

STANDARD TERMS AND CONDITIONS OF PURCHASE

SUEZ Industrial Water Ltd

1. DEFINITIONS

- 1.1 **"Delivery Date"** means the delivery date stated in the Order.
- 1.2 **"Order"** means one of the Company's purchase orders identified by one of the Company's purchase order numbers and other specification documents stated on the purchase order.
- 1.3 **"Price"** means the price stated in the Order.
- 1.4 **"Products"** means physical goods specified in this order and all components and materials to be incorporated therein or ancillary thereto and all articles, materials, supplies, drawings, data, documentation specified or required and all design carried out as part of this Order and all property rights in such design and all services including delivery, installation, testing and commissioning as required by Company.
- 1.5 **"Company"** means SUEZ Industrial Water Ltd; Company Number 02528695, and whose registered office is SUEZ House, Grenfell Road, Maidenhead, Berkshire, England SL6 1ES.
- 1.6 **"Confidential Information"** means
- 1.6.1 in respect of Information provided in documentary or by way of a model or in other tangible form, Information which at the time of provision is marked or otherwise designated to show expressly or by necessary implication that it is imparted in confidence; and
 - 1.6.2 in respect of Information that is imparted orally, any information that the Company or its representatives informed the Supplier at the time of disclosure was imparted in confidence and which is reduced to writing, marked 'Confidential' and sent to the Supplier within 30 days of the original disclosure; and
 - 1.6.3 any copy of any of the foregoing; and
 - 1.6.4 shall include, in particular, any operations, processes, product information, know how, trade designs, trade secrets or software of the disclosing party.
- 1.7 **"Customer"** means a business or organisation which purchases Products and/ or Services from the Company.
- 1.8 **"Information"** means information provided directly or indirectly by the Disclosing Party to the Receiving Party in oral or documentary form or by way of models, algorithms, formulae, biological or chemical materials or other tangible form or by demonstrations and whether before, on or after the date of this Agreement. It shall include but shall not be limited to; notes, letters, memoranda, reports, contracts, registrations, licences, tables, databases, data books, notebooks, computer prints, text and data stored in computer programmes, drawings, charts, illustrations, materials, samples, and all other documentation and materials prepared or made available pursuant to this Agreement.
- 1.9 **"Services"** means the Service to be provided by the Supplier to the Company as specified in this Order.
- 1.10 **"Supplier"** means the person, firm or corporation to whom this Order is addressed.
- 1.11 **"Work"** means the Product and/or Service to be provided in accordance with the scope of work set out in the Proposal submitted by the Company to the Customer.

2. FORMATION OF CONTRACT

- 2.1 The Order shall not be binding upon the Company until accepted by the Supplier. The Company may deem that formal acceptance has taken place if the Supplier actions the Order in any way. The Company reserves the right to reject any formal acceptance that is received by the Company more than fourteen (14) working days after the date of the Order or which fails to acknowledge full acceptance of the applicable and standard conditions of purchase detailed herein.
- 2.2 Other terms and conditions shall only apply where expressly agreed in writing by the Company. For the avoidance of doubt any Applicable Conditions specified in any Company covering letter(s) will take precedence over these Standard Conditions of Purchase.
- 2.3 If the Company has an existing formal written agreement with the Supplier governing the purchase of Products or Services, then the terms in the formal written agreement will supersede any contrary terms in this Order.
- 2.4 Nothing in these Standard Terms and Conditions of Purchase shall prejudice any condition or warranty expressed or implied or any legal remedy to which the Company may be entitled, in relation to the Products and/or the Services the subject of this Order, by virtue of any statute or custom or any general law or local law or regulation.

3. AUTHORITY

The Company shall not be liable for any Order, Order amendment or instructions to proceed with Orders unless and until authorised or confirmed on the Company's printed Order or amendment form.

4. SUB-CONTRACTING, ASSIGNMENT AND SIGNIFICANT CHANGES

- 4.1 None of the work covered by the Order shall be sub-contracted without the prior permission of the Company. The Supplier shall remain responsible for the performance of the Order and shall not assign the Order or his right to payment hereunder.
- 4.2 The Supplier shall provide the Company with the names of principal sub-contractor(s). The Company may reject a sub-contractor without prejudice to any other rights.
- 4.3 The Supplier shall give the Company not less than 60 days prior written notice (in reasonable detail) of any organisational, operational or other changes which may affect the Supplier's performance of the Order, including but not limited to:
- 4.3.1 the relocation of any of the Supplier's plant which is involved in the manufacture or supply of the relevant Products;
 - 4.3.2 the transfer of any significant part of the relevant process or manufacturing operations from one plant to another;
 - 4.3.3 any significant changes to or affecting the workforce employed in relation to the relevant Products and/or Services;

4.3.4 the refusal, suspension, withdrawal or revocation of a relevant quality or capability system or approval (prompt notice shall be given in respect of this) and/or

4.3.5 where the Supplier has no notice thereof,

4.4 Any of the above matters being referred to as a "**Significant Change**".

4.5 On receipt of such notice or otherwise the Company shall be entitled to review the likely effect(s) of any Significant Change(s) upon the performance of the Order and/or the Company's relevant business or operations and/or the quality of the Products and/or Services to be supplied (each a "**Relevant Matter**"). The Supplier agrees to promptly provide all reasonable assistance to the Company in order to assist the Company in its said review and to address the Company's concerns arising therefrom.

4.6 The Company shall be entitled to suspend the Order for a reasonable period of time without liability where it considers that a Significant Change has or is likely to have a material effect on any Relevant Matter (a "**Material Impact**"). Also, at any time during or after said review the Company may notify the Supplier in writing of the reason(s) it considers the Significant Change to have or be likely to have a Material Impact. The Company may terminate (without prejudice to any of its other rights) the Order forthwith without liability to the Supplier if the Supplier fails to demonstrate (within 30 days of such notification) to the Company's satisfaction that

4.6.1 the Significant Change does not and/or will not have a Material Impact; or

4.6.2 to conclude (in such period) alternative arrangements acceptable to the Company.

4.7 The Supplier shall use all its reasonable endeavours to include provisions substantially similar to conditions 4.1 to 4.7 in its contracts with such of its suppliers as are relevant to the Order ("**Relevant Suppliers**"). The Supplier shall promptly

4.7.1 inform the Company if any Relevant Supplier(s) resist(s) the said inclusion of such provisions; and/or

4.7.2 notify the Company of any matters notified to it pursuant to such provisions, and the Supplier shall afford the Company all reasonable assistance in order to resolve such matters to the Company's satisfaction (such matters constituting Significant Changes for the purposes hereof).

5. NEW MATERIALS

Unless specifically agreed otherwise all materials to be supplied under the Order are to be new.

6. INSPECTION, TESTING AND CALIBRATION

6.1 The Company's inspector or representative and any inspector or representative of the Company's Customer or his agent or of any government department concerned shall be entitled on the Company's authority to witness the inspection or testing of the Products and/or Services which are the subject matter of the Order at any reasonable time at the Supplier's works or at the works of any of the Supplier's sub-contractors. If required by the Company, the Supplier shall give the Company adequate notice of the Supplier's works test which the Company shall be entitled to attend. Reasonable facilities shall be provided at the Supplier's expense for the inspector or representative.

6.2 The Supplier shall provide the Company with such certificates as the Company may require. Such inspection does not relieve the Supplier of any liability nor does it imply acceptance of the Products and/or Services which are the subject matter of the Order. The Company shall be entitled to reject all Products and/or Services which do not conform completely in every respect with the terms of this Order and in respect of Products the Company may exercise the said right of rejection.

6.3 Notwithstanding any provision contained in SS 11, 15A (1) or 35 of the Sale of Goods Act 1979 but subject to s 30 (2A) of that Act, any Products and/or Services that are rejected will either be replaced or re-performed as the case may be, at the sole expense of the Supplier. The Supplier will ensure that in all respects the Products and/or Services comply with all relevant requirements of any statute, statutory rule or order, or other instrument having the force of law which may be in force when the Products are delivered and/or the Services performed as the case may be.

7. PACKING, DELIVERY AND MARKING

7.1 All Products supplied against the Order must be adequately protected against damage and deterioration in transit and delivered to the Company's address as may be nominated by the Company; carriage paid or as otherwise notified in writing to the Supplier and must bear the Company's Order number on the packages thereof. The Products shall be sent at the Supplier's risk until delivered to the Company at the point specified in the Order unless the authorised personnel of the Company otherwise agrees in writing.

7.2 Unless otherwise provided in the Order all containers and packing materials supplied by the Supplier shall be considered non-returnable and their costs shall be included in the price. Where the Company receives Products as unexamined the Company's right under "Inspection" in clause 6 subsequently to inspect the Products and reject them if they do not comply with the specification or claim for shortage shall not be prejudiced. When Products are rejected they will be returned at the Supplier's risk and expense.

7.3 The Supplier will mark all hazardous Products with international danger symbols where they exist and display the name of the material in English. Transport and other documents will include a declaration of the hazard in English. Such Products will be accompanied by emergency information in English in the form of written instructions, labels or markings. The Supplier shall observe the requirements of UK legislation and any relevant international agreements relating to the packing, labelling and carriage of hazardous Products. All information held or reasonably available to the Supplier regarding any potential hazards known or believed to exist in the transport, handling or use of the Products supplied shall be promptly communicated to the Company prior to delivery.

7.4 The Supplier shall notify the Company when the Products and/or Services are ready for delivery. The Supplier shall not deliver the Products and/or Services before receiving a release in writing from the Company. If the Supplier wishes to deliver any Products and/or Services before receiving such release it shall obtain the written consent of the Company before so doing. If the delivery of the Products and/or Services is delayed solely because the Company has not issued a release (other than for some default of the Supplier), the date for the delivery of the Products and/or Services shall be deemed to have been extended to the date stated by the Company for the release of the Products and/or Services and the Supplier shall not be entitled to charge the Company for any storage charges.

7.5 Any time or period for delivery, despatch or completion shall be of the essence. The Company shall be entitled to cancel the Order and/or claim reimbursement for all losses and expenses suffered in the event:

7.5.1 the Supplier fails to deliver Products or provide Services in accordance with the terms of the Order; or

7.5.2 the Supplier fails to make progress with the Order so as to jeopardize the purpose of the Order.

7.6 The Supplier undertakes to notify the Company in writing without delay of any change in circumstances which may delay delivery.

8. PRICE

Unless specifically agreed between Company and Supplier, all contract/project procured component prices shall be fixed and firm and not subject to any form of surcharge or variation for any reason up to 18 months post delivery.

9. PAYMENT

- 9.1 Inattention to the following details may mean delay in payment but no prompt payment discount shall be forfeited by the Company on account of the Supplier's failure:
- 9.1.1 To send on the day of despatch for each consignment such advice(s) of despatch and invoice(s) as may be indicated in the Order or,
 - 9.1.2 To send a monthly statement of account by the 20th of the month quoting the invoice numbers applicable to each item thereon, or
 - 9.1.3 To mark clearly the order number on the consignment package, packing notes, advice notes, invoices, monthly statements and all other correspondence, or,
 - 9.1.4 To provide any certificate or other documentation required under the Order.
- 9.2 All payments made shall be made within 45 days of the end of month of invoice and are made without prejudice to the Company's rights should the Products and/or Services prove unsatisfactory or not in accordance with the Company's order or instructions. No invoice will be accepted for payment application that is submitted in excess of 365 days after any Products or services have been provided to the Company.
- 9.3 All amounts stated are inclusive of VAT and/or any other applicable taxes or levy.
- 9.4 If a payment is not made by the Company by the due date, then the Company shall pay the Supplier interest at a rate which shall compensate for such loss as has been directly caused by the late payment. The interest rate shall not be at a rate higher than 2% above the lending rate of the Bank of England Plc.
- 9.5 The time for payment for any sum due under this Agreement shall not be of the essence.

10. LIQUIDATED DAMAGES

The Company reserves the right to apply liquidated damages if the Supplier delivers Products and/or supplies Services later than any agreed dates for delivery that are stipulated in any Order.

11. TOOLS AND MATERIALS

Where tools and/or test equipment and/or materials are supplied by the Company, the Supplier shall accept full responsibility for their proper storage, safe custody and method of use and shall accept the risk of loss and damage howsoever arising. Any such tools, test equipment and materials shall be used by the Supplier only for performing the work placed by the Company and shall be returned at the Supplier's expense at the completion of the work unless otherwise agreed by the Company in writing. Surplus materials and/or scrap shall be disposed of in accordance with the Company's instructions.

12. DOCUMENTATION

All documentation is to be produced in hardcopy format (2 copies) in Microsoft Word, Microsoft Excel and AutoCAD format as appropriate on CD Rom. The Supplier shall provide serial numbers (where applicable) for all Products or services supplied on their bill of material note or delivery note when delivering Products and/or Services to the Company. The Company's signature on either note is evidence only of the number of packages received and does not constitute an acceptance of the Products as fit for purpose or an acknowledgement that the Products received are the Products ordered.

13. DEFECTIVE MATERIALS/WORKMANSHIP

- 13.1 Without prejudice to all the Company's rights and remedies at law, the Supplier will, at the Company's discretion, repair or replace any defective item or items free of charge within the defects correction period stated in each respective Order.
- 13.2 The Supplier shall keep the Company indemnified in respect of all loss and/or expense which results during proper use directly or indirectly in whole or in part from defective materials, Products, workmanship, design or Services supplied by the Supplier.
- 13.3 The Supplier shall also keep the Company indemnified against any damage to the Company's property (including any materials, tools or patterns sent to the Supplier for any purpose) and against any claims for loss or injury to any person or death of any person or to the property of any person to the extent caused by the Supplier's negligence or any act or omission on the part of the Supplier, the Supplier's employees, sub-contractors or agents arising out of the performance of the Order.
- 13.4 Whenever any sum of money is recoverable from the Supplier or payable by the Supplier to the Company as a result of the operation of any of these Conditions or any breach by the Supplier of the same, such sum may be deducted by the Company from any sum then due or which at any time thereafter may become due to the Supplier under any Order or transaction placed or entered into by the Company with the Supplier.

14. WARRANTY

The Supplier shall ensure that all parts and labour are guaranteed for a minimum period of 12 months and, all Products supplied have a 25 year (minimum) design life including availability to spare parts for such period. If in the event that prior to operational acceptance it becomes apparent that the equipment will not remain operational for 25 years, the Supplier will be required to repair or replace the equipment or implement an alternative solution at no cost to the Company.

15. CONFIDENTIALITY

- 15.1 Each party undertakes and agrees with the other that it shall (in respect of Confidential Information which it receives from the other party):-
- 15.2 (a) keep such Confidential Information in strict confidence and shall not disclose it in whole or in part (except with the prior written consent of the other party) to any third party except to those of its officers, employees, professional advisers, and those officers, employees and/or professional advisers of its subsidiaries and associated companies (as respectively defined in Section 736 of the Companies Act 1985 and 435 of the Insolvency Act 1986) to whom such disclosure shall be reasonably necessary for the Purpose; and

- 15.3 (b)ensure that each person to whom a disclosure is made is aware of the provisions of this Agreement and is subject to an obligation of confidence in favour of the discloser as if he or she were a party to it; and
- 15.4 (c)use such Confidential Information solely for the Purpose and shall not make any direct or indirect use of any part of such Confidential Information for any other purpose; and
- 15.5 not knowingly suffer or permit anything whereby the property (including without limiting the foregoing the intellectual property) in any material delivered hereunder comprising or containing such Confidential Information and in such Confidential Information itself passes from the party making the disclosure or delivery.
- 15.6 To secure the confidentiality attaching to the Confidential Information, the party receiving it shall also:-
- 15.7 (a)keep secure and separate from its own materials such Confidential Information and all information generated by the recipient based on such Confidential Information; and
- 15.8 (b)keep all documents and any other material bearing, incorporating or comprising any such Confidential Information, at the usual place of business of the recipient in the United Kingdom; and
- 15.9 (c)not use, reproduce, transform, or store any such Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means whatsoever outside of its usual place of business provided that this shall not prevent either party from transmitting any such Confidential Information by facsimile machine to a lawful recipient; and
- 15.10 (d)allow access to such Confidential Information only to those employees of the recipient who have reasonable need to see and use it for the Purpose and shall inform each of the said employees of the confidential nature of such Confidential Information and of the obligations on the recipient in respect of it prior to allowing such access; and
- 15.11 (e)copy such Confidential Information only to the extent that is strictly required for the Purpose; and
- 15.12 (f)on request, made at any time, of the party making the disclosure deliver to that party all documents and other material in the possession custody or control of the recipient that bear, incorporate or comprise any part of such Confidential Information;
- 15.13 (g) each party will, promptly upon request, (i) surrender and deliver to the other party; or (ii) destroy and certify to the destruction of, any and all materials and documents provided to or obtained or prepared by it and all copies thereof (including information stored in computers or other electronically encoded media) containing or incorporating Confidential Information of the other party, including any notes, summaries, analyses or other materials or records containing or reflecting any such Confidential Information.
- 15.14 3.The provisions of this Agreement do not apply to any Confidential Information:-
- 15.15 (a)which at the date of disclosure can be shown to be public knowledge already; or
- 15.16 (b)which subsequently becomes public knowledge through no fault of either party hereto; or
- 15.17 (c)which is already lawfully in the possession of the recipient and was received from a third party who was not bound by obligations of confidence to the disclosing party; or
- 15.18 (d)to the extent to which the receiving party is required to disclose the same by the regulations of any recognised Stock Exchange, or any Government agency or regulatory body lawfully requesting disclosure, or by any Court of competent jurisdiction acting in pursuance of its powers.
- 15.19 The parties acknowledge that irreparable injury may result in the event of any use or disclosure by a party of Confidential Information of the other party in violation of this Agreement and that if any party should make, or attempt to make, any such use or disclosure, the other party shall be entitled, in addition to such other remedies, damages and relief as may be available under applicable law, to an injunction prohibiting such use or disclosure or specifically enforcing the provisions hereof, as the case may be. The parties further agree that in the event that a party or any of its employees (including former employees) have used or disclosed Confidential Information in violation of this Agreement, such party will pay and reimburse the other party for any and all direct, consequential or incidental loss, damage, cost or expense resulting from or arising out of any such use or disclosure (including, without limitation, economic loss relating to the loss of the confidentiality of such Confidential Information, lost profits, benefits gained by the breaching party through such use or disclosure, costs of remedying such violation and/or mitigating the damage therefrom, costs of redeveloping, redesigning, reengineering and/or otherwise replacing the Confidential Information and costs of preventing additional disclosure), together with all reasonable legal fees and other litigation expenses (including, without limitation, investigation expenses, expert witness fees and other professional fees or expenses) incurred by the other party in connection with the enforcement of its rights hereunder.
- 15.20 The parties agree that nothing in this Agreement shall be construed to limit or supersede the common law of torts or statutory or other protection of trade secrets where such law provides the parties with greater protections or protections for a longer duration than that herein.
- 15.21 The provisions of this Agreement shall remain in full force and effect for a period of ten years from the date hereof.
- 15.22 The parties shall procure the observance of this Agreement by any of their respective subsidiaries and associated companies (which terms shall have the meaning given in clause 1(a)) to which any Confidential Information is disclosed by a party receiving it hereunder as if they were parties to it.

15.23 The parties acknowledge that the obligations created by and undertakings given in this Agreement are created and given for good and valuable consideration including the mutuality thereof and the agreement of the parties to proceed with their discussions.

15.24 This Agreement shall be governed by and construed in accordance with English Law and the parties submit to the jurisdiction of the English courts.

15.25 Return of Proprietary Information. Each party will, promptly upon request, (i) surrender and deliver to the other party; or (ii) destroy and certify to the destruction of, any and all materials and documents provided to or obtained or prepared by it and all copies thereof (including information stored in computers or other electronically encoded media) containing or incorporating Proprietary Information of the other party, including any notes, summaries, analyses or other materials or records containing or reflecting any such Proprietary Information. Confidant further agrees that it will, promptly upon request, surrender and deliver to Prolitec any Prolitec Equipment in its possession or under its control at the time of such request.

15.26 Remedies. The parties acknowledge that irreparable injury may result in the event of any use or disclosure by a party of Proprietary Information of the other in violation of this Agreement and that if any party should make, or attempt to make, any such use or disclosure, the other party shall be entitled, in addition to such other remedies, damages and relief as may be available under applicable law, to an injunction prohibiting such use or disclosure or specifically enforcing the provisions hereof, as the case may be. The parties further agree that in the event that a party or any of its employees (including former employees) have used or disclosed Proprietary Information or Prolitec Equipment in violation of this Agreement, such party will pay and reimburse the other party for any and all direct, consequential or incidental loss, damage, cost or expense resulting from or arising out of any such use or disclosure (including, without limitation, economic loss relating to the loss of the confidentiality of such Proprietary Information or Prolitec Equipment, lost profits, benefits gained by the breaching party through such use or disclosure, costs of remedying such violation and/or mitigating the damage therefrom, costs of redeveloping, redesigning, reengineering and/or otherwise replacing the Proprietary Information or Prolitec Equipment and costs of preventing additional disclosure), together with all reasonable attorneys' fees and other litigation expenses (including, without limitation, investigation expenses, expert witness fees and other professional fees or expenses) incurred by the other party in connection with the enforcement of its rights hereunder. The parties agree that nothing in this Agreement shall be construed to limit or supersede the common law of torts or statutory or other protection of trade secrets where such law provides the parties with greater protections or protections for a longer duration than that herein.

15.27 Exclusive Rights. Advanced Oxidation Ltd hereby appoints SUEZ Industrial Water Ltd, subject to the provisions of this Agreement, to be its sole

16. INTELLECTUAL PROPERTY INDEMNITY

The Supplier shall keep the Company indemnified in respect of any claim of infringement of intellectual property rights by the use or sale of any Products and/or Services supplied under the Order and against all costs and damages for which the Company may become liable or may incur in any action for such infringement.

17. SOFTWARE

Where software is required to be supplied hereunder the Supplier warrants that the Company has been provided with any conditions of use or licence terms relating to such software prior to the date of the Order. In the event that such conditions or licence terms have not been provided the Supplier agrees to waive their application and the Supplier agrees to fully indemnify the Company against all losses, claims, liabilities, damages, costs and expenses arising from the Company's use of the software in contravention of any such conditions or licence terms. The Supplier warrants that the Supplier is the owner of the copyright or other intellectual property in such software to be supplied or has a valid licence from the owner of the copyright or intellectual property to sell or sub-license the software to the Company.

18. HEALTH AND SAFETY

18.1 In accordance with the requirements of the Health and Safety at Work Act 1974, and any re-enactment or amendment thereof, any safety precautions required for the handling of the material covered by the Order are to be clearly indicated on each consignment.

18.2 Supplier shall strictly observe all health and safety regulations and requirements relating to the work issued by Company or its Customer or any Government or other responsible organisations relating to health and safety matters.

19. INSURANCE AND RISK

19.1 Property in the subject matter of the Order shall pass to the Company no later than the time of delivery provided that any passing of title shall not prejudice either the Company's right to reject for non-conformity with specification or any other rights that the Company may have under the Order provided that where advance or progress payments are made title but not risk shall pass to the Company as soon as items are allocated to the Order. All items so allocated shall be adequately marked and recorded as being the property of the Company.

19.2 Both parties shall have in place with regard to the provision of Products/Services to the Customer by the Company for the duration of this Agreement, at its own cost such insurance policies as are reasonable and adequate having regard to its obligations and liabilities under this Agreement; including but without limitation:

19.2.1 public liability insurance for not less than £5 million per claim; and

19.2.2 product liability insurance for £5 million per claim.

19.2.3 employers liability insurance for not less than £10 million.

19.3 Both parties shall ensure that the other parties interest is noted on each insurance policy, or that a generic interest clause has been included.

20. INDEMNITY

The Supplier shall indemnify, and keep indemnified, the Company against all claims, costs and expenses which the Company may incur and which arise, directly or indirectly from the Supplier's breach of any of its obligations under this Agreement.

21. CONSEQUENTIAL LOSS

Without prejudice to Clause 23 and the other rights that the Company has, in addition, the Supplier shall be liable for all direct, indirect and consequential loss arising from any breach of the provisions of this Agreement.

22. INSOLVENCY AND TERMINATION

- 22.1 Without prejudice to any other right or remedy it might have, either party may terminate this Agreement at any time by notice in writing to the other party ("**Other Party**"), such notice to take effect as specified in the notice:
- 22.1.1 if the Other Party is in substantial breach of this Agreement and, in the case of a breach capable of remedy within 7 days, the breach is not remedied within 7 days of the Other Party receiving notice specifying the breach and requiring it to be remedied; or
- 22.1.2 if the Other Party becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Other Party's assets or business, or if the Other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.
- 22.2 The Company further reserves the right to terminate the whole or any part of this Order or any consignment on account thereof, if the same is not completed in all respects in accordance with the instructions and specifications stated in the Order and with the foregoing conditions, in particular (but without prejudice to the generality of the foregoing) any Applicable Conditions and Clauses 5 and 6 hereof; compliance with which by the Supplier is of the essence.
- 22.3 If the Company cancels this Order as to all or any of the Products and/or the Services covered thereby the Company shall be entitled to purchase from a third party, by variation or novation by any other applicable form of contractual amendment, a like quantity of Products of similar description and quality, or a reasonable alternative thereto or to contract with a third party to perform work of a similar description and quality, and in that event the Supplier shall be liable to reimburse to the Company on demand all expenditure incurred by the Company in connection with said cancellation, including any increase in the Order price over that stated in the Order.

23. DISPUTES

- 23.1 If any question, dispute or difference ("**Matter in Dispute**") shall arise between the Company and the Supplier in relation to the Order which cannot be settled by agreement between the parties, within 30 days of both parties being aware of the Matter in Dispute, either party may as soon as reasonably practicable give to the other notice of the Matter in Dispute specifying its nature and specifying the steps that the party giving the notice considers need to be taken to resolve the Matter in Dispute.
- 23.2 If the matter is not resolved through negotiation, the parties will attempt in good faith to resolve the dispute or claim through an Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Dispute Resolution (CEDR).
- 23.3 If the matter has not been resolved by an ADR procedure within 28 days of the initiation of such procedure, or if either party will not participate in an ADR procedure, the dispute shall be referred to a single arbitrator to be appointed jointly by the parties or in the event of dispute as to such appointment to be appointed by the President for the time being of the Chartered Institute of Arbitrators in accordance with the Arbitration Act 1996 or any statutory modification or re-enactment for the time being in force.
- 23.4 If and to the extent that the Housing Grants, Construction and Regeneration Act 1996 applies to this Order then the rules for adjudication set out by CEDR (Centre for Dispute Resolution) shall apply.

24. SUSPENSION

In the event of any interruption of the Company's business due to circumstances beyond the Company's control such as but not limited to any industrial dispute, fire explosion or accident which would prevent or hinder the use of Products and/or Services which is the subject of the Order the Company shall have the right to suspend the Order until such circumstances have ceased.

25. FORCE MAJEURE

Neither Party shall have any liability under or be deemed to be in breach of this Order for any delays or failures in performance of this Order which result from circumstances beyond the reasonable control of that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than six 6 months, either Party may terminate this Order by written notice to the other Party.

26. NOTICES

- 26.1 Any notice or other communications required to be given under the Terms and Conditions or the Proposal shall be in writing and shall be delivered either by recorded delivery or by fax to the party required to receive the notice to the address and person as set out in the Order.
- 26.2 Any notice sent by way of recorded delivery shall be deemed to have been received on the second day after posting.
- 26.3 Any notice sent by way of facsimile shall be deemed to have been received on the date of transmission if transmitted before 4 pm on a Business Day, or the next Business Day if transmitted otherwise. A notice sent by facsimile should always be also be sent in hardcopy by post.

27. RIGHTS OF THIRD PARTIES

A person who is not a party to the Order shall not have any rights under or in connection with by virtue of the Contracts (Rights of Third Parties) Act 1999.

28. WAIVER

Any concession or indulgence made by the Company shall not be considered as a waiver of the Company's rights under the Order unless specifically authorised in writing on the Company's printed order or amendment form.

29. GOVERNING LAW AND JURISDICTION

The Order shall be governed and construed in accordance with the law of England and Wales and the parties hereby submit to the exclusive jurisdiction of the courts of England and Wales.