWL, its employees and contractors.
- 7.5 The Supplier shall provide a competent supervisor who shall be available on the Site at all times during which Works are being undertaken and who shall be authorised to receive on behalf of the Supplier any directions and instructions from IWL.
- 7.6 Unless otherwise specified by IWL in writing, IWL will provide, at no cost to the Supplier and to the extent necessary to enable the Supplier to undertake Works, water and electricity from such points on the Site (and, in the case of electricity, alternating current at such voltages) as shall be specified by IWL. All connections to such water and electricity shall be the responsibility of the Supplier and must be approved by IWL in advance of the relevant Works commencing (but such approval shall not relieve the Supplier of any responsibility in respect of such connections). The Supplier shall provide, install and maintain such temporary facilities as may be required to enable Works to be carried out in a safe and proper manner (including, for the purpose of illustration but without limitation, adequate lighting). Upon completion of Works (or on any earlier termination of the Contract), the Supplier shall remove such connections and facilities and make good any damage caused by such removal.
- 8. Title and Risk**
- 8.1 Title in Sale Goods shall pass to IWL on delivery. Risk in Sale Goods shall remain with the Supplier until acceptance by IWL.
- 8.2 Title and (save as provided in clause 8.3) risk in Hire Goods shall remain with the Supplier at all times. Save as provided in clause 8.3 (and unless otherwise stated in the Order or agreed by IWL in writing), the Supplier shall at its own cost provide all maintenance of and repairs to Hire Goods which are required to keep Hire Goods in full working order throughout the hire period.
- 8.3 IWL shall make good to the Supplier all damage to Hire Goods which is caused by IWL (other than fair wear and tear).
- 8.4 All materials, plant and equipment removed from the Site by the Supplier in the course of providing Works shall remain the property of IWL unless IWL specifies otherwise (in which case the property therein shall transfer to the Supplier and the Supplier shall be fully responsible for the disposal thereof).
- 8.5 All materials which are provided or paid for by IWL and which are to be incorporated in Sale Goods and/or used for Works shall: (a) remain the property of IWL but shall become at the risk of the Supplier and shall so remain until acceptance by IWL of Sale Goods in which such materials are incorporated; and (b) where such materials are to be stored at the Supplier's premises, be clearly marked by the Supplier as IWL's property and shall be stored separately from the Supplier's property in a safe and proper manner. The Supplier hereby irrevocably grants IWL the right to enter any of the Supplier's premises (and those of the Subcontractors) at any time to remove any such materials.
- 8.6 The Supplier shall use any such materials in a proper and economical manner, in accordance with IWL's instructions and for no other purpose whatsoever. Any surplus shall be accounted for to IWL and disposed of in accordance with IWL's instructions. Any waste of, loss of, or damage to such materials caused by poor or inefficient workmanship or practices or by any default of the Supplier in storing and maintaining such materials shall be made good at the Supplier's expense. Replacements thereof shall be of equivalent quality and specification and shall not be used or substituted without IWL's prior approval.
- 9. Price and Payment**
- 9.1 Unless otherwise stated, the Price shall be (a) inclusive of all charges (including, without limitation, packing, shipping, loading, carriage, insurance and delivery to the relevant Site) and any duties, levies or taxes (other than value added tax); and (b) fixed for the duration of the Contract.
- 9.2 If, in respect of Works, any part of the Price shall be calculated by reference to day work rates, then the number of staff to be utilised by the Supplier shall be subject to prior written agreement with IWL.
- 9.3 Unless otherwise stated in the Order or agreed by IWL in writing, the Supplier shall throughout the hire period (and at no extra cost to IWL) supply all fuel, oil and grease for Hire Goods, and all tyres required to be replaced on Hire Goods through fair wear and tear or faulty manufacture.
- 9.4 The Supplier shall not be entitled to make any increases in the Price (whether on account of increased costs to the Supplier in respect of materials, facilities, labour, transport, exchange rates or otherwise) and IWL shall not be liable to make any extra payment to the Supplier in respect thereof unless IWL has agreed in writing or such change has been set out in an Amendment Order.
- 9.5 Unless otherwise stated in the Order, the Supplier shall be entitled to invoice IWL on or any time after Performance.

- 9.6 IWL shall not be required to pay for any period during which Hire Goods are subject to breakdown, maintenance or repair (except where caused or necessitated by IWL) and the amount of the Supplier's charges shall be adjusted accordingly. For the purposes of this clause 9.6, where two or more items of Hire Goods are hired together as one working unit or group, the period of breakdown, maintenance or repair of any one such item shall be deemed to apply also to all other items of Hire Goods forming part of such working unit or group.
- 9.7 Each invoice shall be in the currency specified in the Order and clearly state the Order number, the reference number of Items, details of hours worked by Employees (in the case of Works where any part of the Price shall be calculated by reference to day work rates), the period of hire (in the case of Hire Goods), and all information required to be stated on a tax invoice for VAT purposes, together with such other information as may be specified by IWL.
- 9.8 Unless otherwise specified in the Order (and subject to acceptance of Items by IWL), IWL will pay the Supplier within 60 days following the end of the month in which IWL received a valid invoice in accordance with clause 9.7.
- 9.9 Without prejudice to any other remedy which it may have, IWL reserves the right to set off any sums due to it from the Supplier at any time (whether under the Contract or any other contract between the Supplier and IWL) against sums payable to the Supplier by IWL under the Contract.
- 9.10 Unless otherwise stated, all payments under the Contract shall be made in the currency specified in the Order. IWL shall be entitled to deduct from any payment to the Supplier any charges, duties or taxes if and to the extent it is required to do so under any Laws.
- 9.11 IWL and its representatives shall, from the date of the Contract until the expiry of two years following the Completion Date, be entitled (on reasonable notice and at reasonable times) to have access to the Supplier's premises (and those of the Subcontractors) to inspect such premises and all relevant documents, information and data of the Supplier for the purposes of auditing the Supplier's charges and otherwise ascertaining that the provisions of these Terms are being (or have been) complied with. The Supplier (and the Subcontractors) shall, at no cost to IWL, provide IWL with: (a) all assistance which IWL reasonably requires for such purposes; and (b) any copies of such documents, information and data which IWL may require.
- 9.12 The Supplier agrees to waive any right it may otherwise have to exercise a lien, to make a claim, or seek a judgement or award, against Sale Goods at any time, and acknowledges that its sole right in the event of any failure by IWL to pay for any Sale Goods is to seek to recover such payment as a debt.
- 10. Defects, Breakdowns and Remedies**
- 10.1 The Supplier warrants to IWL that Items will conform in all respects with the provisions of clauses 4.1 to 4.4 inclusive.
- 10.2 Without prejudice to any other remedy which IWL may have (whether under these Terms or otherwise), if Items do not so conform, or if the Supplier fails to comply with any of these Terms, IWL shall be entitled to any one or more of the following remedies at its discretion (and in the case of Goods, whether or not any part thereof has been accepted by IWL): (a) to rescind the Order (or part thereof); (b) to reject the relevant Goods or Works, in whole or in part (and, in the case of Goods, to return them to the Supplier, at the Supplier's risk and cost, on the basis that IWL shall be entitled forthwith to a full refund or credit, as the case may be, for Goods so returned); (c) at IWL's option, to require the Supplier (at the Supplier's expense) to remedy any defect in the relevant Items or to supply replacement goods or works and carry out any other necessary work to ensure that the Order is fulfilled in accordance with these Terms; (d) to itself carry out, or to have carried out (in each case, at the Supplier's expense), any work necessary to make Goods and/or Works comply with the Contract; (e) to recover from the Supplier any additional costs and expenses which IWL incurs as a result of the Supplier's breach (including, without limitation, in respect of obtaining the relevant Items from another supplier); and (f) to refuse to accept any further Performance which the Supplier attempts to make, without any liability to the Supplier in respect thereof.
- 10.3 The Supplier shall promptly and properly undertake any maintenance or repairs to Goods which are to be undertaken by it pursuant to these Terms.
- 10.4 IWL shall inform the Supplier as soon as reasonably practicable of any breakdown or unsatisfactory working of Hire Goods. Notwithstanding clauses 8.2 and 10.3, IWL shall be entitled (but not obliged) to repair any punctures in tyres on Hire Goods without the prior authority of the Supplier.
- 10.5 The provisions of these Terms which relate to Goods shall be deemed to apply (so far as is relevant) to any repairs to Goods which are undertaken, and to any replacement goods which are provided, by the Supplier pursuant hereto.
- 11. Safety Obligations**
- 11.1 The Supplier acknowledges that hazardous operations are carried out on parts of IWL's premises. The Supplier shall, in respect of any part of Performance to be effected by the Supplier on the Site, observe (and shall ensure that the Subcontractors and the Employees observe): (a) all rules, regulations and procedures in force from time to time at the Site (including, for the avoidance of doubt but without limitation, IWL's permit to work system, drug and alcohol policy, and searching of personnel and their vehicles by IWL's security staff); and (b) the Laws (including, for the purpose of illustration but without limitation, the Health & Safety at Work etc Act 1974 and all health and safety regulations). Such observance shall not remove or diminish any of the Supplier's obligations under the Contract.
- 11.2 In the event that IWL considers (in its sole opinion) that any such rules, regulations, procedures or Laws have been breached by any of the Subcontractors or the Employees, IWL shall have the right to remove the relevant Subcontractors and Employees from IWL's premises and prohibit them from returning. Such action by IWL shall be without liability to the Supplier or the Subcontractors and shall not remove or diminish any of the Supplier's obligations under the Contract.
- 11.3 The Supplier shall be responsible for the management of operations and the execution of Works at the Site, including health and safety matters. Prior to the commencement of Works, the Supplier will prepare, to the extent required by the Laws, a risk assessment, method statement and a suitable health and safety plan. The Supplier shall provide copies of such risk assessment and health and safety plan whenever requested by IWL (which IWL shall be entitled to copy and provide to all relevant third parties).
- 11.4 The health and safety plan to be prepared by the Supplier pursuant to clause 11.3 shall address (without limitation): (a) arrangements for fulfilling the Supplier's health and safety duties; (b) the approach to be adopted for managing health and safety in respect of Works; (c) the technical and managerial approach to be adopted for controlling and dealing with the risks identified in the risk assessment undertaken by the Supplier (which approach shall include ongoing development and implementation of the health and safety plan); (d) arrangements for monitoring compliance with Laws relating to health and safety; and (e) mechanisms for effecting modifications to the health and safety plan as Works proceed, according to information received from IWL and the experience of, and information received from, Employees engaged in the provision of Works.
- 11.5 The Supplier shall provide for Employees engaged in the provision of Works all necessary information and training on health and safety, risks thereto and related issues.
- 11.6 The Supplier shall ensure that only persons who are authorised by IWL or the Supplier as being required to be present by the nature of their duties have access to areas where Works are being performed. Notification of exclusion of all other persons shall be undertaken by the Supplier in the form of signs and/or barriers, or other further reasonable security measures. Consideration shall be given at all times for necessary rights of way and access for emergencies.
- 11.7 Without prejudice to any of the other provisions of this clause 11, all Employees engaged in the provision of Works shall (a) be issued by the Supplier, at its own cost, with all protective clothing and equipment as may be deemed appropriate by IWL (in its absolute discretion); and (b) undergo medicals whenever reasonably required by IWL.
- 11.8 For the avoidance of doubt (but without prejudice to any of the other provisions of this clause 11), IWL shall not be responsible for supervising and/or checking any health and safety requirements or risk assessments which are to be undertaken by the Supplier pursuant to these Terms. Such responsibility shall remain with the Supplier at all times, notwithstanding any supervision or checks which IWL or its representatives may undertake from time to time.
- 11.9 Goods supplied or installed under the Contract shall be so formulated, designed, constructed, finished and packaged as to be safe and without risk to health. Goods shall be supplied with full instructions for their proper use, maintenance and repair, and with any necessary warning notices clearly displayed.
- 11.10 Prior to any delivery of Goods and any use by the Supplier of any equipment or materials on the Site, the Supplier shall furnish IWL with a full and accurate written list (by name and description) of any harmful or potentially harmful properties, components or ingredients in Goods or such equipment and materials (and shall thereafter notify IWL in writing of any changes thereto from time to time). The Supplier acknowledges that IWL will rely on such information in order to satisfy its own obligations under the Health & Safety at Work etc Act 1974, and any other relevant legislation.
- 11.11 The Supplier shall maintain detailed quality control and manufacturing records in respect of Sale Goods for a period of 12 years from the Completion Date.
- 12. Indemnities and Insurance**
- 12.1 Without prejudice to any other remedy which IWL may have (whether under these Terms or otherwise), the Supplier shall indemnify and hold harmless IWL (and keep it indemnified and held harmless) from and against all direct, indirect and consequential loss, liability, actions, claims, costs, damages and expenses (including legal expenses on an indemnity basis) awarded against or suffered or incurred or paid by IWL as a result of or in connection with any of the following matters (save in each case if and to the extent caused by or contributed to by any act or omission of IWL): (a) any breach by the Supplier of these Terms (including, without limitation, in respect of the warranty in clause 10.1); (b) any act or omission (including negligence or breach of any statutory duty) of the Supplier, the Subcontractors or the Employees in effecting (or purporting to effect) Performance; (c) any claim by any third party that the Items infringe (or any use, resale, exportation or importation of Goods infringes) any patent, design right, copyright, trade mark, trade name or other intellectual property right (except if, and to the extent that, such claim arises from any specifications, drawings, samples or instructions provided to the Supplier by IWL for the purposes of the Contract); and (d) any claim in respect of liability, loss, injury, death, damage, cost or expense sustained by any third party (including IWL's employees and agents).
- 12.2 The Supplier shall (and shall ensure that the Subcontractors shall), for the duration of the Contract and for such period as may be necessary thereafter, maintain the following minimum insurance cover with a reputable insurance company: (a) public liability insurance to a level of cover not less than £5 million per occurrence or series of occurrences arising from one event (unlimited in the insurance period); (b) product liability insurance to a level of cover not less than £5 million per occurrence or series of occurrences arising from one event; (c) employer's liability insurance to a level of cover not less than £10 million per occurrence or series of occurrences arising from one event; and (d) legal liability insurance for automobiles and motorised equipment used or furnished by the Supplier and/or the Subcontractors. Each such insurance shall contain an 'indemnity to principals' clause with waivers of rights of subrogation against IWL and its employees.
- 12.3 The Supplier shall insure Sale Goods (and any materials of IWL as referred to in clause 8.5) to the full replacement value thereof against all risks (including fire, explosion and theft) for so long as the risk therein shall be with the Supplier.

- 12.4 Unless otherwise stated in the Order or agreed by IWL in writing, the Supplier shall at all times insure Hire Goods to the full replacement value thereof against all risks (including fire, explosion and theft).
- 12.5 The Supplier shall produce such evidence as IWL may require to demonstrate compliance with the foregoing obligations of the Supplier with respect to insurance cover. Should the Supplier fail to maintain any such insurance, then IWL shall be entitled (but not obliged) to insure against the relevant risks and deduct from any sums due to the Supplier under the Contract an amount equal to the premiums paid by IWL in respect of such insurances.

13. Intellectual Property Rights

- 13.1 IWL reserves all title to, and all copyright, design rights and all other intellectual property rights in, all specifications, plans, drawings, designs or other information provided (or otherwise communicated) to the Supplier by or on behalf of IWL in connection with the Order.
- 13.2 All copyright, design rights, inventions, patents (and the right to make applications for patents) and all other intellectual property rights created under or arising out of the fulfilment of the Order by the Supplier, and all title thereto, shall be assigned to and vested in IWL immediately upon the date of the Order or creation of the relevant intellectual property right, as the case may be. Any documents provided by the Supplier to IWL in connection with the fulfilment of the Order shall be deemed to be the property of IWL from the date on which they are so provided.

14. Termination

- 14.1 IWL shall be entitled at any time to cancel the Order in whole or in part by giving written notice to the Supplier, whereupon the Supplier shall forthwith cease any further fulfilment of the Order (unless and to the extent otherwise provided in the notice of cancellation).
- 14.2 In the event of any cancellation in accordance with clause 14.1, IWL's sole liability to the Supplier shall be to pay the Supplier on a quantum meruit basis for such part of the Order which have been fulfilled by the Supplier to IWL's satisfaction as at the date of cancellation, together with the costs of all goods and materials which have been procured reasonably by the Supplier from third parties for the purposes of fulfilling the Order and which the Supplier is unable to use as part of its stock-in-trade, and reasonable cancellation charges payable by the Supplier in respect of any subcontracts properly in place for fulfilment of the Order, subject always to the Supplier taking all reasonable steps to mitigate its losses and liabilities. For the avoidance of doubt (but without prejudice to the foregoing) and without limitation, IWL shall not be liable to the Supplier in respect of such cancellation for any loss of profit, loss of anticipated profit, loss of contract or any other direct, indirect or consequential loss whatsoever.
- 14.3 Title in Sale Goods (and in any goods and materials procured by the Supplier from third parties) paid for by IWL in accordance with clause 14.2, or to be so paid for, shall pass forthwith to IWL on the date of cancellation of the Order.
- 14.4 IWL shall be entitled at any time to terminate the Contract forthwith by giving written notice to the Supplier if (a) the Supplier breaches any of these Terms (regardless of the nature, type, materiality or duration of any such breach); (b) any distress, execution or other legal process is levied upon any of the Supplier's assets; (c) if the Supplier becomes bankrupt or insolvent, or has a receiving order made against it, or compounds with its creditors, or (if a corporation) an order is made or a resolution is passed for the winding up of the Supplier (other than a member's voluntary winding up for the purposes of reconstruction without insolvency), or if a receiver and manager, receiver, administrative receiver or administrator is appointed in respect of the Supplier's business or assets (or any part thereof); (d) anything analogous to the events referred to in clause 14.4(b) or 14.4(c) occurs in any jurisdiction; (e) the Supplier ceases or threatens to cease to carry on its business; (f) the financial position of the Supplier deteriorates to such an extent that in the opinion of IWL the Supplier's capability adequately to fulfil its obligations under the Contract has been placed into jeopardy; (g) there is a change in the control (as defined in section 840 of the Income and Corporation Taxes Act 1988) of the Supplier after the date of the Order; or (h) IWL reasonably apprehends that any of the events mentioned above is likely to occur.
- 14.5 Any termination of the Contract (howsoever arising) is without prejudice to the rights and obligations of IWL and the Supplier under the Contract which accrued prior to termination. The clauses in these Terms which expressly or impliedly have effect after termination of the Contract (including, without limitation, clauses 5.5, 5.7, 8.5, 9.11, 10.1, 10.2, 10.3, 11.12, 12.1, 12.2, 13, 14.2, 14.3, 14.6 and 15) will continue to be enforceable notwithstanding any such termination.
- 14.6 If, on any termination of the Contract (howsoever arising), any sums are owed to IWL by the Supplier, the Supplier shall pay such sums without any deduction or set-off within 60 days of the date of such termination.

15. Confidential Information

- 15.1 Save if and to the extent otherwise required by law, the Supplier shall keep in strict confidence all information not in the public domain concerning IWL, its business and its technical or commercial know-how which the Supplier may become aware of pursuant to the Contract or in the course of tendering for, or fulfilling, the Order. The Supplier shall only use such information in connection with the Contract and/or the Order and for no other purpose whatsoever. The Supplier shall ensure that the Subcontractors and the Employees are subject to the same obligations of confidentiality as the Supplier under this clause 15.1.
- 15.2 The Supplier shall not, without the prior written consent of IWL: (a) use IWL's name, or any business or premises of IWL for any purpose other than for properly fulfilling the Order; (b) advertise or publicly announce that it supplies Items to IWL; (c) photograph any part of IWL's premises or anything situated thereon or any equipment, plant or materials used for (or to be incorporated as part of) any Items; or (d) authorise or allow the Subcontractors, the Employees or any other person to do any of the foregoing.

16. Assignment and Subcontracting

- 16.1 The Supplier shall not assign, transfer or subcontract any of its rights and obligations under the Contract (or any part thereof) without IWL's prior written consent. IWL shall be entitled to grant or withhold such consent in its absolute discretion, and the granting of any consent may be subject to such conditions as IWL shall determine.
- 16.2 IWL shall be entitled to assign the Contract (or any part thereof) to any person, firm or company.

17. Notices and Documents

- 17.1 Unless otherwise expressly provided in these Terms, any notice or other communication to be given under the Contract shall be in English and given in writing and shall be validly given if sent by facsimile transmission or recorded delivery post (or by airmail where appropriate) to the address or facsimile number stated for IWL and the Supplier respectively on the Order or to any address subsequently specified in writing for this purpose.
- 17.2 Any such notice or communication shall be deemed served (in the case of service by post) on the second working day after the date of posting and (in the case of service by facsimile) on the next working day after transmission. For the purposes of this clause 17.2, "working day" means any day other than a Saturday, Sunday or public holiday in London.

18. General

- 18.1 Any provision of these Terms which is held by a competent authority to be invalid, void or unreasonable (in whole or in part) shall be deemed to be severed from the other provisions of these Terms to the extent necessary, and any such provision shall not affect the validity and enforceability of the remainder of these Terms.
- 18.2 Failure by IWL to enforce (or any delay by it in enforcing) any provision of these Terms in respect of any breach by the Supplier shall not be construed as a waiver of such breach and shall not affect IWL's rights in respect of that, or any subsequent, breach by the Supplier.
- 18.3 All aspects of the Contract (including, without limitation, its formation, validity, performance and construction) shall be governed by English law and the terms of the United Nations Convention on Contracts for the International Sale of Goods (Vienna 1980) shall not apply. IWL and the Supplier hereby irrevocably submit to the jurisdiction of the English courts (the decision of which shall be binding upon them).