



Terms & Conditions

The following terms apply if you are purchasing Goods from the Supplier, hiring Goods from the Supplier or the Supplier is providing you with Services.

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Terms & Conditions

These Terms and Conditions ('Terms') form part of the contract ('Contract') between the Supplier and the Customer (unless otherwise previously agreed in writing) for the Customer's purchase of Goods from the Supplier (Sale Contracts), the Customer's hire of Goods from the Supplier (Hire Contracts) or the Supplier's provision of Services to the Customer (Service Contracts) from time to time. Any supply or hiring of Goods or supply of Services by the Supplier to the Customer made after the date of acceptance of these Terms is a supply pursuant to this Master supply agreement constituted by these Terms and the relevant order accepted by the Supplier and any such supply does not give rise to a new or separate agreement.

1 Interpretation

1.1 In these Terms:

"Authorised Representative" means the individuals as identified on the Order Form;

"Maintenance Service" means the repair and maintenance service further described in clause 28;

"Confidential Information" means (whether or not in a material form) all information concerning the Supplier, the Supplier's business and the range of Goods being promoted by the Supplier including but not limited to product costs and margins, branding, market characteristics, reports, Intellectual Property (whether registered or unregistered), designs and data sheets, marketing and sales reports, financial reports and documents, disclosed or communicated to the Receiving Party in any form or manner by the Supplier or by representatives of the Supplier, and all copies of the information and notes and records forming part of the Confidential Information;

"Consequential Loss" means increased costs or expenses; loss of revenue; loss of profit or anticipated profit; loss of business; loss of business reputation; loss of opportunities; loss of anticipated savings; loss of goodwill; loss or expense resulting from a claim by a third party; special or indirect loss or damage of any nature whatsoever caused by the Supplier's failure to complete or delay in completing the order to deliver the Goods; and any other loss suffered by a party as a result of a breach of this Contract that cannot reasonably be considered to arise directly and naturally from that breach.

"Consumables" means the consumables set out on the Order Form or other consumables purchased by the Customer from the Supplier;

"Consultancy Service" means the advisory service further described in clause 28;

"Contract" means this contract for the purchase and sale or hire of Goods or the supply of Services and any related Order Forms;

"Customer" means the person or business named on the Order Form with whom Supplier has agreed to sell or hire Goods or Services;

"Data Protection Legislation" means (i) the General Data Protection Regulation (EU 2016/679); (ii) the Privacy and Electronic Communications (EC Directive) Regulations 2003; (iii) any legislation implemented in connection with the General Data Protection Regulation; (iv) any data protection legislation coming into force as a result of the United Kingdom leaving the European Union and (v) any replacement legislation in respect of any of the same coming into effect from time to time and in each case as amended, extended or superseded from time to time. "Decontamination Service" means the decontamination service further described in clause 28 and the attached letter;

"Goods" means the goods (including any instalment of the goods or any parts for them) specified in the Order Form;

"Hire Period" means the period for which the Goods are hired by the Customer as set out on the Order Form;

"Hire Price" means the rental payment(s) payable by the Customer to the Supplier for the hire of the Goods as set out on the Order Form;

"Intellectual Property" or "Intellectual Property Right" means any patent, registered design, trade mark, copyright, trade secret or any other proprietary right of a party or parties, registered or unregistered, in any country;

"Lab Testing Services" means the microbiological testing services further described in clause 30;

"Location" means the location of the Goods and/or the location for the provision of Services shown on the Order Form, or any other location agreed from time to time between the parties in Writing;

"Minimum Order" means the minimum quantity of Goods in each order specified in the Order Form

"Normal Working Hours" means the hours 8 am to 5 pm (inclusive) GMT on any Working Day;

"Output Material" means any documents or other materials, and any data or other information provided and or collected by the Supplier relating to the Goods or Services or any such information data documents or materials arising from the supply of Goods or Services;

"Order Form" means the order form annexed to this Contract;

"Personal Data" has the meaning given to that term in the Data Protection Legislation in force from time to time;

"Purpose" means the purpose(s) for which the Goods may be used as specified in the Order Form;

"Regulatory Change" means any amendment, re-enactment, modification, replacement, variation or change to any Regulatory Requirements or the introduction of any new or additional Regulatory Requirements which (in the opinion of either party) affects the performance or operation of the Agreement including but not limited to any amendments to Regulatory Requirements as a result of the United Kingdom leaving the European Union;

"Regulatory Requirements" means Data Protection Legislation and any other applicable statutes, statutory instruments, orders, regulations or codes of practice in force from time to time;

"Supplier" means Inivos UK Limited registered at Companies House under Number 14137664 whose registered office is Unit 27/28 Coningsby Business Park, Stirling Way, Bretton, England, PE3 8SB, United Kingdom;

"Services" means services to be provided by the Supplier for the Customer as specified on Order Form;

"Subsequent Hire Price" means the price (set out on the Order Form) for which the Goods hired to the Customer may be purchased from the Customer under clause 25.8;

"Terms" means the standard terms of sale as set out in this document and (unless the context otherwise requires) includes any special terms agreed in Writing between the Customer and the Supplier;

"Working Day" means any day other than Saturday or Sunday or a Bank or Public Holiday;

"Writing"; and any similar expression, includes facsimile transmission and comparable means of communication, but not electronic mail.

1.2 A reference in these Terms to a provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

1.3 The headings in these Terms are for convenience only and shall not affect their interpretation. In this Contract:

1.4 words importing any gender include every gender;

1.5 words importing the singular number include the plural number and vice versa;

1.6 words importing persons include firms, companies and corporations and vice versa;

1.7 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Contract;

1.8 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;

1.9 where the word 'including' is used in this Contract, it shall be understood as meaning 'including without limitation'.

2 Basis of the sale or hire of goods and the supply of services

2.1 The sale or hire of Goods and or the supply of Services by the Supplier shall be subject to the applicable parts of these Terms. The Customer warrants that any Goods or Services acquired by it under these Terms is acquired for business or commercial purposes. The Order Form is confirmation of the Customer's acceptance of this Contract and the Terms. The Supplier is not required to check the status and level of authority of the person sending and/or confirming an order and the Customer warrants that the person sending and / or confirming the order is authorised to do so on behalf of the Customer.

2.2 No order or instructions submitted by the Customer shall be deemed to be accepted by the Supplier unless and until confirmed in Writing by the Supplier's authorised representative. The Customer shall provide an order number. Any failure to provide an order number shall not delay payment to the Supplier.

2.3 No variation to these Terms shall be binding unless agreed in Writing between the Authorised Representatives of the Customer and the Supplier. Any changes or additions to the Goods or Services must be confirmed in Writing by the Authorised Representatives

of the Supplier and Customer.

- 2.4 The Supplier's employees or agents are not authorised to make any representations concerning the Goods or Services and the Customer shall not rely on any such representations unless confirmed by the Supplier to the Customer in Writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed, but nothing in these Terms affects the liability of either party for fraudulent misrepresentation.
- 2.5 Any advice or recommendation given by the Supplier or its employees or agents to the Customer or its employees or agents in connection to the Goods or Services which is not confirmed in Writing by the Supplier is followed or acted on entirely at the Customer's own risk, and accordingly the Supplier shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.6 Any typographical, clerical or other error or omission in any sales literature, brochure, quotation, price list, acceptance of offer, invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.
- 2.7 Nothing in this Contract shall create, or be deemed to create, a partnership between the parties.
- 2.8 The Customer agrees to notify the Supplier if any Goods are to be used in or involved in any trials, testing and/or clinical evaluations and that such Goods shall not be so used without the prior written consent of the Supplier which shall not be unreasonably withheld or delayed.
- 2.9 Any independent testing of Goods by the Supplier is carried out in a controlled environment as a result the Supplier cannot and does not warrant that the Customer's use of the Goods will result in performance levels.
- 2.10 The Supplier shall not be liable for any defect in quality or condition of the Goods arising after delivery or any problems arising in connection with the use of the Goods by the Customer if they have not been stored and/ or operated and used by the Customer in accordance with the recommendations in any relevant instruction manual supplied with the Goods.

3 Orders and specifications

- 3.1 The quantity, quality and description of the Goods or Services and any specification for them shall be as set out in the Order Form unless otherwise agreed in Writing between the Customer and the Supplier.
- 3.2 The Customer shall be responsible for giving to the Supplier at the Customer's own expense any necessary documents or other materials and all data and information relating to the Goods or Services within a sufficient time to enable the Supplier to perform the Contract in accordance with the Terms.
- 3.3 The Customer shall be responsible to the Supplier for ensuring the accuracy of any information supplied by the Customer and responsible for the accuracy of the terms in the Order Form (including any applicable specification).
- 3.4 If the Goods or Services are not operated in accordance with the provisions of this Contract and/or other written instructions for use or adapted or integrated into any other product or process by the Customer, the Customer shall indemnify the Supplier against all loss, damages, costs and

expenses awarded against or incurred by the Supplier in connection with, or paid or agreed to be paid by the Supplier in settlement of, any claim for infringement of any patent, copyright, design, trade mark or other industrial or Intellectual Property rights of any other person. The Supplier reserves the right to make any changes in the specification of the Goods or Services which are required to conform with any law.

- 3.5 No order for Goods or Services which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in Writing of the Supplier and on terms that the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.

4 Rights in Output Material

- 4.1 The property and any copyright or other intellectual property rights in any Output Material or subsequent development of the Goods or processes used shall, unless otherwise agreed in Writing between the Customer and the Supplier, belong to the Supplier.
- 4.2 All and any Output Material shall be kept confidential by the Customer; but the foregoing shall not apply to any documents or other materials, data or other information which are public knowledge at the time when they are so provided to the Customer by the Supplier, and shall cease to apply if at any future time they become public knowledge through no fault of the Customer.
- 4.3 The Customer warrants that any information data documents or material and its use by the Supplier for the purpose of supplying the Goods or Services will not infringe the Intellectual Property Right of any third party, and the Customer shall indemnify the Supplier against any loss, damages, costs, expenses or other claims arising from any such infringement.
- 4.4 The Customer shall ensure the accuracy of any information data documents or material it supplies to the Supplier and the Customer shall at its own expense insure against its accidental loss or damage. The Supplier shall have no liability for any such loss or damage howsoever caused.

5 Price of the Goods or Services

- 5.1 The price of the Goods or Services or the price of hiring the Goods shall be as stated on the Order Form unless otherwise agreed in Writing between the Customer and the Supplier. All prices quoted are valid for 30 days only or until earlier acceptance by the Customer, after which time they may be altered by the Supplier without giving notice to the Customer.
- 5.2 Except as otherwise stated in the Order Form, and unless otherwise agreed in Writing between the Customer and the Supplier, all prices are given by the Supplier on an ex works basis, and where the Supplier agrees to deliver the Goods or Services otherwise than at the Supplier's premises, the Customer shall be liable to pay the Supplier's charges for such delivery.
- 5.3 The prices stated on the Order Form are exclusive of any applicable value added tax, which the Customer shall be additionally liable to pay to the Supplier.
- 5.4 The cost of pallets and returnable containers will be charged to the Customer in addition to the price of the Goods or Services, but

full credit will be given to the Customer provided they are returned undamaged to the Supplier before the due payment date.

- 5.5 The Supplier shall be entitled to vary the Prices set out in the Order Form and or its Terms from time to time by giving reasonable notice in writing to the Customer

6 General

- 6.1 These Terms (together with the terms, if any, set out in the Order Form) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in Writing between the parties.
- 6.2 All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law. No warranty or guarantee whatsoever is given by the Supplier in connection with the Goods or Services except as expressly provided in these Terms
- 6.3 A notice required or permitted to be given by either party to the other under these Terms shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- a) No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision. If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.
- 6.4 The Customer acknowledges it has read and agrees to the terms of the Supplier's Privacy Policy which can be found on the Supplier's website: www.inivos.com/terms.
- 6.5 Each of the clauses contained in this Contract:
- a) is separate and severable from and shall be read and construed independently of the others and the unenforceability of any part of this Contract will not affect the enforceability of any other part; and
- b) may be amended (without affecting the validity of the other restrictions) by the deletion or addition of a word or phrase in order to make it valid and enforceable in circumstances where it would not otherwise be valid and enforceable.
- 6.6 The Supplier shall not be liable or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Goods or Services, if the delay or failure was directly or indirectly due to any cause beyond the Supplier's reasonable control. Without limiting the foregoing, the following shall be regarded as causes beyond the Supplier's reasonable control:
- a) Act of God, explosion, flood, tempest, fire or accident;
- b) war or threat of war, sabotage, insurrection, civil disturbance or requisition;
- c) acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- d) pandemic or epidemic;
- e) import or export regulations or embargoes;

- f) strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of The Supplier or of a third party);
 - g) difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - h) power failure or breakdown in machinery; or
 - i) any other cause whatsoever, whether or not of a like nature to those specified herein.
- 6.7 The Supplier may perform any of the obligations undertaken by it and exercise any of the rights granted to it under this Contract through any other company which at the relevant time is its holding company or subsidiary or the subsidiary of any such holding company, and any act or omission of any such company shall for the purposes of this Contract be deemed to be the act or omission of the Supplier.
- 6.8 The Supplier may carry out its obligations under this Contract through any agents or sub suppliers appointed by it in its absolute discretion for that purpose.
- 6.9 For the purposes of the Contracts (Rights of Third Parties) Act 1999 this Contract is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.
- 6.10 The Contract shall be governed by the laws of England, and the Customer agrees to submit to the exclusive jurisdiction of the English courts.
- 6.11 Each Party ('Receiving Party') shall keep the Confidential Information of the other Party ('Supplying Party') confidential and secret, whether disclosed to or received by the Receiving Party. The Receiving Party shall only use the confidential information of the Supplying Party for the Purpose and for performing the Receiving Party's obligations under the Contract. The Receiving Party shall inform its officers, employees and agents of the Receiving Party's obligations under the provisions of this Clause 6.10, and ensure that the Receiving Party's officers, employees and agents meet the obligations.
- 6.12 The obligations of Clause 6.10 shall not apply to any information which:
- a) was known or in the possession of the Receiving Party before it was provided to the Receiving Party by the Providing Party
 - b) is, or becomes, publicly available through no fault of the Receiving Party;
 - c) is provided to the Receiving Party without restriction or disclosure by a third party; who did not breach any confidentiality obligations by making such a disclosure;
 - d) was developed by the Receiving Party (or on its behalf) who had no direct access to, or use or knowledge of the Confidential Information supplied by the Supplying Party; or
 - e) is required to be disclosed by order of a court of competent jurisdiction.
- 6.13 Clauses 6.10 to 6.12 shall survive termination of this Contract for a period of five years.
- 6.14 The Customer may not assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under this Contract without the prior written agreement of the Supplier.
- 6.15 The Supplier reserves the right to nominate a third party to carry out its obligations under these Terms.
- 6.16 The Customer hereby waives all and any future claims and rights of set off against any sums due to the Supplier under this

Contract and agrees to pay the sums due to the Supplier under this Contract regardless of any equity, set off or cross claim on the part of the Customer against the Supplier.

- 6.17 To the full extent permitted by law, the Customer shall be solely responsible for and hold the Supplier fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses suffered or incurred directly or indirectly by the Supplier as a result of any breach or default on the part of the Customer or its representatives in the discharge of its obligations under this Contract.
- 6.18 Any conditions found to be void, unenforceable or illegal may, to that extent be severed from the Contract.
- 6.19 No waiver of any of these Terms or failure to exercise a right or remedy by the Supplier will be considered to imply or constitute a further waiver by the Supplier of the same or any other term, condition, right or remedy. Clauses 7 to 12 below are only applicable if you are purchasing Goods from the Supplier:

7 Basis of sale

- 7.1 The Supplier shall sell the Goods and the Customer shall purchase the Goods in accordance with the Order Form and these Terms. The Order Form is confirmation of the Customer's acceptance of this Contract and the Terms.

8 Terms of payment

- 8.1 Subject to any special terms agreed in Writing between the Customer and the Supplier, the Supplier may invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Customer or the Customer wrongfully fails to take delivery of the Goods, in which event the Supplier shall be entitled to invoice the Customer for the price at any time after the Supplier has notified the Customer that the Goods are ready for collection or (as the case may be) after the Customer has wrongfully failed to take delivery of the Goods.
- 8.2 The Customer shall pay the price of the Goods within 30 days of the date of the Supplier's invoice, and the Supplier shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only on request.
- 8.3 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to the Supplier, the Supplier may do any of the following:
- a) cancel the Contract;
 - b) suspend any further deliveries to the Customer;
 - c) cancel or suspend the supply of any Services to the Customer;
 - d) appropriate any payment made by the Customer to such of the Goods (or the Goods supplied under any other contract between the Customer and the Supplier) as the Supplier may think fit (notwithstanding any purported appropriation by the Customer); and
 - e) charge the Customer interest (both before and after any judgment) on the amount unpaid at the rate of 5 per cent per annum above the Bank of England base rate from time to time compounded daily until payment in full is made.
- 8.4 The Supplier reserves its rights under the Late Payment of Commercial Debts (Interest) Act 1998 and or subsequent legislation.

9 Delivery

- 9.1 Unless otherwise agreed in Writing between the Supplier and the Customer, delivery of the Goods shall be made by the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection.
- 9.2 Any dates quoted for delivery of the Goods are approximate only and the Supplier shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Supplier in Writing. The Goods may be delivered by the Supplier in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 9.3 If the Supplier fails to deliver any Goods for any reason other than any cause beyond the Supplier's reasonable control or the Customer's fault, and the Supplier is accordingly liable to the Customer because despite any other clause of these Terms, time of delivery has been agreed to be of the essence between the parties, then, to the extent permissible at law, the Supplier's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar Goods to replace those not delivered over the price of the Goods.
- 9.4 If the Customer fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions at the time stated for delivery (otherwise than by reason of the Supplier's fault) then, without limiting any other right or remedy available to the Supplier, the Supplier may:
- a) store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
 - b) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.
- 9.5 Where the Customer rejects any Goods then the Customer shall have no further rights whatever in respect of the supply to the Customer of such Goods or the failure by the Supplier to supply Goods which conform to the Contract.
- 9.6 Where the Customer accepts or has been deemed to have accepted any Goods then to the extent permissible at law, the Supplier shall have no liability whatever to the Customer in respect of those Goods.

10 Risk and property

- 10.1 Risk of damage to or loss of the Goods shall pass to the Customer:
- a) in the case of Goods to be delivered at the Supplier's premises, at the time when the Supplier notifies the Customer that the Goods are available for collection; or
 - b) in the case of Goods to be delivered otherwise than at the Supplier's premises and the Goods are being transported to the Customer from the Supplier's premises, at the time when the Goods leave the Supplier's premises; or
 - c) in the case of Goods to be delivered otherwise than at the Supplier's premises and the Goods are being transported to the Customer from the manufacturer's premises, at the time when the Goods leave the manufacturer's premises.

10.2 The Customer shall not be entitled to sell, pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier without the prior written authority of the Supplier, but if the Customer does so all moneys owing by the Customer to the Supplier shall (without limiting any other right or remedy of the Supplier) forthwith become due and payable.

10.3 Ownership, title and property in the Goods and in the proceeds of sale of those Goods remains with the Supplier until payment in full for the Goods and all sums due and owing by the Customer to the Supplier on any account has been made. Until the date of payment:

- a) the Customer does not have the right to sell the Goods in the ordinary course of business without the prior written authority of the Supplier; and
- b) the Goods are always at the risk of the Customer.

10.4 The Customer is deemed to be in default immediately upon the happening of any of the following events:

- a) if any payment to the Supplier is not made promptly before the due date for payment;
- b) if the Supplier ceases to carry on business or stops or suspends payment or states its intention of so doing or is unable to pay its debts as they fall due or if any payment by the Customer is dishonoured;

10.5 In the event of a default by the Customer, then without prejudice to any other rights which the Supplier may have at law or under this Contract:

- a) The Supplier or its agents may without notice to the Customer enter the Customer's premises or any premises under the control of the Customer for the purposes of recovering the Goods.
- b) The Supplier may recover and resell the Goods;
- c) if the Goods cannot be distinguished from similar Goods which the Customer has or claims to have paid for in full, the Supplier may in its absolute discretion seize all goods matching the description of the Goods and hold same for a reasonable period so that the respective claims of the Supplier and the Customer may be ascertained. The Supplier must promptly return to the Customer any goods the property of the Customer and the Supplier is in no way liable or responsible for any loss or damage to the Goods or for any loss, damage or destruction to the Customer's business howsoever arising from the seizure of the Goods;
- d) In the event that the Customer uses the Goods in some manufacturing or construction process of its own or some third party, then the Customer must hold such part of the proceeds of sale of such manufacturing or construction process as relates to the Goods in trust for the Supplier. Such part will be an amount equal in dollar terms to the amount owing by the Customer to the Supplier at the time of the receipt of such proceeds. The Customer will pay the Supplier such funds held in trust upon the demand of Supplier.

11 Warranties and liability

11.1 Subject to the following provisions the Supplier warrants that the Goods will correspond with their specification at the time of delivery. Subject to the following provisions the Supplier warrants that the Goods will be free from defects in material

and workmanship for a period of 12 months from the date of their initial use or 12 months from delivery, whichever is the first to expire, unless otherwise expressly stated in the Supplier's branded product specification literature provided to the Customer.

11.2 The benefits given to the Customer in this warranty are in addition to other rights and remedies under a law in relation to the Goods to which this warranty applies.

11.3 This warranty is not applicable outside the jurisdiction where the Goods are delivered and the benefit of such warranty shall not be assigned or transferred by the Customer to any third party.

11.4 Except as required by law, the Supplier cannot be held responsible for inaccuracies or errors caused by incorrect information supplied to the Supplier or by third parties.

11.5 The above warranty extends only to:

- a) defects arising solely from faulty design, materials or workmanship under proper use of the Goods;
- b) Goods installed by a suitably qualified and experienced person;
- c) Goods sold by the Supplier and only where the Goods are used and serviced within the jurisdiction where the Goods are delivered; and
- d) where the defects appear in the Goods within the warranty period.

11.6 This warranty does not cover:

- a) any defect in the Goods arising from any drawing, design, information, data or specification supplied by the Customer;
- b) any defect arising from fair wear and tear due to the course of normal use, wilful damage, negligence, abnormal working conditions, failure to follow the Supplier's instructions (whether oral or in Writing); ;
- c) if the total price for the Goods has not been paid by the due date for payment;
- d) the above warranty does not extend to parts, materials or equipment not manufactured by the Supplier, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer to the Supplier;
- e) unauthorised repairs, alteration, modification or substitution of any parts of the Goods, or storage or use of the Goods other than in accordance with the instructions supplied;
- f) other products into or on which the Goods are installed or form part of, but which have not been supplied by the Supplier;
- g) Goods purchased:
 - i. other than from the Supplier such as purchases from unauthorised retailers and purchases over the internet, from local/international sellers or sites such as Ebay and Amazon); or
 - ii. from a competitor or not from an authorised dealer or distributor of the Supplier;
- h) if in the opinion of the Supplier the Goods have been used otherwise than for their Purpose(s) by the Customer;
- i) if the Customer has used or the Supplier reasonably suspects the Customer has used consumables other than those purchased from the Supplier where such consumables affect or may affect the functionality or condition of the Goods;
- j) to any person company or other organisation other than the Customer.

11.7 In addition to the above, this warranty DOES NOT cover the following:

a) damage or defects to the Goods that ought reasonably to have been revealed to you by an examination of the Goods, where you conducted such an examination before acquiring the Goods,

b) any Goods with a serial number removed,

c) accidental damage or damage caused by an extra-ordinary event or circumstance beyond the Customer's or anyone else's control including damage caused by:

- i. environmental factors;
- ii. abuse including overloading.

11.8 Charges will apply for any non-warranty services performed.

11.9 To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these Terms or in another warranty document given by the Supplier are excluded and the Supplier is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for Consequential Loss.

11.10 A claim by the Customer which is based on any defect in the quality or condition of the Goods or their failure to correspond with specification shall (whether or not delivery is refused by the Customer) be notified to the Supplier within seven days from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) immediately upon discovery of the defect or failure. If delivery is not refused, and the Customer does not notify the Supplier accordingly, the Customer shall not be entitled to reject the Goods and the Supplier shall have no liability for such defect or failure, and the Customer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract.

11.11 The following statement applies if the supply of the Goods to the Customer is a consumer sale as defined in the UK or Australian consumer laws (Consumer Law). In this statement, 'Our' means 'Supplier', 'You' means the 'Customer' and 'goods' means 'Goods':

- a) Our goods come with guarantees and warranties that cannot be excluded under the Consumer Law. You are entitled to a replacement or refund for a major failure and may be entitled to compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

11.12 What constitutes a major failure may be set out in the relevant Consumer Law.

11.13 The Supplier's liability is limited, to the extent permissible by law and at the Supplier's option, to;

- a) in relation to the Goods:
 - i. replacing the Goods, or where the product no longer exists, the supply of equivalent goods;
 - ii. the repair of the Goods;
 - iii. the payment of the cost of replacing the Goods or of acquiring equivalent Goods; or
 - iv. the payment of the cost of having the Goods repaired.

11.14 To the extent permissible at law, the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss

of profit or for any direct, indirect, special or Consequential Loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Supplier, its employees or agents or otherwise) which arise out of or in connection with the supply of the Goods (including any delay in supplying or failure to supply the Goods in accordance with the Contract or at all) or their use or resale by the Customer, and the entire liability of the Supplier under or in connection with the Contract shall not exceed the price of the Goods, except as expressly provided in these Terms.

11.15 The benefits given to the Purchaser in this warranty are in addition to other rights and remedies under a law in relation to the Goods or services to which this warranty applies.

11.16 This warranty is not applicable outside the jurisdiction where the Goods are delivered and the benefit of such warranty shall not be assigned or transferred by the Customer to any third party.

12 Insolvency of Customer

12.1 This clause 11.15 applies if:

12.1.1 the Customer makes a voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or

12.1.2 an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or

12.1.3 the Customer ceases, or threatens to cease, to carry on business; or

12.1.4 the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

12.2 If this clause applies then, without limiting any other right or remedy available to the Supplier, the Supplier may cancel the Contract and or suspend any further deliveries of Goods under the Contract and or suspend the supply of Services to the Customer without any liability to the Customer, and if the Goods or Services have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

Clauses 13 to 26 below apply only if you are hiring Goods from the Supplier:

13 Hire

13.1 The Supplier hereby hires to the Customer the Goods for the Hire Period and at the Hire Price in each case as stated in the Order Form subject to these Terms.

13.2 Clauses 1 to 12 shall apply to the purchase of Consumables for the Goods from the Supplier by the Customer.

14 Commencement of hire

14.1 The hiring of the Goods will commence on the date on which the Goods are delivered to or made available for collection by the Customer or its agents ('the Commencement of Hire').

14.2 The Hire Period shall be for a minimum of 3 years or as stated on the Order Form.

14.3 At the end of the Hire Period the hire of the Goods by the Customer shall continue ("the Continuing Hire") unless:-

a) the Contract is or has been otherwise terminated in accordance with clause 35 below;

b) the Customer serves on the Supplier a notice in writing of their intention not to hire the Goods for the Continuing Hire at least twelve months before the end of the Hire Period;

c) the Supplier confirms to the Customer at any time that Continuing Hire will not be granted to the Customer;

d) the Customer purchases the Goods in accordance with Clause 25.8.

15 Hire Price

15.1 The Customer will pay to the Supplier in advance the Hire Price stated in the Order Form, the first such payment to be made on the date of Commencement of Hire and subsequent payments to be made at the consecutive intervals specified in the Order Form without prior demand by the Supplier. Time shall be of the essence in respect of the payment of all sums due hereunder. The Supplier reserves its rights under the Late Payment of Commercial Debts (Interest) Act 1998 and or subsequent legislation.

15.2 For the avoidance of doubt the Hire Price shall be payable notwithstanding that the Goods are not used by the Customer for any reason whatsoever.

16 Revision of Hire Price

16.1 The Customer expressly acknowledges and accepts that the Supplier shall be entitled to revise the Hire Price stated in the Order Form (by such amount as the Supplier shall in its absolute discretion determine) at any time before the Commencement of Hire in the event that, between the date of signature of this Contract and the date of Commencement of Hire (but not otherwise), an increase is announced or imposed by the manufacturer in the price of the Goods.

16.2 Any such revision will be notified by the Supplier to the Customer as soon as practicable and in any event on or before the Commencement of Hire. In the event the Customer does not accept such price revision, it shall have the right for a period of seven days after receipt of such notification to serve notice on the Supplier cancelling this Contract. Subject to return of any Goods then in the possession of the Customer in good repair and condition, the Customer will incur no liability or obligation to the Supplier on account of such cancellation.

17 Use of Goods

17.1 The Customer may use the Goods for the Purposes only. The Goods are not to be used, and the Customer will not permit them to be used, for any purposes for which they are not expressly designed. Further the Customer will not use or permit the Goods to be used for any other purpose whatsoever.

17.2 The Customer agrees that it will not without the prior consent of the Supplier effect any modification or alteration to the Goods nor will it make any addition to the Goods.

17.3 In the event that the Customer develops the Goods in any way, any Intellectual Property generated shall belong to the Supplier.

18 Duties of the Supplier

18.1 Following delivery of the Goods to the Customer and provided that the Customer has confirmed to the Supplier that the Goods have been delivered, the Supplier shall instruct a representative to attend at the Customer's premises at a mutually convenient time during Normal Working Hours for one session of up to two hours in order to prepare the Goods for their

Purpose(s) and provide advice as to the operation of the Goods to not more than 5 members of the Customer's nominated staff during such session.

18.2 The Supplier shall during the continuance of this Contract provided:

a) supply type of Services set out on the Order Form (if any) subject to the applicable parts of these Terms;

b) subject to the provisions of clause 19 hereof, in the event any Goods becomes temporarily unable to fulfil their Purpose(s) (other than as a result of accident, damage, theft or vandalism or any fault of the Customer), make available a replacement Goods (not necessarily of the same type and age) for collection by the Customer within 48 hours (or so soon thereafter as is practicable) after the receipt of notification from the Customer requesting the same. The said replacement Goods shall be available to the Customer for a maximum period of 21 days; provided that the Customer has complied with its obligations in this Contract.

18.3 The Supplier may at its discretion from time to time withdraw any Goods and substitute another Goods of similar make and type.

19 Duties of the Customer

The Customer will during the continuance of this Contract:

19.1 pay to the Supplier interest at the rate of 5 per cent per annum above the Base Rate for the time being of the Bank of England on all sums which from time to time may be due from the Customer to the Supplier hereunder and remain for the time being unpaid, such interest being calculated from the due date until actual payment compounded monthly and to be payable as well after as before any judgment obtained in respect thereof;

19.2 ensure that the Goods are operated properly and safely and only by the staff advised by the Supplier in accordance with Clause 18.1;

19.3 indemnify the Supplier against all fines, penalties and liabilities imposed on the Supplier or arising in respect of any non compliance or contravention of any law or regulation, together with any cost or expense relating thereto incurred by the Supplier;

19.4 not take or allow any of the Goods to be taken out of the jurisdiction where such Goods are delivered without receiving the prior written authority of the Supplier and, in the event of that authority being given, only on such terms as the Supplier deems fit;

19.5 collect from and return to the Supplier, or from and to such place as the Supplier shall advise, any replacement Goods made available to the Customer in accordance with clause 18.2 hereof. The replacement Goods shall be returned within 24 hours after the Customer has been informed by the Supplier that the original Goods is ready for collection, failing which the Customer will pay an additional price for the replacement Goods at a rate determined by the Supplier for the period during which the replacement Goods is retained by the Customer;

19.6 bear the cost of the repair or rectification of any damage to the Goods which in the Supplier's opinion has resulted from negligence or improper use of the Goods by the Customer or any person permitted by the Customer to use or access the Goods;

19.7 pay all costs incurred by the Supplier in respect of the supply and fixing of any accessories, extras or additions which may

be required by law or which are fitted to the Goods at the request of or by the Customer;

- 19.8 without the prior written authorisation of the Supplier, not sell, assign, mortgage, let on hire, or otherwise dispose of or part with possession of any Goods or part thereof, not allow a lien to be created over the Goods, nor charge the benefit of this Contract nor attempt or purport to do so;
- 19.9 take all necessary steps at its own expense to retain and recover possession and control of any Goods of which the Customer loses possession or control;
- 19.10 permit the Supplier or its authorised representatives at all reasonable times and on reasonable notice to enter upon the premises where each Goods may from time to time be stored to inspect and test the condition of the Goods;
- 19.11 notify the Supplier of any change in the Customer's address and upon request by the Supplier promptly inform the Supplier of the whereabouts of the Goods and in any event to keep the Goods at the Location unless otherwise agreed in Writing by the Supplier;
- 19.12 in respect of the condition and maintenance of the Goods, be solely responsible at its own cost:
- for regularly checking the Goods for damage and wear and tear;
 - regularly cleaning the Goods;
- 19.13 immediately stop using the Goods, notify the Supplier and take all steps necessary to prevent injury occurring to persons or property and take all steps necessary to prevent any further damage to the Goods if there is any damage or wear and tear or if there is any other problem with the workings of the Goods;
- 19.14 only contact the Supplier in relation to the maintenance of the Goods and instruct only the Supplier or the Supplier's nominated organisation to carry out maintenance to the Goods and deliver and collect the Goods to and from any maintenance or repair agent nominated by the Supplier and pay for the cost of moving any Goods to such maintenance or repair agent when it has become unable to be used for its Purpose(s);
- 19.15 not to allow any person or corporate body or other organisation to store, tamper with, make alterations or additions to the Goods;
- 19.16 not use or permit the Goods to be used or operated in a manner contrary to any statutory provision or regulation or in any way contrary to law;
- 19.17 ensure that the Supplier's labelling of the Goods is not damaged, obscured or removed.

20 Insurance and damage to the Goods

- 20.1 The Supplier will throughout the Hire Period, without prejudice to the liability of the Customer to the Supplier keep the Goods (including any replacement Goods) provided under this Contract insured against damage. The Customer shall not use or allow the Goods to be used for any purpose not permitted by the terms and conditions of the policy of insurance or do or allow to be done any act or thing whereby the insurance may be invalidated. The Customer shall indemnify the Supplier against all loss or damage to the Goods not recoverable under the policy of insurance and the Supplier shall not be responsible for any loss or damage, including Consequential Loss, incurred by the Customer whatsoever as a result of any

loss of or damage to the Goods.

- 20.2 Where any event, accident, loss or damage shall occur to the Goods, the Customer shall immediately notify the Supplier thereof, shall not compromise any claim without the consent of the Supplier, shall allow the Supplier to take over the conduct of negotiations (except in relation to claims of the Customer for personal injuries, loss of use of the Goods, or loss or damage to the property of the Customer unconnected with the Goods) and shall at the expense of the Customer take such proceedings (in the sole name of the Customer or jointly with the Supplier) as the Supplier shall direct, holding all sums recovered, together with any monies received by the Customer under the policy of insurance, on trust for the Supplier and paying or applying the same as the Supplier directs and as herein provided.
- 20.3 The Supplier shall have the right itself to repair or have repaired any Goods which is the subject of damage. If the Supplier does not choose to do so the Customer shall be liable to reinstate or repair at its own expense (but subject to any insurance proceeds) Goods which have not become a total loss and shall continue to pay the Hire Price in respect of such Goods during such reinstatement or repair.
- 20.4 The Customer will be liable to pay to the Supplier any amount deducted by the insurers by way of excess or in respect of damage caused to the Goods prior to the date of total loss, and shall indemnify the Supplier against all and any loss suffered by it in consequence of the loss or destruction of the relevant Goods.

21 General liability

- 21.1 All guarantees, terms, conditions, warranties, undertakings, inducements or representations whether expressed or implied, statutory or otherwise, relating to this Contract or its subject matter are excluded, except to the extent set out in this Contract.
- 21.2 To the extent permitted by law:
- 21.2.1 The Supplier excludes all express and implied warranties in respect of the Goods that would otherwise be implied by the law into the Contract;
- 21.2.2 The Supplier excludes all liability for any damage, whether arising in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for any Consequential, Loss;
- 21.3 Subject to the Supplier's obligations under law and to the maximum extent permitted by law, the Supplier's maximum aggregate liability for all claims under or relating to the Contract or its subject matter, whether in contract, tort (including without limitation negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to an amount equal to the fees paid by the Supplier under this Contract.
- 21.4 The Customer is liable for and indemnifies the Supplier against all liability, claims, damage, loss, costs and expenses (including, without limitation, legal fees, costs and disbursements on a full indemnity basis, whether incurred or awarded against the Supplier, and any environmental loss, cost, damage or expenses) in respect of the Supplier's hire or use of the Goods or the Customer's breach, termination or

cancellation of the Contract.

- 21.5 The Customer shall be solely responsible for and hold the Supplier fully indemnified against all claims, demands, liabilities, losses, damages, proceedings, costs and expenses which may be brought against or incurred by the Supplier as a result of any accident involving the Goods or use of the Goods (other than death or personal injury resulting from the negligence of the Supplier, its employees or agents).
- 21.6 The Supplier does not hire the Goods subject to any condition or warranty express, implied or statutory in connection with the fitness for any purpose or age of the Goods and any conditions and warranties are hereby expressly excluded insofar as permitted by statute and (save for the Supplier's liability for death or personal injury caused by the negligence of the Supplier, its employees or agents) and the entire liability of the Supplier under or in connection with the Contract shall not exceed the amount of the Supplier's charges under these Terms.

22 Delivery

- 22.1 Delivery of the Goods shall be made by the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed in Writing by the Supplier, by the Supplier delivering the Goods to that place subject to the Customer paying the Supplier's costs of delivery which are set out on the Order Form.
- 22.2 Any dates quoted for delivery of the Goods are approximate only and the Supplier shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Supplier in Writing. The Goods may be delivered by the Supplier in advance of the quoted delivery date on giving reasonable notice to the Customer.
- 22.3 If the Supplier fails to deliver any Goods for any reason other than any cause beyond the Supplier's reasonable control or the Customer's fault, and the Supplier is accordingly liable to the Customer, the Supplier's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of the hire of similar Goods to replace those not delivered over the price of the Goods.
- 22.4 If the Customer fails to take delivery of the Goods or fails to give the Supplier adequate delivery instructions at the time stated for delivery (otherwise than by reason of the Supplier's fault) then, without limiting any other right or remedy available to the Supplier, the Supplier may:
- store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; and/or
 - terminate the Contract and the Customer shall indemnify the Supplier in respect of any costs the Supplier incurs as a result of the Customer's failure to take delivery of the Goods or its failure to give the Supplier adequate delivery instructions at the time stated for delivery.

23 Risk

- 23.1 Risk of damage subject to any insurance to or loss of the Goods shall pass to the Customer:
- in the case of Goods to be delivered at the Supplier's premises, at the time when the

Supplier notifies the Customer that the Goods are available for collection; or

- b) in the case of Goods to be delivered otherwise than at the Supplier's premises and the Goods are being transported from the Supplier's premises to the Customer, at the time when the Goods leave the Supplier's premises; or
- c) in the case of Goods to be delivered otherwise than at the Supplier's premises and the Goods are being transported from a manufacturer's premises to the Customer, at the time when the Goods leave the manufacturer's premises.

23.2 Risk of damage to or loss of the Goods shall return to the Supplier after termination of this Contract and when the Goods have been returned to the Supplier's premises or other location designated by the Supplier.

24 Property

24.1 The Supplier will retain full title to the Goods at all times during the Hire Period. The Customer's rights to use the Goods are as a bailee only.

24.2 Without the prior written authorisation of the Supplier, the Customer is not entitled to offer, sell, assign, sub-let, charge, mortgage, pledge or create any form of security interest over the Goods or permit a lien to arise or be exercised over the Goods, or otherwise deal with the Goods in any way not permitted under this Contract.

25 Termination

25.1 The Supplier may terminate the Contract at any time by serving not less than two weeks' notice in Writing on the Customer without incurring any responsibility or liability to the Customer for any loss or damage caused as a result of such termination.

25.2 During the period of Continuing Hire the Customer may terminate the Contract by serving notice in Writing not less than the period stated on the Order Form or the period which is one third of the total Hire Period whichever is the greater.

25.3 If any of the following events occur or if the Supplier reasonably apprehends that any of the following events are about to occur in relation to the Customer and notifies the Customer accordingly; then in each and every such case the Supplier may at its option terminate this Contract immediately on giving the Customer written notice without any liability to the Customer and if any Goods or Services have been supplied then the price for those Goods or Services will become immediately due and payable to the Supplier notwithstanding any previous agreement to the contrary:

- a) if any distress, execution, or other legal process shall be levied on or against the Goods or any part thereof or against any premises where the same may be or against any of the Customer's goods or other property or the Customer shall permit any judgment against it to remain unsatisfied for seven days; or
- b) if the Customer, being an individual, shall die, shall suffer an interim order (within the meaning of the Insolvency Act 1986) to be made against him or enter into a voluntary arrangement or suffer the making of a statutory demand or the presentation of a petition for a bankruptcy order; or
- c) if the Customer, being a body corporate, shall enter into any liquidation, shall call any meeting of its creditors or shall have a

receiver or receiver manager of all or any of its undertaking or assets appointed, or shall suffer the appointment or the presentation of a petition for the appointment of an Administrator under the provisions of Part II of the Insolvency Act 1986, or shall be deemed by virtue of section 123 of the Insolvency Act 1986 to be unable to pay its debts;

- d) the Customer ceases, or threatens to cease, to carry on business; or
- e) the Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly; then in each and every such case the Supplier may at its option terminate this agreement immediately on giving the Customer written notice without any liability to the Customer and if any Goods or Services have been supplied then the price for those Goods or Services shall become immediately due and payable to the Supplier notwithstanding any previous agreement to the contrary.

25.4 The Customer must upon any termination under clauses 25.1 to 25.3 above pay to the Supplier:

- a) all arrears of the Hire Price then due and all other sums accrued due and unpaid at the date of termination, together with interest thereon payable under clause 19 hereof;;
- b) the cost of all repairs required as at the date of termination;
- c) compensation for the loss suffered by the Supplier as a result of such termination, such loss being determined by the Supplier having regard to all relevant circumstances;
- d) any other sums which are or become due to the Supplier or to which the Supplier is entitled by way of damages; and
- e) any other sums which the Supplier becomes due to pay as a result of termination (including but not limited to bank charges).

25.5 The termination of the hire constituted by this Contract shall not affect any rights of the Supplier or liabilities of the Customer subsisting at the date of termination.

25.6 On termination of the hire howsoever or whenever occasioned or on expiry of the Hire Period or period of Continuing Hire, the Customer shall (unless otherwise agreed with the Supplier) forthwith return the Goods (including each Goods' spare parts if any) to the Supplier at such address as the Supplier may direct in good order and in good working condition and at the Customer's expense and risk. Without prejudice to the foregoing or to the Supplier's claim for any arrears of Hire Price or damages for any breach by the Customer of this Contract or any other rights hereunder, the Supplier or its authorised representatives may at any time after such termination or expiry of the Hire Period or period of Continuing Hire without notice take all steps necessary (including legal action) to retake possession of the Goods and for such purpose enter upon any premises belonging to or in the occupation or control of the Customer and the Customer shall be responsible for all costs, charges and expenses so incurred in retaking possession of the Goods as aforesaid. The Customer shall also bear the reasonable costs incurred by the Supplier at any time in ascertaining the whereabouts of the Goods and/or the Customer.

25.7 Upon termination of this Contract the Customer shall deliver, and require that its

employees and agents deliver, to the Supplier:

- a) all materials, documents, papers, information, data and disks (in whatever form or medium or format) ('Materials'), wherever such Material is located or stored, and all copies of the Materials; and
- b) any other property of the Supplier; which are in the possession or control of the Customer or the Customer's employees or agents at the date of termination.

25.8 In the event that the Customer has paid the Hire Price and other costs set out on the Order Forms and under this Contract on or before the dates due then on the expiry of the Hire Period or during the period of Continuing Hire the Customer may purchase from the Supplier the Goods hired for the Subsequent Hire Price provided that the Customer has served notice in Writing on the Supplier of its intention to purchase the Goods not less than 12 months before it intends to purchase the Goods. Clauses 7 to 12 shall apply to such purchase of the Goods from the Supplier. If no Subsequent Hire Price is stated on the Order Form then the purchase price for such Goods will be at the sole discretion of the Supplier.

26 Continuation payment

26.1 Without prejudice to the provisions of clause 25 hereof, as from the termination of the Contract (howsoever occurring) and until such time as the Goods shall have been returned the Customer will pay by way of recompense for the continued use of the Goods a monthly sum (payable in arrear) at the same rate per annum as the Hire Price payments previously due in respect thereof.

26.2 This clause shall not confer upon the Customer any right to the continued use or possession of the Goods.

Clauses 27 to 35 apply only if the Supplier is providing Services to you:

27 Supply of the Services

27.1 The Services shall be provided in accordance with the Order Form and otherwise in accordance with the Supplier's current brochure or other published literature relating to the Services from time to time, subject to this Contract.

27.2 Further details about the Services, and advice or recommendations about its provision or utilisation, which are not given in the Supplier's brochure or other promotional literature, may be made available on Written request.

27.3 Neither the Supplier nor its staff or agents will provide assistance to hospital staff in connection with matters which fall outside the scope of the Services (including but not limited to the removal of patients and equipment from areas affected by the Services) save in the case of emergency and subject to the Supplier's staff being instructed and supervised at all times in such case of emergency by the Customer's medically qualified staff. The Customer is responsible and liable for any damage or harm caused or suffered to any person or equipment or other matter in such circumstances and the Supplier shall bear no liability for such harm or damage caused.

27.4 Any dates agreed (including those in the Order Form) for the supply of the Services are approximately only and the Supplier shall not be liable for any delay in the supply of the Services howsoever caused. The time for the supply of the Services to the Customer shall not be of the essence of the Contract unless

previously agreed by the Supplier in Writing.

28 Services to be provided

- 28.1 During the period of this Contract the Supplier shall provide the Customer with the type of service specified on the Order Form.
- 28.2 The Maintenance Service shall consist of:
- routine maintenance of the Goods at such intervals as the Supplier may reasonably determine to be necessary in order to keep the Goods in good working order; and
 - the repair of any defect in or malfunction of the Goods which is discovered by the Supplier's representatives during the course of routine maintenance checks or is reported to the Supplier by the Customer from time to time.
- 28.3 Routine maintenance of the Goods shall be carried out by one of the Supplier's suitably qualified and duly authorised representatives attending at the Location at such times during Normal Working Hours as may be agreed in advance between the Supplier and the Customer from time to time.
- 28.4 If the Supplier's representative discovers a defect in or malfunction of the Goods in the course of routine maintenance, the Supplier's representative will use all reasonable endeavours to repair it at the Location, but if that is not reasonably practicable (or is not reasonably practicable in the time available during Normal Working Hours), the Supplier's representative will seek to make suitable arrangements with the Customer for:
- a further visit to be made to the Location during Normal Working Hours for the repair of the defect or malfunction;
 - if the Goods is inoperative as a result of the defect or malfunction, its repair at the Location outside Normal Working Hours; or
 - if it is not reasonably practicable for the defect or malfunction to be repaired otherwise, the removal of the Goods (or, where practical, the part of the Goods in question) for the purposes of repair.
- 28.5 If the Customer reports a defect in or malfunction of the Goods during Normal Working Hours, the Supplier shall use its best endeavours to ensure that one of the Supplier's suitably qualified and duly authorised representatives attends at the Location, during Normal Working Hours, as soon as reasonably practicable in the circumstances; the Supplier's representative will use all reasonable endeavours to repair the defect or malfunction at the Location, but if that is not reasonably practicable (or is not reasonably practicable in the time available during Normal Working Hours), the Supplier's representative shall seek to make such arrangements with the Customer.
- 28.6 For the purposes only of determining the period of time within which the Supplier's representative makes an attendance pursuant to clause 28.5, any period between the end of Normal Working Hours on one Working Day and the beginning of Normal Working Hours on the next Working Day shall be disregarded.
- 28.7 If the Customer reports a defect in or malfunction of the Goods after Normal Working Hours on any day, then unless the Supplier expressly agrees otherwise, the report shall be deemed to be made at the beginning of Normal Working Hours on the next Working Day, and clause 28.5 shall take effect accordingly.

28.8 All reports of defects in or malfunctions of the Goods must be made by telephone, or in Writing, as appropriate, by a representative of the Customer and otherwise in such a manner as the Supplier may reasonably require from time to time.

28.9 The Consultancy Service shall consist of:

- the Supplier providing the Customer from time to time in Writing with such up to date and accurate information as to the application and use of the Goods as may be available to the Supplier and as the Supplier may reasonably determine to be necessary or desirable to be provided; and
- the Supplier using its best endeavours to respond promptly, during Normal Working Hours, by telephone, or in Writing, as appropriate, to any request from the Customer for information concerning the application and use of the Goods, or the repair of any defect in or malfunction of the Goods.

28.10 The Supplier shall ensure that its representatives comply with all safety and security regulations in force at the Customer's premises which are brought to the attention of such representatives.

28.11 The details of the services provided under the Decontamination Service are set out in the attached letter.

28.12 If the training of the Customer's staff is to be provided the Customer is responsible for the competency, behaviour, control and management of its members of staff. The Supplier reserves the right to suspend or stop training for any member of the Customer's staff who fails to meet the Supplier's requirements in terms of competency and behaviour.

29 Services not included

29.1 None of the Maintenance Service the Consultancy Service nor the Decontamination Service shall apply to any defect in the Goods, or any defect or malfunction which in the Supplier's opinion has arisen as a result of:

- electrical work external to the Goods;
- transportation or relocation of the Goods not performed by or on behalf of the Supplier;
- any error or omission relating to the operation of the Goods;
- any modification, adjustment or repair to the Goods made by a third party without the Written consent of the Supplier;
- the subjection of the Goods by the Customer to unusual physical or electrical stress, the neglect or misuse of the Goods or any failure or fluctuation of electrical power, air conditioning, humidity control or other environmental controls; or
- any other cause (except fair wear and tear) which is not due to the neglect or default of the Supplier.

29.2 If on investigation the Supplier reasonably determines that any defect in or malfunction of the Goods is the result of any of the matters referred to in clause 29.1, the Customer shall be liable for all costs incurred by the Supplier in making the investigation and determining its cause, as if that work formed part of the Consultancy Service.

29.3 If any part of the Goods can no longer be maintained in good working order by the provision of replacement spare parts or the whole of the Goods is damaged beyond economic repair otherwise than through the Supplier's fault (as to whether either of which

events has occurred the Supplier's decision shall be final and binding on the Customer) the Supplier reserves the right to terminate this Contract with immediate effect, by giving Written notice to the Customer, in respect of the whole or any part of the Goods which can no longer be maintained, in which case the Supplier shall repay to the Customer a fair proportion of any charges for the Supplier's services which have been paid in advance by the Customer.

29.4 Except as expressly provided in this Contract or as agreed between the parties in Writing, the Supplier shall have no obligation to provide any services to the Customer outside Normal Working Hours.

30 Lab Testing Services

30.1 The Lab Testing Services includes all laboratory testing offered by the Supplier from time to time including, without limitation, microbiological and material testing.

30.2 The delivery to the Supplier by the Customer of any item for testing by the Supplier (a "Sample") shall, upon acceptance of that Sample or request by the Supplier, constitute an 'offer' and if the Supplier begins such testing, on that Sample, the offer shall be deemed to have been accepted by the Supplier and a Service Contract shall be formed under these Terms.

30.3 The Customer shall label the Sample with all necessary safety information, inform the Supplier in writing if any Sample is of a dangerous or unstable nature and of any actual or potential health and safety hazards relating to a Sample or arising from the Supplier's performance of the Lab Testing Services, and shall provide instruction on the safe handling of the Sample.

30.4 The performance of the Lab Testing Services may damage or destroy any and all Samples and any other materials or property delivered by the Customer to the Supplier and the Supplier shall not be liable in respect of any costs or losses resulting from damage to or destruction thereof. The Supplier will properly dispose of all Samples and other property of the Customer following completion of the Lab Testing Services.

30.5 The Supplier will use its reasonable endeavours to complete Lab Testing Services and provide written information, results, technical reports, certificates, test or inspection records, drawings, recommendations, advice or the like in respect of the Lab Testing Services (the "Report") to the Customer by the agreed date, but the Supplier shall not be liable to the Customer for any delay in delivering the Lab Testing Services.

30.6 The Supplier's obligation to complete Lab Testing Services shall be subject to comply with all law and regulation to which it is subject.

30.7 Reports are provided to the Customer for internal guidance and information purposes only and on the basis of information known to the Supplier at the time that the Lab Testing Services are completed and all Reports are prepared on the basis that:

- there is no responsibility to any person or body other than the Customer;
- no warranty is given: (i) in relation to the Lab Testing Services or the uses to which the Report produced in the course of performing such Services; (ii) that any of the intended results or deliverables resulting from such Services can be achieved; or (iii) that the

Customer can freely make use of the Report or its contents without infringing any third party intellectual property rights and the Customer will be deemed to have satisfied itself in this regard;

- c) they are not produced for any particular purpose and no statement is to be deemed, in any circumstances to be or give rise to a representation, undertaking, warranty or contractual condition unless specifically stated;
- d) no guarantee is given or implied that the Report can be relied upon for compliance with any law, regulation or industry code of practice;
- e) the Report must be kept confidential and shall not be disclosed, distributed or otherwise shared with any third party; and
- f) any analysis or forecasts by the Supplier within the Report are estimates only.

31 Charges

31.1 The Supplier shall be entitled to invoice the Customer following the end of each month in which Services are provided, or at other times agreed with the Customer.

31.2 The Customer shall pay:-

- a) the price of the Services; and
 - b) any additional sums which are:
 - i) agreed between the Supplier and the Customer; and or
 - ii) in the Supplier's sole discretion are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any information, material, documents or data provided by the Customer or any other cause attributable to the Customer; within 30 days of the date of the Supplier's invoice, and the Supplier shall be entitled to recover the price, notwithstanding that all Services. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only on request. The Supplier reserves its rights under the Late Payment of Commercial Debts (Interest) Act 1998 and or subsequent legislation.
- 31.3 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to the Supplier and without any liability to the Customer, the Supplier may at its option:
- a) cancel the Contract;
 - b) cancel or suspend any further deliveries of Goods to the Customer;
 - c) cancel or suspend any further performance of Services to the Customer; or
 - d) charge the Customer interest (both before and after any judgment) on the amount unpaid at the rate of 5 per cent per annum above the Bank of England base rate from time to time accruing daily until payment in full is made.
- 31.4 If the Customer requests the Supplier's services without any reasonable justification, or requires the Supplier to repair a defect in or malfunction of the Goods which is due to causes not covered under this Contract, the Customer shall be liable to pay the Supplier's standard charges from time to time in force for such services.

32 Warranties and Liability

32.1 The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill. Where the Supplier supplies in connection with the provision of the Services any goods (including Output Material) or Consumables supplied by a third party, the Supplier does not give any

warranty, guarantee or other term as to their quality, fitness for purpose or otherwise.

32.2 The Supplier shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any documentation, material, data, information or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non arrival, or any other fault of the Customer.

32.3 All Services, the subject of a warranty claim, must be inspected by the Supplier for evaluation before any warranty claim is approved.

- a) To make a warranty claim, the Customer must: notify the Supplier within seven days of the alleged defect first coming to the Customer's attention;
- b) provide the Supplier with all information required including photos of the alleged defect, and with reasonable evidence of proof of purchase;
- c) provide evidence that the Goods have been installed by the Supplier and is used in accordance with the Supplier's or any manufacturer's instructions supplied with the Goods; and
- d) make the Goods and Services available for inspection by the Supplier.

32.4 The following statement applies if the supply of the Services to the Customer is a consumer supply as defined in the UK or Australian consumer laws (Consumer Law). 'Our' means 'Supplier', 'You' means the 'Customer' and 'services' means 'Services': Our services come with guarantees that cannot be excluded under the Consumer Law. For major failures with the service, you are entitled:

- to cancel your service contract with us; and
 - to a refund for the unused portion, or to compensation for its reduced value
- You are also entitled to be compensated for any other reasonably foreseeable loss or damage.

If the failure does not amount to a major failure, you may be entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel your contract and obtain a refund for the unused portion of the contract.

a) What constitutes a major failure may be set out in the Consumer Law.

32.5 To the extent permissible at law, the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any direct, indirect, special or Consequential Loss, damage, costs, expenses or other claims (whether caused by the negligence of the Supplier, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services or their use by the Customer, and the entire liability of the Supplier under or in connection with the Contract shall not exceed the amount of the Supplier's charges for the provision of the Services under these Terms.

32.6 The Supplier's liability is limited, to the extent permissible by law and at the Supplier's option, to:

- a) Supply of the Services again; or
- b) the payment of the cost of having the Services supplied again.

32.7 To the extent permitted at law, all other warranties whether implied or otherwise, not set out in these

Terms or in another warranty document given by the Supplier are excluded and the Supplier is not liable in contract, tort (including, without limitation, negligence or breach of statutory duty) or otherwise to compensate the Customer for any Consequential Loss:

32.8 The Supplier shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Services.

32.9 The Customer acknowledges that the Supplier has provided to the Customer all information documents data and other material necessary for the Customer to provide the warranties at Clause 32.10.

32.10 The Customer warrants that:

- a) it has carried out a full risk assessment in connection with the supply of the Services by the Supplier and a copy of such risk assessment has been provided to the Supplier;
- b) it has no knowledge of any transmittable illness or infection in any of the areas to be attended by the Supplier's staff or agents and it knows of no other risks to the Supplier's staff or agents;
- c) it has removed from the areas in which the Services will be carried out all furnishings and equipment that may be adversely affected by the provision of the Services; and
- d) no members of its staff or its agents who may be adversely affected by the provision of the Services or chemicals or compounds associated with the Services will be at a safe distance from the areas in which the Services are being provided.

32.11 The Supplier may suspend for any length of time the provision of the Services in the event that it becomes aware of any matter which may pose a risk to the health or well-being of any of the Supplier's staff or agents without liability to the Customer for any loss caused.

32.12 The Customer shall be responsible and liable for any harm, illness, personal injury or death (including but not limited to the Supplier's staff or agents) caused by any matter connected to the supply of the Services and the Customer shall be liable to the Supplier for any loss of profit or any direct, indirect or Consequential Loss, damage, costs, expenses or other claims (whether caused by the negligence of the Customer, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services or their use by the Customer.

32.13 The Supplier accepts no liability for any damage caused to any equipment (including but not limited to the Goods) in the areas in which the Services are provided and the Customer confirms that it accepts all responsibility for any damages caused to equipment in consequence of the Services.

33 Spare parts and replacements

33.1 The Supplier shall use all reasonable endeavours to supply spare parts and replacement components required to maintain the Goods in good working order, provided that the Customer shall meet the Supplier's costs of the spare parts and supply of spare parts.

33.2 All spare parts and replacement components supplied by the Supplier shall become part of the Goods and any parts and components removed from it shall become the Supplier's property, unless otherwise agreed in Writing between the parties.

33.3 If the Supplier determines that it is necessary to move the Goods or any part of the Goods from the Location in order to carry out any repairs, and as a consequence a significant part of the Customer's operations are affected, the Supplier shall use all reasonable endeavours to supply on loan to the Customer equivalent Goods while the Goods or the part in question is being repaired.

34 Customer's obligations

34.1 The Customer shall:

- a) at all times keep the Goods in the environmental conditions recommended by the manufacturer of the Goods;
- b) not move the Goods from the Location without obtaining the prior Written consent of the Supplier;
- c) use the Goods only in accordance with such instructions and recommendations relating to the care and operation of the Goods as may be issued by the manufacturer of the Goods or as may from time to time be advised in Writing by the Supplier;
- d) not allow any person other than the Supplier's representatives to adjust, maintain, repair, replace or remove any part of the Goods;
- e) cooperate with the Supplier as the Supplier reasonably requires;
- f) provide the Supplier with such information and documentation as it reasonably requires;
- g) make available to the Supplier and its staff and agents the facilities, resources, working space and staff as the Supplier reasonably requires from time-to-time; and
- h) instruct the Customer's staff and agents to co-operate and assist the Supplier and its staff and agents.

34.2 The Customer shall ensure that the Supplier's representatives have full and free access to the Goods and to any records of its use kept by the Customer to enable the Supplier to perform its duties.

34.3 The Customer shall provide the Supplier with such information concerning the Goods, its application, use, location and environment as the Supplier may reasonably request to enable it to carry out its duties.

34.4 The Customer shall take all such steps as may be necessary to ensure the safety of any of the Supplier's representatives who visit any premises of the Customer.

35 Duration and termination

35.1 The Supplier may terminate the Contract at any time by serving not less than two weeks' notice in Writing on the Customer without incurring any responsibility or liability to the Customer for any loss or damage caused as a result of such termination.

35.2 The Customer may terminate the Contract by serving notice in Writing not less than the period of notice as specified on the Order Form or the period which is one third of the total contract period whichever is the greater.

35.3 If any of the following events occur or if the Supplier reasonably apprehends that any of the following events are about to occur in relation to the Customer and notifies the Customer accordingly; then in each and every such case the Supplier may at its option terminate this Contract immediately on giving the Customer written notice without any liability to the Customer and if any Goods or Services have been supplied then the price for those Goods or Services

will become immediately due and payable to the Supplier notwithstanding any previous agreement to the contrary:

- a) if any distress, execution, or other legal process shall be levied on or against the Goods or any part thereof or against any premises where the same may be or against any of the Customer's goods or other property or the Customer shall permit any judgment against it to remain unsatisfied for seven days; or
- b) if the Customer, being an individual, shall die, shall suffer an interim order (within the meaning of the Insolvency Act 1986) to be made against him or enter into a voluntary arrangement or suffer the making of a statutory demand or the presentation of a petition for a bankruptcy order; or
- c) if the Customer, being a body corporate, shall enter into any liquidation, shall call any meeting of its creditors or shall have a receiver or receiver manager of all or any of its undertaking or assets appointed, or shall suffer the appointment or the presentation of a petition for the appointment of an Administrator under the provisions of Part II of the Insolvency Act 1986, or shall be deemed by virtue of section 123 of the Insolvency Act 1986 to be unable to pay its debts, then in each and every such case the Supplier may at its option terminate this agreement immediately on giving the Customer written notice.
- d) the Customer ceases, or threatens to cease, to carry on business.

35.4 The Customer shall upon any termination under clauses 35.1 to 35.3 above pay to the Supplier:

- a) all arrears of the price for the Services then due and all other sums accrued due and unpaid at the date of termination, together with interest thereon payable under clause 30 hereof;
- b) the cost of all repairs required as at the date of termination;
- c) compensation for the loss suffered by the Supplier as a result of such termination, such loss being determined by the Supplier having regard to all relevant circumstances;
- d) any other sums which are or become due to the Supplier or to which the Supplier is entitled by way of damages; and
- e) any other sums which the Supplier becomes due to pay as a result of termination (including but not limited to bank charges).

35.5 The termination of this Contract shall not affect any rights of the Supplier or liabilities of the Customer subsisting at the date of termination.

35.6 Upon termination of this Contract the Customer must deliver, and require that its employees and agents deliver, to the Supplier:

- a) all materials, documents, papers, information, data and disks (in whatever form or medium or format) ('Materials'), wherever such Material
- b) any other property of the Supplier which are in the possession or control of the Customer or the Customer's employees or agents at the date of termination.

35.7 On termination of this Contract howsoever or whenever occasioned the Customer shall (unless otherwise agreed with the Supplier) return all and any property of the Supplier to the Supplier at such address as the Supplier may direct in good order and in good working condition and at the

Customer's expense and risk. Without prejudice to the foregoing or to the Supplier's claim for any arrears of sums due from the Customer under this Contract, the Supplier or its authorised representatives may at any time after such termination of this Contract without notice take all steps necessary (including legal action) to retake possession of the Supplier's property and for such purpose enter upon any premises belonging to or in the occupation or control of the Customer and the Customer shall be responsible for all costs, charges and expenses so incurred in retaking possession of the Supplier's property as aforesaid. The Customer shall also bear the reasonable costs incurred by the Supplier at any time in ascertaining the whereabouts of the Supplier's property and/or the Customer.

36 Data Protection

36.1 To the extent that either party processes Personal Data on the other party's behalf, such party shall take all such measures that may be required to ensure compliance with the obligations set out in the Data Protection Legislation.

36.2 The parties acknowledge that in connection with the provision of the Services, the Supplier is required to process Personal Data on behalf of the Customer. To the extent that the Supplier processes Personal Data on behalf of the Customer in connection with this agreement, the Supplier shall:

36.3 Solely process the Personal Data for the purposes of fulfilling its obligations under this Agreement and in compliance with the Customer's written instructions as set out in this Agreement and as may be specified from time to time in writing by the Customer;

36.4 Notify the Customer immediately if any instructions of the Customer relating to the processing of Personal Data are unlawful;

36.5 not transfer to or access any Personal Data from a country outside the EEA without the prior written consent of the Customer;

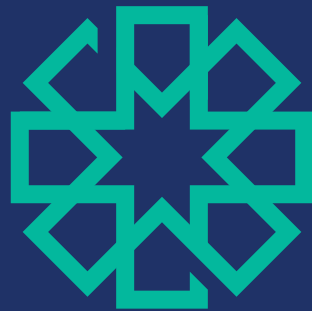
36.6 comply with the Customer's instructions in relation to transfers of Personal Data to a country outside the EEA unless the Supplier is required pursuant to applicable laws to transfer Personal Data outside the EEA, in which case the Supplier shall inform the Customer in writing of the relevant legal requirement before any such transfer occurs unless the relevant law prohibits such notification on important grounds of public interest;

36.7 ensure that any persons used by the Supplier to process Personal Data are subject to legally binding obligations of confidentiality in relation to the Personal Data;

36.8 not engage any sub-contractor to carry out any processing of Personal Data without the prior written consent of the Customer;

36.9 ensure that obligations equivalent to the obligations set out in this clause 35 are included in all contracts between the Supplier and permitted sub-contractors who will be processing Personal Data;

36.10 take appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data taking into account the harm that might result from such unauthorised or unlawful processing, loss, destruction or damage and the nature of the Personal Data to be protected including without limitation, all such measures that may be required to ensure compliance with Data



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