DEFINITIONS

1.1 In these Conditions the following words and expressions shall have the following meanings:

(a) “Affiliate” means a company that directly or indirectly controls, is controlled by, or is under the common control with, the Seller, at any time, and for this purpose common control over any person shall mean the power to control the management and policies of that person whether through the ownership of shares or by any other means,

(b) “Anti-Bribery Legislation” means all laws and rules relating to the prevention of bribery, corruption or fraudulent acts, including (but not limited to) the United Nations Convention on Anti-Corruption (as amended and in force from time to time) and all corresponding national laws and regulations,

(c) “Business Day” means any day (other than a Saturday or Sunday) on which banks are open for business in the City of London for the transaction of normal banking business;

(d) “Buyer” means the entity to whom the Goods and/or Services are supplied by the Seller;

(e) “Conditions” means these terms and conditions of sale;

(f) “Contract” means any contract between the Seller and the Buyer for the sale and purchase of Goods and/or Services ordered under a Purchase Order and accepted by the Seller in accordance with Clause 2.5;

(g) “Delivery Date” means the date on which the Buyer would like the Goods to be delivered and/or the Services to be performed (or any part of the Goods and/or Services);

(h) “Delivery Address” means the delivery address agreed in writing by the Seller;

(i) “Delivery Date” means the date on which the Buyer would like the Goods to be delivered and/or the Services to be performed (or any part of the Goods and/or Services); and

(j) “Price” means—

(a) in relation to Goods, the price of the Goods on the date of despatch; and

(b) in relation to Services, the price as notified by the Seller.

2 BASIS OF SALE

2.1 The basis on which the Seller agrees to sell the Goods and/or Services to the Buyer and the Buyer agrees to purchase the Goods and/or Services will be determined by the terms of the applicable Purchase Order and the Conditions.

2.2 Unless otherwise agreed in writing any quotation is valid only for a period of thirty (30) days from its date of issue.

2.3 Each Purchase Order shall contain:—

(a) the issue by the Seller of an acknowledgement of the Purchase Order;

(b) the Goods and/or Services sold to the Buyer shall comply with the Specification (unless agreed otherwise by the Buyer);

(c) the Delivery Address (or confirmation that the Buyer will collect the Goods from the Seller);

(d) the quantity of Goods and/or Services it requires; and

(e) the date on which the Buyer would like the Goods to be delivered and/or the Services to be performed (or any part of the Goods and/or Services).

2.4 Each Purchase Order shall contain:—

(a) the Buyer’s written or oral purchase order;

(b) the price of the Goods and/or Services as notified by the Seller;

2.5 In the event that the Seller’s obligations under these Conditions are not due to be performed until delivery of the Goods and/or performance of the Services will not be of the essence in the Contract.

2.6 Nothing in these Conditions shall oblige the Seller to accept a Purchase Order from the Buyer.

2.7 These Conditions shall apply to the Contract to the exclusion of all other terms and conditions including, but not limited to, any terms or conditions which may be included or proposed by the Buyer and shall be subject to the availability of the Goods and/or resources available to perform the Goods and/or Services.

3 BLANKET ORDERS

3.1 In the event of any queries, inaccuracies, typographical, clerical or other error or omission in any sales literature, quotation, price list or acknowledgement of Purchase Order, the Seller shall contact the Buyer and such document shall be subject to correction without any liability on the part of the Seller.

3.2 Any Purchase Order which has been accepted by the Seller pursuant to Clause 2.5 may only be cancelled, postponed or varied by the Buyer with the prior consent of the Seller.

3.3 The Buyer represents, warrants and undertakes to the Seller that the information provided to the Seller such as name, address, telephone number, e-mail, bank account details shall promptly provide the Seller with such information as may reasonably be required in due course of business to enable the Seller to meet its obligations under these Conditions.

3.4 These Conditions are to be read in conjunction with the Seller’s applicable terms and conditions of sale and the Buyer agrees to be bound by such conditions and to comply with the same.

3.5 The Seller reserves the right to adjust the price of the Goods and/or Services at any time at its discretion, subject to the same being reflected in any applicable sales literature, quotation, price list or acknowledgement of Purchase Order.

3.6 The Seller reserves the right to adjust the price of the Goods and/or Services at any time at its discretion, subject to the same being reflected in any applicable sales literature, quotation, price list or acknowledgement of Purchase Order.

4 SPECIFICATIONS

4.1 The Seller warrants that:

(a) the Goods and/or Services sold to the Buyer shall comply with the Specification (unless agreed otherwise by the Parties in writing); and

(b) they shall use reasonable care and skill and maintain REACH Compliance in respect of the Goods or procure the same clause where it is the Buyer’s reasonable responsibility to maintain REACH Compliance and/or procure REACH Compliance at the Buyer’s sole cost and expense.

4.2 Any suggestion or representation concerning any possible use of the Goods and/or Services made by the Seller in any sales or marketing literature or in any response to a specific enquiry is given in good faith, but the adequacy and suitability of the Goods and/or Services is for the Buyer’s sole responsibility and the Seller has no liability relating to such suitability of the Goods and/or Services for any particular purpose. No suggestion or representation relating to such possible use shall form part of the Contract.

4.3 The Buyer shall, within 2 Business Days of the delivery of the Goods and/or performance of the Services, notify the Seller in writing of any defect of which the Buyer alleges that the Goods delivered and/or Services performed by the Seller are not in accordance with the Specification and which should be apparent on reasonable inspection.

4.4 If the Buyer fails to give notice under Clause 4.3 then, except in respect of any defect that is not one which should be apparent on reasonable inspection, the Seller shall be deemed conclusively to be in all respects in accordance with the Specification and accepted by the Buyer.

5 DELIVERY

5.1 The Seller will use reasonable endeavours to deliver the Goods and/or Services in each of the Buyer’s Purchase Orders it accepts by the Delivery Date, but the timely delivery of the Goods and/or performance of the Services will not be of the essence in the Contract.

5.2 If, despite using reasonable endeavours, the Seller is unable for any reason to fulfil any delivery of the Goods and/or performance of the Services due to events of Force Majeure it will be deemed not to have failed to deliver or perform (as the case may be) in breach of the Contract, nor will the Seller have any liability to the Buyer under the Contract (including without limitation for any consequential loss or damage) or any other liability to the Buyer under the Contract.

5.3 The Goods and/or Services will be deemed to be delivered or performed on the earliest occurrence of—

(a) the date on which the Goods and/or Services were delivered or performed (otherwise than by reason of any Force Majeure Event or by reason of the Seller’s fault) then, without prejudice to any other rights or remedies available to the Buyer, the Seller shall be entitled to retain any monies paid by the Buyer for such Goods and/or Services and such monies will be deemed to be a deposit for such Goods and/or Services;

(b) for any matter for which the Seller may not exclude or to attempt to exclude its liability under applicable law.

5.4 The Seller’s obligation under Clause 4.3 will not apply where:

(a) the Goods have been rejected by the Buyer for failure to comply with the Specification;

(b) the Goods have been improperly used;

(c) the Goods have been damaged in transit.

5.5 Nothing in this Clause 5 shall be construed as a restriction to the Seller’s obligations under the REACH Compliance in respect of the Goods and it shall comply with its obligations under REACH.

5.6 The Buyer shall be responsible for all taxes, duties, levies, fees and charges due on the Goods and shall comply with all customs laws and regulations; and

5.7 The Seller may deliver to the Buyer an excess or deficiency of up to 10% of the Quantity Required in a Purchase Order and the Buyer shall accept the same at the Price notified by the Seller.

5.8 Nothing in these Conditions shall be deemed to require the Seller to deliver the Goods and/or perform the Services at any time other than the Delivery Date.

5.9 The Buyer shall pay the Price for the Goods and/or Services on the date of delivery.

6 PACKAGES

6.1 Where the Buyer has an option to return packages and choses so, the Buyer must return such packages empty in good condition and order (consigned “carefully packed” unless otherwise notified by the Buyer and agreed by the Seller) from the point of delivery to the location requested by the Seller, and must advise the Seller on the date of dispatch.

6.2 Where packages are stated in writing to be packed by the Seller’s property, they shall remain the property of the Seller at all times and the Buyer must return them empty (consigned “carefully unpacked” unless otherwise notified by the Seller and agreed by the Seller) to the Seller on the date of delivery.

6.3 Any packages not returned in good order and condition within a reasonable period shall be deemed to have been accepted by the Buyer and the Seller may sell or reoffer the goods at the Seller’s option to such Buyer and such sale or reoffering will be made without prejudice to any rights of the Seller in respect of Loss of or damage to packages stated to be the Seller’s property.

6.4 The Seller reserves the right to reject empty return at the point of delivery shall be for the Seller’s account provided advice at the time of despatch has been given to the Seller; and in this interval shall to the Buyer’s responsibility where the Seller can show fault on the part of the Buyer.

7 LIMITATION OF LIABILITY

7.1 The Seller does not attempt to exclude any liability;

7.2 The Seller shall not be liable to the Buyer whether in contract, tort (including, without limitation, negligence) misrepresentation, fraudulent misrepresentation or in any other way for any loss of, loss of anticipated profit, loss of business, loss of contract, overhead recovery, anticipated savings, loss of data, loss of profit, destruction, depletion of goodwill and/or reputation, any business interruption, damages, costs, expenses, debts, claims, damage, or otherwise for any costs, expenses or claims for consequential compensation whatever.

7.3 (a) The Seller’s total aggregate liability, under the Contract, shall be limited to the Price paid for the Goods and/or Services supplied by the Seller under the Contract.

(b) The Price is exclusive of all taxes and duties including, but without limitation, value added tax, which, if applicable, shall be payable by the Buyer in addition to any additional delivery costs as detailed in any quotation issued by the Seller to the Buyer.

8 PAYMENT

8.1 The Buyer shall pay the Price (including value added tax or any other applicable tax or duty) together with any items specified in the date of delivery of the Goods and/or performance of the Services under the Order, or if no date is stipulated or no acknowledgement of Purchase Order is issued, by the 20th day of the month following the delivery of the Goods and/or performance of the Services.

8.2 The Buyer shall be liable for any and all extra charges past due when due without prejudice to the Seller’s other rights under these Conditions, that sum will be interest from the due date until payment is made in full, both before and after judgment. The Buyer agrees that the Seller may setoff any amounts from any account held by the Buyer at any time, from time to time and the Seller will be entitled to suspend all future deliveries of the Goods and/or performance of Services until the outstanding amount has been received.

9.1 INEOS ChloroToluenes Limited – Terms and Conditions of Sale
The Buyer will make all payments due under the Contract without any deduction whether by way of set-off, counterclaim, discount, or abatement otherwise.

8.5 Time for payment will be of the essence under the Contract and the Buyer will indemnify the Seller in respect of such costs and expenses incurred by the Seller in recovering overdue amounts.

8.9 The Seller shall be entitled to set off and retain any and all sums due to the Buyer against any claim made by the Seller to the Buyer under the Contract or these Conditions.

9 RISK AND PROPERTY

9.2 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these Conditions, the title of the Goods shall remain with the Seller until the Seller has received in cash or cleared funds payment in full of the Price.

9.6 The Buyer's right to possession of the Goods shall cease on the occurrence of any of the events set out in Clause 9.1 above, and the Seller shall be entitled to repossess the Goods and the Buyer shall procure a right for the Seller to enter any premises not occupied or used by the Buyer.

10 EVENTS BEYOND THE CONTROL OF THE PARTIES

10.1 If either Party is prevented or delayed in performance of any of its obligations by a Force Majeure Event then the party affected by such Force Majeure Event shall give notice to the other Party and shall be excused from its obligations as to the extent of and during the period of such Force Majeure Event.

11.1 The Buyer may not assign, sub-contract, sub-license or otherwise dispose of any of its rights and/or obligations under the Contract or these Conditions, including, without limitation, pursuant to any receivables purchase arrangement or similar transactions which the Seller may from time to time enter into.

12 CONFIDENTIALITY

12.2 Confidentiality Each Party will keep the information to which it has access as a result of an inspection into the Buyer’s financial or trade status or in light of any report considered by the Seller, the Seller’s absolute discretion shall govern the amount of information supplied.

12.7 The Buyer receives written notice from any competent authority, or in its reasonable opinion decides, that any of those rights and/or obligations has or are to be varied.

13 OWNERSHIP OF INTELLECTUAL PROPERTY

13.2 The Buyer shall not in the event of providing the Goods for the purpose of advertising or publicity without the prior written consent of the Seller.

14 SANCTIONS

14.3 The Buyer confirms that neither it nor any of its subsidiaries, nor any directors or officers of its subsidiaries,

14.6 The Seller is permitted to disclose to any relevant Sanctions Authority such documentation or information as may be required.

14.8 The Seller is permitted to disclose to any relevant Sanctions Authority such documentation or information as may be required.

14.9 The Buyer may not be liable to any person or entity which is a subject of Sanctions.

15 RELATIONSHIP OF PARTIES

15.1 Nothing in these Conditions shall exclude or limit the liability of either Party for a breach of the contract set out in Clause 15.3. Any such waiver or release must be specifically granted in writing signed by the Party granting it.

15.2 The Buyer shall promptly notify the Seller of:

15.5 Without affecting any other rights or remedies available to it, the Seller may at its sole discretion

15.6 The Seller will not be liable for any loss, damage, cost or expense suffered by the Buyer by reason of the Seller’s terminating the Contract pursuant to Clause 14.

15.7 Each Party will be liable for all late, discount, credit policy errors suffered by the Buyer by reason of the Seller’s terminating the Contract pursuant to Clause 14.

15.8 The Seller is entitled to terminate the Contract forthwith provided that the Parties have not previously agreed a course of action to deal with the Force Majeure Event.

16 INDEMNITY

16.4 The Seller will not be liable for any loss, damage, cost or expense suffered by the Buyer by reason of the occurrence of any of the events set out in Clause 9.1 above except in so far as the Buyer is or may be liable.

16.6 Any such waiver or release must be specifically granted in writing signed by the Party granting it.

17 HEALTH AND SAFETY

17.1 Goods supplied by the Seller to its own specification or design are designed to be safe and without risk to health provided that the Buyer uses the Goods in accordance with the Seller’s instructions and compliance with any Sanctions or becoming the subject of Sanctions.

18.2 The Buyer will become due immediately on termination of the Contract.

19.7 The Buyer may not be liable to any person or entity which is subject to Sanctions.

20.1 If any term, clause, condition or part of these Conditions is found by any court, tribunal, administrative body or any other person or entity, whether it be in breach of Sanctions or which is in breach of any Sanctions;
fraudulent misrepresentation.

25.4 Each Party agrees that its only remedy for breach of the Contract shall be for breach of contract.

26 NOTICES

26.1 Notices under these Conditions may be served by personal delivery, by first class post or by facsimile.

26.2 Notices shall be deemed to be served

(a) on delivery when delivered personally; or

(b) on receipt of a printout confirming due transmission when transmitted by facsimile to the facsimile number notified by the other Party; or

(c) two (2) days after mailing if sent by mail, provided the postage is properly paid and such notice is correctly addressed to the respective Party at its registered office, or such other address as shall have been notified in writing.

27 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

An entity which is not expressly a Party to the Contract shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract and the provisions of the Contracts (Rights of Third Parties) Act 1999 shall be expressly excluded from the Contract.

28 GOVERNING LAW

These Conditions and the Contract shall be governed by English law and subject to the provisions of Clause 24 the Parties hereby agree to submit to the exclusive jurisdiction of the English Courts, save that the Seller may elect to bring proceedings in the country where the Buyer is incorporated.