



## METANO TERMS AND CONDITIONS OF HIRE FOR BAG IN BOX IBCs

### 1. DEFINITIONS

- (a) The "Owner" shall mean Metano Ltd and includes its successors and assigns.
- (b) The "Hirer" is the company, firm, person, corporation or public authority taking the equipment on hire whether directly or through an agent and includes its successors or personal representatives.
- (c) The "equipment" covers all type of equipment machinery and accessories therefore which the Owner agrees to hire to the Hirer.
- (d) A "day" shall, for the avoidance of doubt, in calculating hiring rates and all purposes of this Agreement include weekends and all public holidays as well as normal weekdays and parts of all such days.
- (e) "These Conditions" shall mean the Terms and Conditions specified herein and on the reverse side hereof and where the context admits shall be deemed to include all other documents and papers expressed to be made subject to or incorporated in these Terms and Conditions

### 2. PRELIMINARY

- (a) These Conditions apply to all equipment hired by the Hirer from the Owner and can only be varied by express written agreement between the Owner and the Hirer. The express written agreement of the Owner to be effective must be evidenced by the signature of a Director of the Owner. The Hirer accepts and acknowledges that these Conditions form a binding legal contract between the Owner and the Hirer and agrees that these Conditions override any terms and conditions stipulated incorporated or referred to by the Hirer whether in its order or in any negotiations or in any other manner
- (b) The Owner 5 technical data catalogues brochures and other advertising material shall not form any part of these Conditions

### 3. HIRING CHARGES

- (a) Hiring charges are payable and shall commence from; (i) In the case of pick up of the equipment by the Hirer or Hirer's agent from the Owner's premises or the Owner's nominated point-from time of such pick-up
  - (ii) in case of delivery by the Owner to the Hirer (where requested and arranged under the terms hereof)-when the Owner or its earner picks up the equipment from the Owner's premises or the Owner's nominated point. The Hiring charges in such instance shall be in addition to and not in substitution for the costs of delivery chargeable and payable under the terms of the Owner's current Conditions of Carriage (see clause 4(b) below)
- Hiring charges shall continue to be payable under these Conditions for so long as the equipment remains on hire as provided in clause 3(e) hereof, and the day of commencement of Hiring charges and the day of such termination of hire shall both be counted for the purpose of calculating hiring charges.
- (b) Hiring of equipment is from day to day and the Hirer shall pay the Owner's hire charges at the Owner's ruling rate from time to time in force calculated by the number of units of equipment on hire on each and every day.
  - (c) Variations in the Owner's rates of hire shall take effect on and from the date so notified to the Hirer and the Hirer shall from the date notified pay the said varied hire charges in substitution for those formerly payable.
  - (d) Terms of payment of hire charges are strictly net cash within fourteen days from date of invoice. Invoice shall state the number of units of equipment on hire at the start and end of the accounting period and give the number and date of any additional units hired during such period or of any units withdrawn from hire during such period Invoices shall be prima facie evidence of all matters stated therein unless the Hirer gives written notice to the Owner, within twenty-one days of the date of the invoice, that it disputes any matter stated therein. In the event of any payment not being made by the Hirer on the date on which it falls due (he Hirer shall pay to the Owner interest on (he outstanding amount at the rate of 4 per cent above the Bank of England Minimum Lending Rate for the time being from the date which the payment falls due until payment is received by the Owner such interest to be calculated on a daily basis.
  - (e) The equipment will remain on hire until it is:
    - (i) returned by the Hirer or the Hirer's agent (the Hirer having complied with the terms of these Conditions) direct to the possession of the Owner at the Owner's premises and de-hired to the Hirer's specified account or
    - (ii) deemed to have been so returned as hereinafter provided (see clause 5(b) below or
    - (iii) transferred to a Transferee under and in compliance with the provisions of Clause 8 hereof
  - (f) The hire of all or any of the equipment may be terminated at any time in accordance with provisions of Clause 3(e) hereof in which event hiring charges will no longer be payable in respect of the equipment so returned or transferred.

### 4. DELIVERY

- (a) Delivery will normally be effected by (the Owner to the Hirer or Hirer's agent at the Owner's premises. If delivery by the Hirer is required elsewhere and the Owner consents thereto then the costs of delivery to the place nominated by the Hirer shall be borne by the Hirer. In the vent of the parties arranging delivery by the Owner other than at the Owner's premises the current Conditions of Carriage of the Owner shall apply to the carriage of the of the equipment until delivery by the Owner to the Hirer of the Equipment: in such event and to that extent the said Current Conditions of Carriage shall be deemed to be incorporated into these Conditions. Hiring Charges shall in such event still commence and be payable in accordance with Clause 3(a) of these Conditions.
- (b) The time and place of delivery will be agreed between the Owner and the Hirer and the Owner will use its best endeavours to keep the date of delivery but if there is any delay in delivery on the Owner's part then a new delivery date shall be agreed in the light of the circumstances of the delay and the Hirer shall take delivery of the equipment at such reasonable time as the Owner is able to deliver it or arrange its delivery. The Owner shall not be responsible for any loss suffered by the Hirer directly or indirectly by reason of any late delivery of the equipment

### 5. LOSS OR DAMAGE

- (a) Risk in the equipment shall pass to the Hirer upon delivery of the same under the terms hereof and the Hirer shall thereafter be fully responsible at all times for any damage to or deterioration or loss of the equipment, fair and reasonable wear and tear only excepted If upon return of the equipment to the Owner, such equipment is damaged or has deteriorated the Hirer shall pay the Owner on demand the costs incurred by the Owner in the repair of such equipment If any unit of equipment is lost, worn out, destroyed or damaged beyond repair, the Hirer shall forthwith pay to the Owner:
    - (i) a sum equal to the cost of purchasing or manufacturing a new unit or part unit to replace the unit or part unit which has been so lost, worn out, destroyed or damaged.
- Upon a payment as aforesaid being made in respect of any equipment, such equipment shall be deemed to have been returned to the Owner (see Clause 3(e)(ii) above) Until such payment (and notwithstanding such loss, wearing out, destruction or damage) SUCH equipment shall be deemed to remain on hire and hiring charges shall continue to be payable under the terms hereof The Hirer shall not be entitled to delay payment under the terms of this clause until it has received any insurance monies in respect of such loss, wearing, out, destruction or damage. Notwithstanding the provisions of this clause, if the property or any equipment lost, worn out, destroyed or damaged Beyond repair shall at all times, and notwithstanding that payment has been made by the Hirer to the Owner as aforesaid remain vested in the Owner. Should the Owner locate any such equipment it shall have the right to enter upon any premises for the purpose of re-taking possession thereof.





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

(b) The Hirer undertakes to insure and keep insured against its liabilities under Clause 9 hereof and to insure and keep insured the equipment with a reputable insurer in the values referred to in Clause 18 hereof as soon as risk in the equipment passes to the Hirer and to furnish details of such insurances to the Owner if required by the Owner.

**6. MAINTENANCE, INSPECTION, REPAIRS AND ALTERATIONS**

(a) The Hirer shall take all necessary steps to keep itself acquainted with the state and condition of the equipment during the term of these Conditions. Save as provided in Clause 9 hereof the Hirer shall be solely responsible for any damage loss or injury whether directly or indirectly arising from the presence or use of the equipment or any defect therein

(b) Without prejudice to the Hirer's obligations under these Conditions as to loss or damage of equipment and without imposing any binding obligations on the Owner as to testing repairing or replacing of the equipment the Hirer shall at all reasonable times allow the Owner its agents or insurers to have access to the equipment to inspect test adjust repair or replace the same. As far as possible such work will be carried out at times to suit the convenience of the Hirer.

(c) The Hirer shall not alter or suffer to be altered in a y way any equipment or any parts thereof.

**7. RETURN OF EQUIPMENT**

(a) The Owner may at any time by notice in writing to the Hirer require the Hirer to return any equipment on hire at the expiration of a period of thirty days after service of such notice. If the Hirer fails to return the equipment at the expiration of said period, or returns less than the total quantity of equipment which is on hire, then the Hirer shall be deemed to have lost the equipment which the Hirer has failed to return and the provisions of Clause 5(b) of these Conditions shall thereupon apply lo the equipment not so returned.

(b) The Owner shall not be liable to the Hirer for damages or compensation in respect of any loss suffered by the Hirer by reason of the termination of the hire aforesaid

(c) Notwithstanding the provisions of this clause the property in the equipment which is not returned within the period aforesaid shall always remain in the Owner and if any such equipment is subsequently located it shall be returned to the Owner.

**8. OWNERSHIP AND EQUIPMENT TRANSFERS**

(a) Notwithstanding the delivery of and passing of risk in the equipment to the Hirer the full legal and equitable property and title in the equipment shall at all times remain vested in the Owner.

(b) Save only as provided in this Clause the equipment shall not be re-hired leased lent charged or pledged to any third party nor shall the Hirer part with possession of or otherwise deal with the equipment and nor may the benefit of this Agreement be assigned by the Hirer, and the Hirer shall indemnify the Owner against all losses damages costs charges and expenses arising from failure to observe and perform this condition.

(c) Equipment may be transferred by the Hirer to a third party - the Transferee where the transfer has been expressly authorised by the Owner and then effected in a manner directed by the Owner at that time

(d) Responsibility for the equipment as well as the hire of the equipment remains with the Hirer until the Transferee has given notice to the Owner of acceptance of the equipment so transferred in the manner required by the Owner, in which event responsibility for such equipment and the hire thereof shall become the obligation of the Transferee, and the Hirer shall, to the extent acknowledged by the Transferee in the notice of acceptance, be released from future obligations in relation to such equipment.

(e) Equipment so authorized for transfer shall, on the day of the transfer, increase the quantity of equipment on hire to the Transferee, by the quantity acknowledged by the Transferee to the Owner as so transferred.

(f) Disputed transfers will remain charged to the Hirer until such time as the Transferee has agreed to the quantity. The onus of convincing the Transferee that the Transferee may be in error rests fully with the Hirer.

(g) Equipment shall not be taken outside the United Kingdom except with the express prior written consent of the Owner. The consent of the Owner to be effective must be evidenced by the signature of a Director of the Owner.

**9. INDEMNITY BY HIRER**

(a) The Hirer shall fully and completely indemnify and keep indemnified the Owner in respect of all claims by any person whatsoever for injury to person or property or for any other form of damage or loss whether consequential or economic which may be brought against the Owner arising out of the use of or any defect in the equipment whilst the equipment is on hire under these Conditions or arising out of any alterations made to the equipment or any part thereof by the Hirer save that nothing in these Conditions shall exclude or restrict the Owner's liability under law for death or personal injury directly resulting from the Owners own negligence.

(b) If the equipment is involved in any accident resulting in death or personal injury for which the Owner may be held liable in whole or in part under the terms hereof immediate notice must be given to the Owner by telephone and confirmed in writing to the Owner's office and in respect of any claim no admission offer promise of payment or indemnity shall be made by the Hirer without the express consent in writing of the Owner.

**10. GENERAL**

(a) The Hirer shall not remove deface or obliterate or cause or suffer to be removed, defaced or obliterated any identifying marks of ownership or of patent rights upon the equipment.

(b) The Owner shall not be responsible for any loss suffered by the Hirer directly or indirectly by reason of the use to which the equipment is put or by reason of any breakdown or failure of the equipment.

(c) The Hirer acknowledges that prior to entering into this agreement it inspected the equipment and that the same is satisfactory for the Hirers purposes in all respects and that the Hirer in no way relies upon any statement or representation made by the Owner. The Owner accepts no responsibility of any fund and does not warrant that the equipment is suitable for the particular purpose or any purpose for which it is or may be required.

(d) All notices or notifications required to be given to the Hirer under this agreement may be delivered by hand or addressed to it by prepaid post at its last known address and are deemed served (and the Hirer so notified) on delivery or two days after posting whichever so notified) on delivery or two days after posting whichever shall first occur.

(e) The right of the Hirer to possession of the equipment under their hereof shall automatically cease and determine in the event of Resolution or Petition being passed or an Order being made for the winding up of the Hirer or if a Receiver of the Hirer's property undertaking or assets or any part thereof is appointed (if the Hirer is an Individual) on the death or bankruptcy of the Hirer or if the Hirer shall do or shall cause to be done or permit or suffer any act or thing whereby the Owners rights in the equipment may be prejudiced or put in jeopardy and in such event the equipment shall forthwith be returned to the Owner and the Owner may recover such equipment and may enter upon the Hirer s premises for that purpose. Determination of the hiring under this sub-clause shall not affect the right of the Owner to recover from the Hirer any monies due to the Owner under these Conditions or damages for breach thereof.

(f) No relaxation forbearance delay or indulgence by the Owner in enforcing any of these Conditions or the granting of time by the owner to the Hirer shall prejudice affect or restrict the rights and powers of the Owner hereunder nor shall any waiver of any breach hereof operate as a waiver of any subsequent





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

or any continuing breach hereof. Any waiver or variation of these Conditions or consent of the Owner required under these Conditions to be effective must be in writing signed by a Director of the Owner.

(g) The Hirer shall pay to the Owner all expenses (including legal costs on a full indemnity basis) incurred by or on behalf of the Owner in ascertaining the whereabouts of the equipment or taking possession of the equipment by reason of a breach by the Hirer of any provisions of these Conditions and in any legal proceedings taken by or on behalf of the Owner to enforce the provisions of these Conditions,

(h) The Hirer shall be fully responsible for compliance with relevant regulations issued by the Government or Local Authorities and observance of the Factories Acts the Health and Safety at Work etc. Act 1974 and also the Road Traffic Acts (including the costs of licence and registration fees and any insurances made necessary by the last named) and any statutory modification or re-enactment of such Acts and all bye-laws regulations orders and directions made or to be made there under.

(i) The Hirer shall notify the Owner of any change in the Hirer's address and upon request by the Owner promptly inform the Owner of the whereabouts of the Equipment,

(j) The parties hereto consider these Conditions to be fair and reasonable and further agree that if any term contained herein shall be adjudged by a court of competent jurisdiction to be void or unenforceable but would be valid or enforceable if some part or parts thereof were deleted or if it were varied or modified in some way then such provision shall apply with such modification or variation as may be necessary to make it valid and effective

**11. TERMS**

Invoice/Statements are rendered monthly "Terms Strictly Net 14 Days" from date of Invoice. Statement For interest on late payment see Clause 3(d) above. All payments shall be made without any deduction or deferment on account of alleged disputes or cross-claims

**12. REPAIR**

Repair and maintenance costs due to fair wear and tear will be borne by Metano Ltd

**13. CARTAGE**

All rates quoted are ex Metano Ltd premises. Transport can be arranged at hourly rates applicable at the time.

**14. COMPENSATION**

The compensation value is the amount payable per unit of equipment lost, worn-out (fair wear and tear excepted), destroyed or damaged beyond repair. Hire charges will continue on such equipment until compensation payment is effected.

**15. VALUE ADDED TAX**

The Hirer shall be liable for any payment of any Value Added Tax that may be chargeable on the hiring of the equipment and unless otherwise specified all prices quoted are exclusive of Value Added Tax. The Owner shall be entitled at any time during the period of the Agreement to invoice to take into account any change in the rate of Value Added Tax and the Hirer shall be liable to pay any such increases

**16. ACCEPTANCE**

The rates quoted remain constant for a period of thirty days from the date of this offer but following the expiration of this period they may be subject to review.

**17. VARIATION**

All rates quoted are subject to adjustment to meet variation to awards, materials or other costs which occur within the industry, or due to legislation government orders regulations or directions or any other cause beyond the control of the owner occurring during the term of these conditions.

**18. INSURANCE**

Each item of equipment shall be insured by the lessee, new for old, to the value of £400.00 GBP for demountable equipment, £625.00 GBP for galvanized equipment and £1050.00 GBP for stainless steel equipment. A copy of the appropriate Insurance shall be presented to the Owner at least 10 working days from the date the first equipment is delivered.





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

## METANO TERMS AND CONDITIONS OF HIRE FOR RIGID IBCs

### 1. Interpretation

1.1 In these Conditions:

'Business Day' means a day on which banks in the City of London are open for a full range of business;

'Clean-Out Certificate' means a certificate to be issued by the Hirer or its agent or the Owner or its agent once all internal and external cleaning satisfactory to the Owner of the Goods has been completed detailing the previous product, the internal (and external if appropriate) cleaning regime, statement of the cleaning procedure adopted and if there is Damage or Pitting Corrosion a schedule setting out details of that Damage or Pitting Corrosion;

'Commencement Date' means the date the Owner delivers the Goods or makes the Goods available for collection by the Hirer;

'Conditions' means the standard terms and conditions of hire set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Owner and Hirer and signed by the Owner and Hirer;

'Contract' means the contract between the Owner and the Hirer for the hire of the Goods to the Hirer comprising this Contract;

'Damage' means all damage that is not Wear and Tear;

'Default Rate' means an annual rate of 4% over Lloyds Bank PLC's base rate from time to time compounded quarterly and calculated on a day to day basis;

'Depot' means any of the depots whose addresses are set out in the Schedule under the heading "Depots";

'Early Return Payment' means the sum specified in the Schedule (described under TYPE as ERO) to be paid by the Hirer if the Goods are returned to a Depot before the expiry of the Period of Hire;

'Goods' means the intermediate bulk containers (IBCs) referred to in the Schedule as identified by each individual IBC's 'MTOU' number and all replacements and renewals of such goods and the component parts of it or them and all accessories and additions to it or them. References to the Goods shall (where the context so permits) be construed as including a reference to any of them;

'Hirer' means the firm, person, corporation or public authority named in the Schedule to this Contract who is hiring the Goods from the Owner and includes their successors and personal representatives and employees;

'Normal Working Hours' means 9.00am to 5.00pm on a Business Day;

'Period of Hire' means the period of hire stated in the Schedule to this Contract (including the day of commencement and the day of termination), subject to earlier termination in accordance with these Conditions or such longer period as is referred to in Clauses 10.4, 11.3, 11.4 and 12;

'Owner' means the person firm or company hiring the Goods to the Hirer (ie Metano Limited) and whose address is specified in the Schedule;

'Pitting Corrosion' means attack of the Goods by a product causing pitting corrosion or any other type of corrosion or erosion affecting the life of the Goods;

'Rental' means the daily rental figure per intermediate bulk container specified in the Schedule (under TYPE, MAIN);

'Replacement Cost' means the amount set out in the Schedule estimated by the Owner to be the replacement cost of each of the intermediate bulk containers comprising the Goods;

'Schedule' is the Schedule annexed to this Contract;

'Title Holder' means the legal or beneficial owner of the Goods from time to time;

'Wear and Tear' means scrapes and abrasions and dents in cladding sheets where fitted which the Owner in his sole opinion deems to be minor. Pitting Corrosion is not wear and tear.

1.2 Any reference in this Contract to "the Owner's negligence" shall be construed as including a reference to "the negligence of anyone for whom the Owner is vicariously liable".

1.3 The Owner shall hire and the Hirer shall take on hire the Goods in accordance with any written quotation of the Owner which is accepted by the Hirer or any written order of the Hirer which is accepted by the Seller subject in either case to this Contract which shall govern the Contract to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any such order is made or purported to be made by the Hirer.

1.4 No variation to this Contract shall be binding unless agreed to in writing between the authorised representatives of the Owner and Hirer.

1.5 The Owner's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Owner in writing and in entering into the Contract the Hirer acknowledges that it does not rely on and waives any claim for breach of any such representations which are not so confirmed.

1.6 Any advice or recommendation given by the Owner or its employees or agents as to the storage handling application or use of the Goods which is not confirmed in writing by the Owner is followed or acted upon entirely at the Hirer's own risk and accordingly the Owner shall not be liable for any such advice or recommendation which is not so confirmed.

1.7 Any typographical clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer or invoice or other document or information issued by the Owner shall be subject to correction without any liability on the part of the Owner.

### 2. The Hire

2.1 The hiring of the Goods shall commence on the Commencement Date and shall continue for the Period of Hire (subject to earlier termination) or such longer period as referred to in Clauses 10.4, 11.3, 11.4 and 12 as provided in these Conditions.

2.2 If the Hirer is an individual, partnership or other unincorporated body and not withstanding any other terms, the contract of hire will terminate not later than three months from the date of its commencement and the Hirer shall restore the equipment to the Owner on or before the last day of the three month period in accordance with these Conditions.

### 3. Delivery of Goods

3.1 The Hirer must satisfy himself that the Goods are in good working order, repair and condition and that the Goods are not Damaged in any way (and in particular that none of the Goods has Pitting Corrosion) before accepting delivery of the Goods and the Hirer acknowledges that the Owner relies on the Hirer to inspect the Goods immediately after delivery and to ensure that they are of satisfactory quality. The Hirer must notify the Owner in writing of any Damage, other defect or Pitting Corrosion existing at the Commencement of Hire as soon as possible after delivery. The Owner makes no warranty that the Goods are suitable for the purpose for which the Hirer may wish to use them and the Hirer acknowledges that it uses the Goods entirely at its own risk. The Owner will then endeavour to provide the Hirer with replacement Goods if any are available at the Owner's Premises on the date such notification is made.

3.2 Delivery of the Goods shall be made by the Hirer collecting the Goods at the Depot at any time after the Owner has notified the Hirer that the Goods are ready for collection or, if some other place for delivery is agreed by the Owner, by the Owner delivering the Goods to that place. Unless otherwise agreed by the Owner and the Hirer in writing all Rental and other payments referred to in this Contract are on an ex-Depot basis and where the Owner agrees to deliver the Goods otherwise than at the Depot the Hirer shall be liable to pay the Owner's charges for transport, packaging and insurance.





3.3 Any time estimate or dates quoted for delivery are approximate only and the Owner shall not be liable for any loss (including loss of profit), costs, damages or expenses caused directly or indirectly by any delay in the delivery of the Goods (even if caused by the Owner's negligence). Time for delivery shall not be of the essence.

3.4 If the Hirer fails to take delivery of the Goods at the time stated for delivery (otherwise than by reason of any cause beyond the Hirer's reasonable control or by reason of the Owner's fault) then without prejudice to any other right or remedy available to the Owner the Owner may store the Goods until actual delivery and the Hirer will pay to the Owner a sum equal to the Rental which would have been paid in respect of the Goods from the time stated for delivery until actual delivery.

**4. Rental and other payments**

4.1 The Hirer shall pay to the Owner for the hiring of Goods under this Contract during the Period of Hire the Rental and other payments in the amounts and at the intervals or times specified in this Contract together with any value added tax or other sales taxes payable in respect of them.

4.2 The Rental shall be payable as specified in the Schedule, (or if no basis for payment is specified in the Schedule shall be payable monthly in arrears). The Hirer shall pay the Rental within thirty days of the date of each invoice.

4.3 Payment of any Rental and any other sums payable under this Contract shall be made without any set-off and shall be due without previous demand or invoice and shall be made by the Hirer of any Rental and any other sums payable under this Contract so as to be received by the Owner in cleared funds on its due date.

4.4 If the date on which any amount is payable by the Hirer shall not be a Business Day such amount shall be paid by the Hirer on the next subsequent day which is a Business Day.

4.5 Time shall be of the essence in respect of the payment of all sums due under this Contract and the Hirer shall be deemed to have repudiated this Contract if any Rental remains unpaid for 30 days or more after such Rental becomes due for payment.

4.6 The Hirer shall pay interest at the Default Rate on all amounts overdue until payment of the outstanding sum (both before and after judgement).

4.7 Payment shall be made to the Owner or as the Owner may otherwise direct. Any payment agreed to be made by post shall be at the sole risk of the Hirer.

4.8 Any payments made by the Hirer to the Owner may be appropriated by the Owner in or towards satisfaction of any sums due and owing to the Owner under this Contract even though the Hirer may have purported to appropriate such payments in some other way and the Owner may also appropriate any such payment in part towards any sums which are due under this Contract and in part towards satisfaction of any sums due by the Hirer to the Owner otherwise than under this Contract.

**5. Hirer's duties**

5.1 The Hirer undertakes and agrees:

5.1.1 to take all reasonable and proper care of the Goods and keep them in good and serviceable condition (Wear and Tear excepted) and to indemnify the Owner on demand against loss of or Damage to the Goods howsoever caused;

5.1.2 to carry out all maintenance requirements in respect of the Goods so as to keep the Goods in good working order, repair and condition;

5.1.3 to bear on demand the cost of repair or rectification of any damage to the Goods resulting from accident negligence or improper use of or failure to maintain the Goods by the Hirer or any person permitted by the Hirer to use the Goods;

5.1.4 to take such further steps as may be properly recommended by the Owner in writing or may otherwise be necessary to ensure that the Goods will be safe and without risk to health and safety when properly used by the Hirer or authorised users;

5.1.5 (to the extent relevant) forthwith to comply in all respects with the requirements of any improvement or prohibition notice served on the Hirer in respect of or relating to the use of the Goods under the Health and Safety at Work Act 1974 (except only insofar as the effect of the notice is suspended on the making of an appeal against it in accordance with the provisions of that Act);

5.1.6 not to make or cause or permit to be made any alteration amendment modification or addition to the Goods;

5.1.7 to ensure that any products carried in the Goods are compatible with the construction material of the wetted parts of the Goods;

5.1.8 (without prejudice to any of the Hirer's other obligations arising under this Contract or otherwise howsoever) to use best endeavours to ensure that no Pitting Corrosion or other Damage occurs in any of the Goods. Any cost of rectifying or repairing Pitting Corrosion or other Damage will be borne by the Hirer;

5.1.9 to indemnify the Owner in respect of all costs, expenses, losses or liabilities of any nature and against all actions, claims, demands, proceedings (civil or criminal) which may be brought against, made, suffered or incurred by the Owner in connection with any Pitting Corrosion or other Damage or otherwise directly or indirectly arising from or in connection with any breach of this Contract by the Hirer or the use of the Goods by the Hirer;

5.1.10 to permit the Owner and any persons duly authorised by the Owner to enter on any land or premises in which the Goods are for the time being sited so as to inspect and/ or repair the Goods;

5.1.11 not by any act or default to render the Goods liable to any distress, execution or other legal process or 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;

5.1.12 not to use or permit the Goods to be used for carrying or holding products that are incompatible with the material of construction of the Goods or in contravention of any statutory provision or regulation or in any way contrary to law in any jurisdiction or for any purpose for which the Goods are not designed or reasonably suitable;

5.1.13 not to sell or offer for sale, assign, mortgage pledge, sub-let or lend out the Goods or in any way part with the Goods or any interest in them but to keep the Goods in its own possession (legal and physical) or under its control and to prevent the creation of any charge or lien on them;

5.1.14 to procure that by the terms of any mortgage, charge or debenture (whether specific or floating) of or in respect of the Hirer's assets no rights (whether present, future or contingent) are created or become exercisable in respect of the Goods. The Hirer acknowledges the right on the part of the Owner to notify any mortgagee or chargee from time to time of the Hirer's assets of the existence of the Contract and of such of its terms as the Owner shall consider appropriate;

5.1.15 to preserve and protect all identification marks and serial numbers on the Goods and, if requested by the Owner, to affix or cause to be affixed to the Goods or any separate part or parts of them requested by the Owner plates or other forms of marking indicating in terms approved by the Owner that the Goods are the property of the Title Holder and are on lease to the Hirer. The Hirer shall ensure that such plates remain so affixed and that they are conspicuous and shall ensure that all identification marks, serial numbers and plates are at no time removed, obliterated, defaced or covered up;

5.1.16 that the Goods (and all copyright and other rights in them) shall remain the property of the Title Holder and that the Hirer shall have no right or interest in the Goods otherwise than as a lessee, and shall at no time do or permit to be done any act or thing which might prejudice or jeopardise the rights of the Title Holder in and to the Goods.

5.1.17 to comply with any legislation or regulations in any applicable jurisdiction governing the transportation of the Goods and their contents and for the payment of any duties thereon;





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

5.1.18 to supply to the Owner all such information about the use or proposed use of the Goods (including without limitation as to their contents and destination) as the Owner may require from time to time;

5.1.19 to make the Goods available for testing or retesting upon request by the Owner in order for the Owner to comply with any applicable legislation or regulations in any jurisdiction.

**6. Owner's Duties**

6.1 During the Period of Hire the Owner will be responsible for the repair only of any Wear and Tear which is reported to the Owner by the Hirer.

6.2 The obligation of the Owner specified in Clause 6.1 shall not extend to the repair of any defect in or malfunction of the Goods resulting from accident, negligence, improper use or failure to maintain the Goods by the Hirer or any person permitted by the Hirer to use the Goods which shall (for the avoidance of doubt) be the responsibility of the Hirer.

6.3 Repair of Wear and Tear shall be effected by the Owner at such times as it shall in its discretion decide.

**7. Risk and Insurance**

7.1 Risk of damage to or loss of the Goods shall pass to the Hirer at the time when the Owner notifies the Hirer that the Goods are available for collection.

7.2 Notwithstanding delivery and the passing of risk or any other provisions of this Contract the Hirer shall not acquire any right in or property to the Goods.

7.3 The Hirer shall throughout the Period of Hire or (if longer) for so long as the Goods remain in its possession or under its control (without prejudice to any liability of the Hirer to the Owner) at its own expense comprehensively insure the Goods at the Replacement Cost with a reputable insurance company approved in writing by the Owner against all loss or damage (whether assumed under this Contract or otherwise) and also against all risks of third party liability arising out of the possession, presence or use of the Goods.

7.4 The Hirer will, upon request by the Owner, at any time produce to the Owner every such policy of insurance and the receipt for the current year's premium. If the Hirer fails to keep the Goods insured to the satisfaction of the Owner or to produce any such policy or receipt as aforesaid the Owner may, at the expense of the Customer, insure the Goods and the Hirer will pay to the Owner on demand any sums expended by the Owner for such purpose with interest at the Default Rate from the time of it having been expended until the date of actual repayment.

7.5 The interests of the Owner in the Goods shall be noted on the policy of insurance which policy shall:

7.5.1 name the Owner as loss payee;

7.5.2 not be capable of cancellation by the insurers (at the request of the Hirer or otherwise) other than by 30 days' prior notice in writing to the Owner;

7.5.3 provide that the insurers shall waive any breach of warranty under the policy of insurance as against the Owner.

7.6 The Hirer shall (so far as necessary) irrevocably authorise the insurers to pay to the Owner or such person as it directs all money payable under such insurance policy in respect of any loss or damage to all or any part of the Goods.

7.7 The Hirer irrevocably authorises the Owner:

7.7.1 in the name and on behalf of the Hirer to make any claim or claims against the insurers under such insurance policy in respect of any loss of or damage to the Goods or any part of it and to settle or compromise such claim; and

7.7.2 to receive and to give a good discharge to the insurers for any money payable in respect of such claim or claims.

7.8 The Hirer shall not use or allow the Goods to be used for any purpose not permitted by the terms and conditions of any policy of insurance for the time being relating to the Goods nor do or allow to be done any act or thing whereby such insurance may be invalidated.

7.9 If all or any part of the Goods are lost or damaged the Hirer shall give immediate notice to the Owner and shall make or assist in the making of any appropriate claim or claims under such insurance policy in such manner as the Owner shall require and shall not in any manner settle or compromise any such claim without the prior written request of the Owner.

7.10 If any of the Goods are lost, stolen or severely damaged beyond economic repair the Owner shall apply any proceeds of insurance received by it at its option;

7.10.1 towards a replacement (and the cost of transporting such replacement to such location as the Owner shall specify) and such replacement shall be deemed to be included in this Contract for all purposes and the Hirer shall continue to be liable to pay Rental as if such loss had not taken place; or

7.10.2 in or towards payment to the Owner of the sum necessary to compensate the Owner for the loss of profit suffered as a result of the loss of such Goods.

7.11 The Owner shall have the right itself to repair or have repaired any of the Goods which are damaged. The Hirer will be responsible for the cost of repair. If the Owner does not choose to do so the Hirer shall be liable at the Owner's sole option and demand 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 Rental in respect of such Goods during such reinstatement or repair.

7.12 The Hirer will be liable to pay to the Owner any amount deducted by the insurers by way of excess and (subject to the application of insurance proceeds under Clause 7.10.2) shall indemnify the Owner against all and any loss suffered by it in consequence of the loss or destruction of the Goods or any part of them.

**8. Liability for the Goods**

8.1 The Hirer acknowledges that the Owner's charges to the Hirer are determined on the basis of the exclusions from and limitations of liability contained in this Contract and agrees that no condition warranty or representation of any kind has been or is given or made by the Owner its servants or agents with respect to or in respect of the Goods other than a warranty that:

8.1.1 the Title Holder is beneficial owner of the Goods;

8.1.2 for so long as no breach of the Contract has occurred the Owner will not interfere with the Hirer's possession use or enjoyment of the Goods and will not derogate from the rights granted to the Customer; and

8.1.3 the Goods are of satisfactory quality;

8.2 If the Owner is in breach of the warranty in Clause 8.1.2 then (at the Owner's discretion) it may terminate this Contract or provide the Hirer with replacement Goods or parts and the Owner shall have no further liability for such breach whether in contract, tort, negligence or otherwise.

8.3 The Hirer agrees that the Owner will not be liable for any delay in providing or failure to provide the Goods, or for any interruption or loss of service or use or for any loss of business or other consequential damage or any damage whatsoever and howsoever caused.

8.4 Nothing in this Contract shall exclude any liability of the Owner in respect of death or personal injury resulting from the Owner's negligence or that of its employees, for fraudulent misrepresentation, or for damage for which the Owner is liable to the Hirer under Part 1 Consumer Protection Act 1987 or equivalent. If any event occurs which the Owner may be held responsible for pursuant to this Clause 8.4 the Hirer must give immediate notice to the Owner (by telephone) confirmed by full details in writing. The Hirer must not make any admissions or otherwise accept liability to any person or make any offers or promises of payment without the prior written consent of the Owner.

8.5 The Hirer will indemnify the Owner from and against all actions, claims, demands, proceedings (in each case whether civil or criminal), costs, expenses, losses or liabilities of any nature which may be made or brought against or suffered or incurred by the Owner or the Title Holder by reason of any loss,





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

injury, death or damage caused or alleged to be caused to any person or property by or arising or alleged to arise directly or indirectly out of the control, operation, use, removal, maintenance, repair or leasing of or any defect in the Goods and against all costs charges and expenses of and incidental to it.

8.6 The indemnity in Clause 8.5 will apply:

8.6.1 whether or not the leasing constituted by this Contract shall have expired;

8.6.2 however the liability arises;

8.6.3 regardless of the time when it shall arise or shall be alleged to arise; and

8.6.4 whether or not the Goods are in the possession or control of the Hirer.

8.7 Nothing in this Contract shall impose any obligation on the Hirer to indemnify the Owner against any liability arising in respect of death or personal injury resulting from the Owner's negligence or that of its employees.

8.8.1.1 Subject to the other provisions of this Clause 8, and to the maximum extent permissible in law all conditions and warranties which are to be implied by statute or otherwise by general law into this Contract or relating to the Goods are hereby excluded.

**9. Force Majeure**

9.1 The Owner shall not be liable to the Hirer in any manner or be deemed to be in breach of this Contract (subject to Clause 8) because of any delay in performing or any failure to perform any of the Owner's obligations under this Contract if the delay or failure was due to any cause beyond the Owner's reasonable control.

9.2 Without prejudice to the generality of Clause 9.1 the following shall be included as causes beyond the Owner's reasonable control:

9.2.1 governmental actions or requests, war, threat of war, riot, civil disturbance, sabotage or requisition;

9.2.2 Act of God, fire, flood, epidemic or accident;

9.2.3 import or export regulations or embargoes;

9.2.4 strikes, lockouts, trade labour disputes or troubles including disputes involving the Owner's work-force;

9.2.5 inability to obtain or delay in obtaining supplies of adequate or suitable material, fuel, parts, machinery or labour or other manufacturing facilities.

9.2.6 acts of the Hirer, its employees, agents or anyone for whom it is vicariously liable.

**10. Termination**

10.1 The Owner may terminate this Contract forthwith by notice in writing to the Hirer if the Hirer is in breach of this Contract and shall have failed (where the breach is capable of remedy) to remedy the breach within 30 days of the receipt of a request in writing from the Owner to remedy the breach, such request setting out the breach and indicating that failure to remedy the breach may result in termination of this Contract.

10.2 In addition to the powers of termination contained in Clause 10.1 the Owner shall be entitled to terminate this Contract forthwith by notice in writing to the Hirer on any of the following grounds:

10.2.1 that the Hirer:

10.2.1.1 becomes the subject of a voluntary arrangement under section 1 Insolvency Act 1986;

10.2.1.2 is unable to pay its debts within the meaning of section 123 Insolvency Act 1986;

10.2.1.3 has a receiver, manager, administrator or administrative receiver appointed over all or any parts of its undertaking, assets or income;

10.2.1.4 has passed a resolution for its winding up;

10.2.1.5 has a petition presented to any court for its winding-up or for an administration order; or

10.2.1.6 fails to pay any Rental or other sums payable under this Contract in full within 14 days after they shall fall due;

10.2.1.7 does or causes to be done or permits or suffers any act or thing whereby the Owner's or the Title Holder's rights in the Goods are prejudiced or put in jeopardy;

10.2.1.8 has any indebtedness or obligation or the repayment of any borrowed money which becomes due and payable before its specified monthly date and is not paid when due and for 30 days from that date;

10.2.1.9 has any security created by any mortgage or charge created by the Hirer which becomes enforceable whether or not the mortgage or the chargee takes steps to enforce it.

10.2.1.10 has anything similar or analogous happen to it in any other jurisdiction.

10.2.2 if any distraint, execution or other process is levied or enforced on any property of the Hirer and is not paid out, withdrawn or discharged within 14 days;

10.2.3 that the Hirer has in the reasonable opinion of the Owner ceased or threatened to cease to trade;

10.2.4 without prejudice to Clause 10.1 if the Hirer is not fulfilling its obligations under this Contract to the reasonable satisfaction of the Owner;

10.2.5 that there has been a change in who has control of the Hirer.

10.3 The Hirer shall be solely responsible for the costs of cleaning, removal and transport of the Goods on termination or expiry of the Period of Hire.

10.4 Until such time as the Goods have been returned to the Owner and a Clean-Out Certificate has been issued the Period of Hire will continue and the Hirer will continue to pay Rental and all other sums due under this Agreement.

10.5 Upon the termination of the Hire of any of the Goods whether under Clause 10.1 or 10.2 or otherwise the Hirer will:

10.5.1 return or re-deliver such Goods to the Depot at the Hirer's risk and cost, in good working order, repair and condition (Wear and Tear only excepted) and so that if the Hirer shall fail to return or re-deliver such Goods within 4 days of being requested so to do in writing by the Owner the Owner may forthwith and without any notice retake possession of such Goods and for this purpose shall be entitled freely to enter into and upon any premises occupied by or under the control of the Hirer;

10.5.2 be solely responsible for ensuring the safekeeping supervision and custody of the Goods until they are returned to or repossessed by the Owner;

10.5.3 without prejudice to the Owner's rights to claim damages, become immediately liable to pay to the Owner an amount comprising the aggregate of:

10.5.3.1 all arrears of Rental and other money accrued due and unpaid under the terms of the Contract together with interest on it at the Default Rate and otherwise on the basis specified in Clause 13;

10.5.3.2 any costs and expenses incurred by the Owner in locating, repossessing, recovering or restoring the Goods or collecting any payments due under the Contract or otherwise in obtaining the due performance of the obligations of the Hirer under the Contract;

10.5.3.3 the aggregate of all Rental that would have been payable during the unexpired term of the Period of Hire adjusted by such amount as the Owner shall conclusively certify is necessary, taking account of the early receipt of such sum; and

10.5.3.4 all and any other sums due under this Contract.

10.6 If the Hirer fails to comply with or commits a breach of any provision of this Contract the Owner may, without being in any way obliged to do so or responsible for so doing and without prejudice to the ability of the Owner to treat that non-compliance as an event entitling it to terminate under Clause 10.1, effect compliance on behalf of the Hirer, whereupon the Hirer will become liable to pay immediately any sums expended by the Owner together with all costs and expenses (including legal costs on a full indemnity basis) in connection with such compliance.

**11. Return of Goods**





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

11.1 Upon expiry of the Period of Hire (and provided that none of the events in Clauses 10.1 or 10.2 have occurred) the Hirer shall return or re-deliver the Goods to any of the Depots at the Hirer's risk and cost in good working order, repair and condition (Wear and Tear only excepted).

11.2 Until such time as the Goods have been returned to a Depot and a Clean-Out Certificate has been issued the Period of Hire will continue and the Hirer will continue to pay Rental and all other sums due to the Owner.

11.3 If the Goods are returned to the Owner prior to the expiry of the Period of Hire then the Hirer shall pay to the Owner the Early Return Payment specified in the Schedule before a Clean-Out Certificate shall be issued and until a Clean-Out Certificate has been issued the Period of Hire will continue and the Hirer will continue to pay Rental and all other sums due to the Owner.

**12. Cleaning and Repair of the Goods**

12.1 Whether this Contract is terminated pursuant to Clause 10 or the Goods are returned pursuant to Clause 11 the Period of Hire will be deemed to continue and Rental and all other sums due will continue to be payable by the Hirer until the Goods are returned to the Depot in a clean undamaged condition with no Pitting Corrosion or other Damage and a Clean-Out Certificate has been issued.

12.2 If the Goods require cleaning internally or externally or if any Damage to the Goods (including Pitting Corrosion) has to be repaired or rectified by the Owner the Hirer shall be responsible for the payment of all costs and expenses incurred by the Owner in respect of cleaning rectifying or repairing the Goods. The Owner shall have sole discretion as to what cleaning, testing and repair work is required before a Clean-Out Certificate is issued.

**13. Interest**

13.1 Any payment due from the Hirer to the Owner shall be treated as paid and received on the date on which the Owner obtains value for such payment.

13.2 Any money due or payable to the Owner under the Contract shall bear interest at the Default Rate (as well before as after any judgement) from the date such money is due, expended or incurred until payment.

**14. Reimbursement of expenses**

14.1 The Hirer shall reimburse the Owner on demand for all expenses (including legal fees and Value Added Tax which is not recoverable) incurred by the Owner in connection with or incidental to:

14.1.1 any amendment, variation (including, without limitation, rental or other adjustments) or waiver from time to time of any of the provisions of this Contract or any consent or notice given from time to time under this Contract; and/or

14.1.2 the protection, preservation or enforcement of any right or remedy conferred upon the Owner under this Contract or by law, or any action to recover possession of the Goods or any part of them whether or not any such action progresses to judgement.

**15. Confidentiality**

15.1 The Hirer undertakes to keep all information of a commercially sensitive nature arising hereunder or provided to it by the Owner strictly confidential. Such information shall (for the purpose of clarification not limitation) include details of cost make up, price structures, drawings, specifications, designs, process data, performance data or any other matter relating to the subject matter of this third party.

15.2.1.1 The Hirer shall take the same standard of care with respect to such information as it takes with its own information of a similar nature and shall not pass such information to any third party without the prior written consent of the Owner.

**16. General**

16.1 Each right or remedy of the Owner under this Contract is without prejudice to any other right or remedy of the Owner whether under this Contract or not.

16.2 Any provision of this Contract which is held by any competent authority to be invalid, void, voidable or unenforceable (in whole or in part) shall to the extent of such.





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

## METANO TERMS AND CONDITIONS FOR THE SALE OF GOODS

### 1. Interpretation

#### 1.1 Definitions

##### Business Day

##### Conditions

##### Contract

##### Customer

##### Force Majeure Event

##### Goods

##### Order

##### Specification

##### Supplier

a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business;  
the terms and conditions set out in this document as amended from time to time in accordance with clause 11.4;  
the contract between the Supplier and the Customer for the sale and purchase of the Goods in accordance with these Conditions;

the person or firm who purchases the Goods from the Supplier;

an event or circumstance beyond a party's reasonable control;

the goods (or any part of them) set out in the Order;

the Customer's order for the Goods, as set out in the Customer's purchase order form (including by email), the Customer's written acceptance of the Supplier's quotation (including by email), the Customer's web-shop order or overleaf, as the case may be;

any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier; and

Metano Limited a company registered in England with company number 02893198, whose registered office is at Unit 14/15 Whinfield Way, Whinfield Industrial Estate, Rowlands Gill, Tyne and Wear, NE39 1EH.

### 2. Basis of Contract

2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Supplier issues a written acceptance of the Order, at which point the Contract shall come into existence.

2.4 The Customer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that is inconsistent with these Conditions.

2.5 Any samples, drawings, descriptive matter or advertising produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods referred to in them. They shall not form part of the Contract nor have any contractual force.

2.6 A quotation for the Goods given by the Supplier shall not constitute an offer. A quotation shall only be valid for a period of 30 (thirty) days from its date of issue.

2.7 Any typographical, clerical or other minor error or submission in any sales literature, quotation, price list, acceptance of offer or invoice or other document or information issued by the Supplier shall be subject to correction without any liability on the part of the Supplier.

### 3. Goods

3.1 The Goods are described in the Specification.

3.2 Where the Specification (or any material aspects of the Specification), is prepared and provided by the Customer, the Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Specification. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Specification if required by any applicable statutory or regulatory requirements.

### 4. Delivery

4.1 The Supplier shall use reasonable endeavours to ensure that:

4.1.1 each delivery of the Goods is accompanied by a delivery note that shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.2 if the Supplier requires the Customer to return any packaging materials to the Supplier, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as the Supplier shall reasonably request. Returns of packaging materials shall be at the Supplier's expense.

4.2 The Supplier shall deliver the Goods to the location set out in the Order, or the Customer shall collect the Goods from the Supplier's premises, or, in each case, such other location as the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer that the Goods are ready.

4.3 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.

4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.5 If the Supplier fails to deliver the Goods within 30 (thirty) days of accepting an Order, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.

4.6 If the Customer fails to take delivery of the Goods within 3 (three) Business Days of the Supplier notifying the Customer that the Goods are ready, then, except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

4.6.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which the Supplier notified the Customer that the Goods were ready; and

4.6.2 the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.7 If 10 (ten) Business Days after the day on which the Supplier notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Goods or charge the Customer for any shortfall below the price of the Goods.





**Metano Limited.** Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

4.8 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 5. Quality

5.1 The Supplier warrants that on delivery, and for a period of 12 (twelve) months from the date of delivery, the Goods shall:

5.1.1 conform in all material respects with their description and any applicable Specification; and

5.1.2 be free from material defects in design, material and workmanship.

5.2 Subject to clause 5.3, if:

5.2.1 the Customer gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

5.2.2 the Supplier is given a reasonable opportunity of examining such Goods; and

5.2.3 the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Customer's cost, the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranties set out in clause 5.1 in any of the following events:

5.3.1 the Customer makes any further use of such Goods after giving notice in accordance with clause 5.2;

5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same;

5.3.3 the defect arises as a result of the Supplier following any drawing, design or Specification supplied by the Customer;

5.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;

5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;

5.3.6 the Goods differ from the Specification as a result of changes made by the Supplier in accordance with clause 3.3 to ensure they comply with applicable statutory or regulatory requirements; or

5.3.7 the Goods, being liner bags, are not stored between +10°C and +30°C, below 75% relative humidity, out of direct sunlight and away from strong odours.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranties set out in clause 5.1.

5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

## 6. Title and Risk

6.1 The risk in the Goods shall pass to the Customer on completion of delivery.

6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other goods that the Supplier has supplied to the Customer in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

6.3 Until title to the Goods has passed to the Customer, the Customer shall:

6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;

6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;

6.3.3 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 8.1; and

6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the events listed in clause 8.1, then, without limiting any other right or remedy the Supplier may have:

6.4.1 the Supplier may at any time:

6.4.1.1 require the Customer to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and

6.4.1.2 if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.

## 7. Price and Payment

7.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the Supplier's published price list in force as at the date of delivery, if applicable.

7.2 The Supplier may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in the cost of the Goods that is due to:

7.2.1 any factor beyond the Supplier's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

7.2.2 any request by the Customer to change the delivery date(s), quantities or types of Goods ordered, or the Specification; or

7.2.3 any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate or accurate information or instructions.

7.3 The price of the Goods:

7.3.1 excludes amounts in respect of value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

7.3.2 unless otherwise stated or agreed by the Supplier, excludes the costs and charges of transport of the Goods, which shall be invoiced to the Customer.

7.4 The Supplier may invoice the Customer for the Goods on or at any time after the completion of delivery.

7.5 The Customer shall pay the invoice in full and in cleared funds within 30 (thirty) days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time of payment is of the essence.

7.6 If the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above Lloyds Bank PLC's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

7.7 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

## 8. Termination

8.1 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:





8.1.1 the Customer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 (fourteen) days of the Customer being notified in writing to do so;

8.1.2 the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

8.1.3 the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

8.1.4 the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

8.2 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods under the Contract or any other contract between the Customer and the Supplier if the Customer becomes subject to any of the events listed in clause 8.1.1 to clause 8.1.4, or the Supplier reasonably believes that the Customer is about to become subject to any of them, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

8.3 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 14 (fourteen) days after being notified in writing to make such payment.

8.4 On termination of the Contract for any reason the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest.

8.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.

8.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

## 9. Limitation of Liability

9.1 Nothing in these Conditions shall limit or exclude the Supplier's liability for:

9.1.1 death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

9.1.2 fraud or fraudulent misrepresentation;

9.1.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

9.1.4 defective products under the Consumer Protection Act 1987; or

9.1.5 any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

9.2 Subject to clause 9.1:

9.2.1 the Supplier shall under no circumstances whatsoever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

9.2.2 the Supplier's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods.

## 10. Force Majeure

Neither party shall be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 4 (four) weeks, the party not affected may terminate this Contract by giving 14 (fourteen) days written notice to the affected party.

## 11. General

11.1 Assignment and other dealings

11.1.1 The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

11.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

11.2 Confidentiality

11.2.1 Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 11.2.2. For the purposes of this clause, group means, in relation to a party, that party, any subsidiary or holding company from time to time of that party, and any subsidiary from time to time of a holding company of that party.

11.2.2 Each party may disclose the other party's confidential information:

11.2.2.1 to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 11.2; and

11.2.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

11.2.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Agreement.

11.3 Entire agreement

11.3.1 This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

11.3.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

11.4 Variation

No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11.5 Waiver

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

11.5.1 waive that or any other right or remedy; nor

11.5.2 prevent or restrict the further exercise of that or any other right or remedy.





Metano Limited. Units 14/15 Whinfield Industrial Estate  
Rowlands Gill, Tyne & Wear, United Kingdom. NE39 1EH

T: +44 (0) 1207 549 448 F: +44 (0) 1207 549 447  
E: sales@metano.com W: www.metano.com

11.6 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

11.7 Notices

11.7.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or fax or email.

11.7.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 11.7.1; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.

11.7.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

11.8 Third party rights

No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

11.9 Governing law

The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by and construed in accordance with the law of England.

11.10 Jurisdiction

Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Contract or its subject matter or formation.

