

ROTORK GROUP
THE GENERAL TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

The General Terms and Conditions for the Purchase of Goods (these “Conditions”) between the Supplier and the Customer shall apply to any Order for Goods issued by the Customer to the Supplier during the entire term (including the original term and any extension thereof) of the Contract. These Conditions herein shall be incorporated by reference in any Order and the Contract, made part of the Order and the Contract and be at all time binding on the contractual parties set forth in the Order and the Contract with respect to sale and purchase of Goods in any Order and the Contract, unless the parties in a specific Order expressly agree in writing that any, all or some of these Conditions shall not apply to the specific Order. In the event of a conflict between the pre-printed terms provided in any Order and these Conditions, these Conditions shall prevail at all time as between the parties in the Order and the Contract. All inconsistent or additional terms or conditions in any Supplier acknowledgement, packaging, invoice or other sales forms are hereby expressly objected to and rejected by the Customer and shall not be applicable to any Orders issued by the Customer to the Supplier.

1. INTERPRETATION

1.1 **Definitions.** In these Conditions, the following definitions apply:

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Confidential Information of the Disclosing Party: means any proprietary information the Disclosing Party discloses to the Receiving Party, whether developed by the Disclosing Party or by others and whether patented or patentable, including, without limitation, customer and supplier lists, trade secrets, technical or commercial know-how, inventions, processes, initiatives designs, processes, formulas, chemical compositions, plans, Specifications, devices, research and development data, manufacturing and processing data, Customer Materials, clinical and engineering data, purchasing and marketing data, samples and any other nature whatsoever provided directly or indirectly by the Disclosing Party to the Receiving Party, whether furnished in written or oral form, or derived from the Receiving Party’s review of the Disclosing Party’s products or technology or technical information relating thereto, or by way of models, biological or chemical materials or other tangible form or by demonstrations or any copy of any of the foregoing, and all notes, analyses or studies prepared by or on behalf of the Receiving Party as a result of receipt of the information described above, whether before, on or after the date of the Contract.

Conditions: the terms and conditions set out in this document as amended from time to time in accordance with clause 16.6.

Contract: the contract between the Customer and the Supplier for the sale and purchase of any Goods in accordance with these Conditions for a certain period of time.

Customer: means the customer named in the Order or the Contract.

Goods: the goods (or any part of them) set out in the Order or the Contract.

Intellectual Property Rights: mean all present and future intellectual and industrial property rights conferred by any law, including, without limitation, (i) patents, designs, copyright, rights in circuit layouts, plant breeder's rights, trade marks, know how, brand names, domain names, inventions, moral rights, product names, trade secrets, the right to have Confidential Information kept confidential and other results of intellectual effort in the scientific,

technological, bio-technological, industrial and commercial fields, whether or not registered or capable of registration; and (ii) any application or right to apply for registration of any of those rights; and (iii) all renewals and extensions of these rights.

Order: the written purchase order by the Customer for purchase of the Goods, as set out in the purchase order form of the Customer.

Parties: the Customer(s) and the Supplier(s).

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

Supplier: the person or firm named in the Order from whom Customer places an Order and purchases the Goods pursuant to the Order.

1.2 **Construction.** In these Conditions, the following rules apply:

- (a) A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- (b) A reference to a party includes its personal representatives, successors or permitted assigns.
- (c) A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (d) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (e) A reference to **writing** or **written** includes faxes and e-mails.

2. BASIS OF CONTRACT

2.1 These Conditions apply to the Contract to the exclusion of any other additional or different terms (a) that Supplier seeks to impose or incorporate, or (b) which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes a written offer signed by the Customer and issued to the Supplier to purchase the Goods in accordance with these Conditions.

2.3 The Order shall be deemed to be accepted on the Supplier issuing a written acceptance of the Order duly signed by a duly authorized representative of the Supplier, at which point the Contract shall be formed as between the Customer and the Supplier;

2.4 The Customer shall have the right, at any time, to make changes by submitting a change order regarding the quantity, Delivery Location (as defined below) and/or delivery date of the Goods that are subject to the Contract or any Order. To the reasonably full extent, the Supplier shall comply with all such changes. Notwithstanding the foregoing, no changes shall be made except upon a written change order issued from the Customer to the Supplier and, if the change affects the Supplier's cost or time of performance, an equitable adjustment as provided for in the change order shall be made by the Customer and the Supplier and the Order shall be deemed modified accordingly.

3. GOODS

3.1 The Supplier shall ensure that the Goods shall:

- (a) correspond with their description and any applicable Specification;
- (b) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the skill and judgement of the Supplier;
- (c) where applicable, be free from defects in design, material and workmanship and remain so for 12 months after delivery;
- (d) comply with all applicable statutory and regulatory requirements relating to the materials provision, manufacture, testing, labelling, packaging, quality assurance, storage, handling, customs clearance and delivery of the Goods;
- (e) be manufactured at a location which has been approved by the Customer in writing and in compliance with all applicable governmental regulations. The Supplier shall not change the location at which the Goods are manufactured without obtaining the prior written consent of the Customer, and any such change without Customer's prior written consent shall be deemed a material breach of this Contract.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract.

3.3 The Customer shall have the right to inspect and test the Goods at any time before delivery. The Customer shall have the right to appoint such persons as it considers necessary or desirable to inspect the Goods for which the Supplier must grant proper and reasonable facilities for such inspection to such persons and the Supplier shall, at the request of the Customer, provide the Customer with copies of test reports or data disclosed as a result of any inspection carried out by the Customer or his or its nominee.

3.4 The costs of any inspection tests shall be borne by the Supplier other than the salaries, travelling expenses and subsistence of relevant personnel employed by the Customer and unless otherwise specified in the Order.

3.5 The items to be tested and tests other than of a routine nature shall be specified in the Order. It shall be the Supplier's responsibility to inform the Customer if the Supplier does not have adequate facilities for carrying out the tests required by the Customer and it shall be the Supplier's responsibility and at its own cost to make the necessary arrangements for the testing of the Goods concerned either at the site or elsewhere convenient to both the Customer and Supplier, which third party test site shall be agreed upon by the Customer subject to the confidentiality obligations on the third party testing agency.

3.6 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the undertakings of the Supplier at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.7 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the obligations of the Supplier under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

4. DELIVERY

4.1 The Supplier shall ensure that:

- (a) the Goods are properly packed, labelled and secured in such manner as to enable them to reach their destination in good condition;
- (b) each delivery of the Goods is accompanied by a delivery note which shows: the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any), any labelling requirements (such as barcoding) specified in the Order and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered;
- (c) if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.2 Unless delayed by Force Majeure, time for delivery shall be of the essence. The Supplier shall deliver the Goods:

- (a) on the date specified in the Order, or, if no such date is specified, within 28 days of the date of the Order;
- (b) to such location as is set out in the Order, or as instructed in writing by the Customer prior to delivery (**Delivery Location**); and
- (c) during the normal business hours of the Customer, or as instructed by the Customer.

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

4.4 If the Supplier:

- (a) delivers less than 95% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or ask the Customer to supply the shortfalls at a discounted price; or
- (b) delivers more than 105% of the quantity of Goods ordered, the Customer may at its sole discretion reject the Goods or the excess Goods,

and any rejected Goods shall be returnable at the risk and expense of the Supplier. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.5 The Supplier shall not deliver the Goods in instalments without the prior written consent of the Customer. Where it is agreed that the Goods are to be delivered by instalments, they may be invoiced and paid for separately at the Customer's option. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 5.

5. REMEDIES

5.1 If the Goods are not delivered on the date they are due as referred to in clause 4.2(a) and (b), or do not comply with the undertakings set out in clause 3.1, then, without limiting any of its other rights or remedies, the Customer shall have the right to any one or more of the following remedies, whether or not it has accepted the Goods:

- (a) to terminate the Contract;
- (b) to reject the Goods (in whole or in part) and return them to the Supplier at the own risk and expense of the Supplier;
- (c) to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

- (d) to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- (e) to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods from a third party; and
- (f) to claim damages for any other costs, loss or expenses incurred by the Customer which are in any way attributable to the failure of the Supplier to carry out its obligations under the Contract, including third party claims.

5.2 If the Goods are not delivered on the due date the Customer shall be entitled to at its option claiming or deducting up to 5% of the price of the Goods for each week's delay in delivery by way of liquidated damages, up to a maximum of 50% of the total price of the Goods. The Parties agree that this sum is not a penalty but a reasonably limited substitute for actual damages which the Customer would be entitled to in the event of late delivery but which would be difficult to calculate with accuracy or certainty. If the Customer exercises its rights under this clause 5.2, it shall not be entitled to any of the remedies set out in clause 5.1 in respect of the late delivery of the Goods (but such remedies shall be available to the Customer if the condition(s) of the Goods do not comply with the undertakings set out in clause 3.1).

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

5.4 The Supplier shall keep the Customer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with:

- (a) any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the supply or use of the Goods, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, affiliates, agents, subcontractors and its affiliates' employees, agents or subcontractors;
- (b) any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Goods, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, affiliates, agents, subcontractors and its affiliates' employees, agents or subcontractors; and
- (c) any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Supplier, its employees, affiliates, agents, subcontractors and its affiliates' employees, agents or subcontractors.

This clause 5.4 shall survive termination of the Contract.

5.5 The rights and remedies of the Customer under these Conditions are in addition to its rights and remedies implied by statute and common law.

6. EXPEDITING/PROGRESS

6.1 In addition to and without prejudice to any other right that the Customer may have hereunder, the Customer shall have the right to expedite the Goods (as herein defined).

6.2 To expedite the Goods shall mean any one or more of the following:

- (a) to obtain the engineering and production schedules, determine their reasonableness and appraise the progress of the engineering and production works against the schedules;
- (b) to obtain immediately on request all drawings, design calculations, parts, lists, spare parts recommendations and any other document requested in the Order;
- (c) to determine whether the Order has been released for manufacture or fabrication and if not find out the reasons for delay;
- (d) to determine whether the bills of material have been issued;
- (e) to check whether component material is stock material and if so check its allocation;
- (f) to determine whether component material or any part of it is to be ordered from sub-suppliers, obtain the list of sub-orders, the sub-suppliers addresses, reference numbers and delivery schedules and to expedite these sub-suppliers if deemed necessary;
- (g) to determine that sub-orders for critical materials have been placed far enough in advance to avoid fabrication delays and if castings are involved to obtain full information about the patterns;
- (h) to check that sub-orders contain complete instructions about requested inspection requirements;
- (i) to indicate reasons for claiming reimbursement of additional costs through failure of the Supplier to fulfil its responsibility hereunder.

7. TITLE AND RISK

7.1 Title and risk in the Goods shall pass to the Customer on completion of delivery.

8. PRICE AND PAYMENT

8.1 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 published price of the Supplier list in force as at the date the Contract came into existence.

8.2 The price of the Goods is exclusive of amounts in respect of value added tax (**VAT**), but includes the costs of packaging, insurance and carriage of the Goods. No extra charges shall be effective unless agreed in writing and signed by the Customer.

8.3 The Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods.

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

8.5 The Customer shall pay correctly rendered invoices within time specified in the Order, or if there is no time specified, 60 days of receipt of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. The Customer shall have the right to review reasonably itemized details as to all charges in a relevant invoice. The charges and amounts stated in each invoice shall, absent manifest error, be final, conclusive and binding on the Parties. In the event that the Customer wishes to dispute any of the charges or amounts set forth in any invoice, it shall notify the Supplier within seven (7) days of receipt of any invoice and pay the undisputed amount. The Parties shall proceed in good faith to resolve the dispute as promptly as practicable, failing which the dispute shall be resolved by arbitration as provided in clause 16.8. Failure by the Customer to notify the Supplier within such time period

shall be deemed acceptance of the invoice and waiver by the Customer of its right to object to the accuracy of the invoice.

- 8.6 If a party fails to make any payment due to the other under the Contract by the due date for payment (**due date**), then the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above the base rate of Barclays Bank PLC in London from time to time. Such interest shall accrue on a daily basis from the due date (inclusive) until the date of actual payment (exclusive) of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.
- 8.7 The Customer may, without limiting any other rights or remedies it may have, set-off any amount owed to it by the Supplier against any amounts payable by it to the Supplier.

9. CUSTOMER PROPERTY

- 9.1 The Supplier acknowledges that all materials, equipment, patterns, dies, moulds, other tooling, drawings, Specifications or data supplied by the Customer to the Supplier (**Customer Materials**) and all rights in and titles to and all Intellectual Property Rights in the Customer Materials are and shall remain the exclusive property of the Customer. The Supplier shall keep the Customer Materials in safe custody at its own risk, maintain them in good condition until returned to the Customer, and not dispose or use the same other than in accordance with the written instructions or authorisation of the Customer.
- 9.2 The Supplier shall maintain all Customer Materials in good order and condition and insure them against all risks whilst in his custody and on completion of the Contract or as otherwise directed by the Customer shall return them to the Customer in good order and condition. Should the Supplier fail so to return them the Customer may either withhold payment until they are so returned or withhold such part of the payment due as may be required to replace them or restore them to good order and condition whichever may be the less expensive.
- 9.3 The Supplier shall not use Customer Materials nor shall he authorise or knowingly permit them to be used by anyone else for, or in connection with, any purpose other than the supply of Goods to Customer unless such use is expressly authorised by the Customer both previously and in writing.
- 9.4 Where the Customer, for the purposes of the Contract, issues materials, including Customer Materials, free of charge to the Supplier, such materials shall be and remain the property of the Customer. The Supplier shall maintain all such materials in good order and condition subject, in the case of Customer Materials (to the extent applicable), to fair wear and tear. The Supplier shall use such materials solely in connection with the Contract. Any surplus materials shall be disposed of at the Customer's discretion. Waste of such materials arising from bad workmanship or negligence of the Supplier shall be made good at Supplier's expense.
- 9.5 The Supplier acknowledges the validity of all copyright, patent, trademark, technical know-how, trade secret and other Intellectual Property Rights in the Customer Materials and the Customer's Confidential Information, the documentation and any copies thereof (including, without limitation, all their updates provided by the Customer to the Supplier (collectively, the "**Proprietary Assets**") and the Customer's ownership or other rights, title or interest in and to the Proprietary Assets throughout the world. The Supplier acknowledges that its use of the Customer Materials and the Customer's Confidential Information shall not create in the Supplier any right, title or interest in the Proprietary Assets. The Supplier further covenants that it shall not contest the ownership of or any other right, title or interest in and to the

Proprietary Assets. Without the prior written consent or authorization of the Customer, the Supplier shall not create (whether publish or not) or attempt to acquire any rights to any formula or technology which enables performance similar to that contained in of the Proprietary Assets, in China or anywhere else.

- 9.6 Without the prior written consent of the Customer, the Supplier shall not, or shall not cause or permit any person to, write or develop any derivatives based upon the Customer Materials, its Confidential Information and the Proprietary Assets, or make any alteration, modification, addition or enhancement to the Customer Materials, its Confidential Information and the Proprietary Assets, or the Goods, unless such alteration, modification, addition, or enhancement is approved by the Customer in writing. The Supplier further acknowledges that altered, modified, added or enhanced versions of the Customer Materials, its Confidential Information and the Proprietary Assets do not constitute products different from the Customer Materials, its Confidential Information and the Proprietary Assets, and as such, the Customer shall own any right, title or interest in the alteration, modification, addition and enhancement. The Supplier shall not, without the prior written consent of the Customer, decompile, disassemble, or reverse engineer all or any part of the technology and formula contained in the Customer Materials, its Confidential Information and the Proprietary Assets nor cause, permit or assist others in their efforts to do so.

10. INSURANCE

- 10.1 Throughout the term of the Contract and continuing until all of the Customer Materials has been returned to the Customer, the Supplier shall provide and maintain insurance coverage in accordance with the following:
- (a) All Risks, Property Coverage at full replacement Cost for the Customer Materials noting on the policy any Customer interest in the Customer Materials, including the Customer as a beneficiary of the insurance policy;
 - (b) Public and products liability insurance to comply with the following:
 - (i) Be on a claims occurring basis;
 - (ii) A minimum limit of indemnity of £10,000,000;
 - (iii) The limit in respect of public liability shall apply to each and every claim;
 - (iv) The limit in respect of products liability shall apply to each and every claim;
 - (v) Shall include any liability arising from any design, advice, training or similar given in connection with the Goods;
 - (vi) Shall include any liability arising from any act or omission of any sub-contractors, agents or any other person or company acting for or on behalf of the Supplier;
 - (vii) Shall include an indemnity to principals clause;
 - (viii) Shall include coverage for contractual liability in respect of personal or bodily injury and damage to property.
 - (c) Employers' liability insurance to comply with the following:

- (i) A minimum limit of indemnity of £10,000,000 for each and every claim;
 - (ii) Shall include an indemnity to principals clause;
 - (iii) Shall include liability for bodily injury to self-employed persons, labour only sub-contractors and/or employees hired or loaned under training schemes and persons gaining work experience;
 - (iv) Shall include liability arising out of contract.
- (d) If the Supplier is providing design advice or services for a fee, professional indemnity/errors and omissions insurance to comply with the following:
- (i) Be on a claims occurring basis;
 - (ii) A minimum limit of indemnity of £10,000,000 for each and every claim;
 - (iii) Shall include liability for financial losses, bodily injury and property damage arising from the design advice or services;
 - (iv) Shall include liability arising from the acts or omissions or any sub-contractors, agents or any other person or company acting for or on behalf of the Supplier;
 - (v) Shall include an indemnity to principals clause;
 - (vi) Shall include liability arising out of contract.

10.2 Any and all deductibles for such insurance policies shall be assumed by, for the account of the Supplier and at the Supplier's sole risk.

10.3 The Supplier's insurance policies shall be primary and the Customer's insurance policies shall not be called upon to contribute.

10.4 The Supplier's insurance policies shall include a waiver of subrogation against the Customer.

10.5 Certificates of insurance acceptable to the Customer shall be filed with Customer prior to commencement of the Order.

10.6 Certificates of insurance and the insurance policies required shall contain a provision that coverages afforded under the policies will not be cancelled, changed or allowed to expire during the term of this Contract.

10.7 In the event that Supplier fails to obtain or maintain any required insurance, Customer may purchase such insurance and back charge the expenses thereof to the Contract price, or may terminate the contract.

11. CONFIDENTIAL INFORMATION

During the entire term of this Contract and any time thereafter, a party (**Receiving party**) shall and it shall procure its directors, officers, employees, agents, consultants, professional advisors, affiliates and subcontractors and the respective directors, officers, employees and

agents of each such affiliate and subcontractor to, keep in strict confidence the Confidential Information disclosed by the other party (**Disclosing party**) to the Receiving Party. The Receiving Party undertakes to the Disclosing Party that it shall not, and that it shall procure that its respective directors, officers, employees, agents, consultants, professional advisors, affiliates and subcontractors and the respective directors, officers, employees and agents of each such affiliate and subcontractors will not, during the entire term of the Contract and anytime thereafter, for whatever reason or in whatever manner, except in the proper performance of any Contract, use or divulge to any person, or publish or disclose or permit to be published or disclosed, any Confidential Information of the Disclosing Party, or an affiliate thereof, that the Receiving Party or its directors, officers, employees, agents, consultants, professional advisors, affiliates and subcontractors and the respective directors, officers, employees and agents of each such affiliate and subcontractor have received or obtained or may receive or obtain (whether or not, in the case of documents, they are marked as confidential) from the Disclosing Party or its directors, officers, employees, agents, consultants, professional advisors or affiliates under or in connection with the Contract or any Order or the transactions contemplated thereby. The Receiving Party shall only disclose such Confidential Information to those of its above personnel who need to know the same for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such personnel shall keep such Confidential Information confidential.

12. TERMINATION

- 12.1 The Customer may terminate the Contract in whole or in part at any time before delivery of a specific Order with immediate effect by giving the Supplier a written notice, whereupon the Supplier shall discontinue all work on the Contract. The Customer shall pay the Supplier fair and reasonable compensation for work-in-progress at the time of termination, but such compensation shall not include loss of anticipated profits or any consequential or indirect loss.
- 12.2 The Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier becomes subject to any of the following events:
- (a) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
 - (b) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Supplier is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
 - (c) (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier, other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;

- (d) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- (e) (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier;
- (f) (being a company) a floating charge holder over the assets of the Supplier has become entitled to appoint or has appointed an administrative receiver;
- (g) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (h) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.2(a) to clause 12.2(g) inclusive;
- (i) the Supplier suspends, or threatens to suspend, or ceases or threatens to cease to carry on, all or substantially the whole of its business;
- (j) the Supplier engages in any activity that is considered a conflict of interest with the Customer, or the Supplier directly or indirectly competes with the Goods or any business of the Customer or its affiliates;
- (k) the Supplier breaches or is in default of any of the terms, obligations, covenants, representations or warranties under the Contract and these Conditions, and it fails to correct such breach or default within ten (10) days after the Customer has given the Supplier a written notice thereof; or
- (l) the financial position of the Supplier deteriorates to such an extent that in the opinion of the Customer the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy;

12.3 If the Contract terminates pursuant to clauses 12.1 and 12.2, the Contract shall become null and void and have no further force or effect, except that any such termination shall be without prejudice to the rights of either party on account of the non-performance of the obligations as a result of the intentional or wilful breach or violation of the representations, warranties, covenants or agreements of the other party under the Contract. Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect, including, without limitation, clause 11.

12.4 Upon termination of the Contract, the Supplier shall immediately stop manufacturing the Goods and using the Confidential Information of the Customer for any purpose whatsoever. Within ten (10) Business Days from the date of the termination, the Supplier shall ensure that all of the Goods shall have been removed, by destruction or other means satisfactory to the Customer, from any facilities in the possession of or under the control by the Supplier, or its agents. The Supplier shall, within ten (10) Business Days after the termination of the Contract, destroy, or turn over to the Customer, all finished or unfinished Goods. In the event the Customer elects to destroy them, a duly authorized officer of the Supplier shall, upon completion of such destruction, certify in writing to the Customer that the Supplier has in fact performed such destruction. The Customer will have the right, and the Supplier shall permit the Customer, to witness the destruction of such finished or unfinished Goods in the possession or under the control of the Supplier. The Supplier shall give the Purchaser a 10-

day prior written notice before the occurrence of such destruction. Furthermore, the Supplier shall return to the Customer the Customer's Confidential Information in the possession or under the control of the Supplier or any of its directors, officers, employees, agents, consultants, professional advisors, affiliates and subcontractors and the respective directors, officers, employees and agents of each such affiliate and subcontractor within ten (10) Business Days after the Supplier receives the instruction from the Customer.

13. ANTI-BRIBERY AND CORRUPTION

13.1 The Supplier shall:

- (a) comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Relevant Requirements**);
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- (c) comply with the Customer's Ethics and Values Statement, available from <http://www.rotork.com/en/investors/index/ethicsvalues> in each case as the Customer may update it from time to time (**Ethics Statement**);
- (d) promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract;
- (e) immediately notify the Customer (in writing) if a foreign public official becomes an officer or employee of the Supplier (and the Supplier warrants that it has no foreign public officials as officers or employees at the date of the Contract); and
- (f) have and shall maintain in place throughout the term of the Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, Ethics Statement and clause 13.1(b), and will enforce them where appropriate.

13.2 This clause 13 shall be a condition of the Contract, and the Parties therefore agree, without prejudice to any other rights they may have under the Contract or at law in respect of breaches of these, that the Customer shall be entitled to terminate the Contract and recover damages for loss of bargain.

13.3 The Supplier shall ensure that any person associated with the Supplier who is providing Goods in connection with the Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 13 (**Relevant Terms**). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

13.4 For the purpose of this clause 13, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this clause 13 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.

13.5 If the Customer suspects the Supplier or any person associated with the Supplier of breach of this clause 13, the Customer and its nominees shall have the right to immediately access and take copies of any records and any other information held at the Supplier's premises and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 13. The Supplier shall give all necessary assistance to the conduct of such audit during the term of the Contract and for a period of three years after termination of the Contract.

14. LICENSES, PERMITS, APPROVALS AND ORIGIN

14.1 The Supplier shall be responsible for obtaining the necessary inspection or code approvals from the relevant authorities. All costs resulting from following the applicable code and/or the Customer's requirements shall be borne by the Supplier.

14.2 If the performance by the Supplier of the Contract requires any government license or permit it shall be the Supplier's responsibility to obtain the same in due time.

14.3 The Supplier shall, when required to do so by the Customer, provide the Customer with evidence of the place of origin of the Goods or any part thereof and of the raw materials used in their manufacture.

15. FORCE MAJEURE

Neither party shall be liable to the other for any delay or failure in performing its obligations under the Contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the Supplier shall use all reasonable endeavours to cure any such events or circumstances and resume performance under the Contract. If any events or circumstances prevent the Supplier from carrying out its obligations under the Contract for a continuous period of more than 20 Business Days, the Customer may terminate this Contract immediately by giving written notice to the Supplier.

16. GENERAL

16.1 Assignment and subcontracting.

(a) The Customer may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Supplier may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Customer.

16.2 Notices.

(a) 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, recorded delivery, commercial courier, fax or e-mail.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 16.2(a); if sent by pre-paid first-class post or recorded delivery, 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 e-mail, one Business Day after transmission.

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

16.3 **Severance.**

(a) If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected.

(b) If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

16.4 **Waiver.** A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

16.5 **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it, save that any member of the Rotork PLC group of companies shall have the right to enforce its rights against the Supplier in respect of any Goods purchased by the Customer on that company's behalf.

16.6 **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when separately and expressly agreed in writing and signed by the Customer.

16.7 **No Partnership, etc.** Each Party shall remain an independent contractor with respect to the other and shall be responsible for compliance with all laws, rules and regulations applicable to such Party. Except as expressly provided herein, nothing in the Contract shall constitute or be deemed to constitute a relationship of employer and employee, principal and agent, or partnership between the Parties (or any thereof), and neither Party has the power or the right to bind, commit or pledge the credit of the other Party without the prior written consent of the other Party. Each Party shall indemnify the other for any loss, damage, liability, claim, demand or penalty that may be sustained by the other Party for reason of such Party's failure to comply with this provision.

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

- 16.9 **Arbitration.** The arbitration shall be conducted in Hong Kong under the auspices of the London Court of International Arbitration (the "Arbitration Centre"). There shall be three arbitrators. The Supplier shall select one arbitrator and the Customer shall select one arbitrator within thirty (30) days after giving or receiving the demand for arbitration. Such arbitrators shall be freely selected, and the Parties shall not be limited in their selection to any prescribed list. The Arbitration Centre shall appoint the third arbitrator. If either Party does not appoint an arbitrator who has consented to participate within thirty (30) days after the appointment of the first arbitrator, the relevant appointment shall be made by the Arbitration Centre.
- 16.10 **Arbitration Language.** The arbitration proceedings shall be conducted in English. The arbitration tribunal shall apply the arbitration rules of the Arbitration Centre in effect at the time of the arbitration. However, if such rules are in conflict with the provisions of this section, the provisions of this section shall prevail.
- 16.11 **Award.** The award of the arbitration tribunal shall be final and binding upon the disputing Parties, and either of the Parties may, at the cost and expense of the losing Party, apply to a court of competent jurisdiction for enforcement of such award.
- 16.12 **Injunctive Relief.** In order to preserve its rights and remedies, either Party shall be entitled to seek preliminary injunctive relief from any court of competent jurisdiction or other temporary relief from such a court or from the arbitration tribunal pending the final decision or award of the arbitrators.
- 16.13 **Continuance.** During the period when a dispute is being resolved, except for the matter being disputed, this Contract shall, in all other respects, continue to be implemented.