

ROTORK GROUP
GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES

These general terms and conditions for the Supply of Services (these “Conditions”) between the Supplier and the Customer shall apply to (a) any Services Order issued by the Customer to the Supplier or (b) any written quotation of the Supplier for Services issued to the Customer during the entire term (including the original term and any extension thereof) of the Contract. The Supplier and the Customer hereby expressly agree that these Conditions herein shall be incorporated by reference in any Order, the Contract and any written quotation of the Supplier, made part of the Order, the Contract and the Supplier quotation 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 Services 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 Services Order (or any Supplier quotation) and these Conditions, these Conditions shall prevail at all time. All inconsistent or additional terms or conditions in any Customer acknowledgement, Order or other Services purchase forms are hereby expressly objected to and rejected by the Supplier and shall not be applicable to any Customer acknowledgement, Order or other Services purchase forms 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.

Charges: the charges and fees payable by the Customer to the Supplier for the supply of the Services in accordance with clause 6.

Conditions: these general terms and conditions set forth herein as may be amended from time to time in accordance with clause 14.9.

‘Confidential Information’ of the Disclosing Party: 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, written materials provided by the Supplier, 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.

Contract: the contract between the Supplier and the Customer for the supply of Services comprising these Conditions, and any quotations, acceptance, Orders, Scope of Work,

schedules or any other connected documentation, in each case agreed in writing by the Supplier.

Customer: the person, firm or company who purchases the Services from the Supplier.

Deliverables: the deliverables and Goods to be supplied by the Supplier for the Customer as set out in the Scope of Work and to be subject where applicable to [the Supplier's General Terms and Conditions for the Sale of Goods (please refer to <http://www.rotork.com/en/about-us/index/termsandconditions> for a copy of the Supplier's General Terms and Conditions for the Sale of Goods).

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in Confidential Information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Order: the order placed by the Customer to the Supplier for the supply of Services by the Supplier.

Services: the services, including the Deliverables, to be supplied by the Supplier to the Customer as set out in the Scope of Work.

Scope of Work: the description or scope of work for the Services agreed and provided in writing by the Supplier to the Customer or the description of the Services provided in writing by the Customer to the Supplier and agreed to in writing by the Supplier.

Supplier: the Services supplying party named in the Order.

Supplier Materials: has the meaning set out in clause 5.1(g).

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 The Supplier shall supply and the Customer shall purchase the Services in accordance with (a) any written quotation of the Supplier, which is accepted in writing by the Customers whose acceptance is agreed in writing by the Supplier, or (b) any written Order of the Customer which is accepted in writing by the Supplier, subject to these Conditions in either case.

- 2.2 The Order constitutes a written offer by the Customer to purchase Services in accordance with these Conditions. Any quotation given by the Supplier shall not constitute an offer of the Supplier, and is only available to the Customer for a period of 30 Business Days from its date of issue for the Customer to accept it in writing to form a Contract pursuant to clauses 2.1(a) and 2.3.
- 2.3 Subject to these Conditions in either case in clause 2.1 above, a Contract between the Supplier and the Customer shall be formed at the point where (a) the Supplier agrees in writing to the acceptance by the Customer of the written quotation of the Supplier, or (b) the Supplier accepts in writing any written Order of the Customer.
- 2.4 The Contract constitutes the entire agreement between the Supplier and the Customer. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Supplier which is not set out in the Contract.
- 2.5 Any samples, drawings, descriptive matter or advertising issued by the Supplier, and any descriptions or illustrations contained in the catalogues or brochures of the Supplier, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force between the Supplier and the Customer. The Customer acknowledges that it has not relied on any of the above samples, drawings, descriptive matter or advertising made or given by or on behalf of the Supplier or any descriptions or illustrations contained in the catalogues or brochures of the Supplier which are not set out in the Contract.
- 2.6 Subject to clause 2.7, these Conditions shall govern the Contract to the exclusion of (a) any other additional or different terms and conditions subject to which any such Supplier quotation is accepted or purported to be accepted by the Customer, or any such Order is made or purported to be made by the Customer, and (b) any other additional or different terms and conditions which are implied by trade, custom, practice or course of dealing. No variation to these Conditions shall be binding between the Supplier and the Customer unless agreed in writing between the authorised representatives of the Supplier and the Customer.
- 2.7 Any systems, equipment or other goods supplied ("**Goods**") further to the delivery of the Services by the Supplier to the Customer shall additionally be subject to the Supplier's General Terms and Conditions for the Sale of Goods (please refer to <http://www.rotork.com/en/about-us/index/termsandconditions> for a copy of the Supplier's General Terms and Conditions for the Sale of Goods).
- 2.8 Any employees or agents of the Supplier are not authorised to make any representations on behalf of the Supplier concerning the Services unless such representations so made are confirmed by Supplier in writing. In entering into the Contract, the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed by the Supplier in writing.
- 2.9 Any typographical, clerical or other error or omission in any services literature, quotation, price list, acceptance of Offer, invoice or other documents or information issued by the Supplier shall be subject to correction by the Supplier at any time without any liability on the part of the Supplier. The Customer hereby expressly agrees to it.

3. SUPPLY OF SERVICES

- 3.1 The Customer and the Supplier shall agree to the Scope of Work in writing. The Supplier shall supply the Services to the Customer substantially in accordance with the Scope of Work.
- 3.2 The Supplier shall use all reasonable endeavours to meet any performance dates specified in the Scope of Work, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services. The Customer hereby acknowledges that such dates are only estimates and it shall not hold the Supplier liable for them.
- 3.3 The Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement based on the Supplier's reasonable judgment, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event.
- 3.4 The Supplier will use reasonable care and skill to provide the Services to the Customer.

4. WARRANTY

- 4.1 The Supplier warrants that on delivery of the Services ("**Delivery**"), and for a period of 3 months from the date of Delivery ("**warranty period**"), the Services so delivered shall, subject to clause 3:
- (a) conform in all material respects with the Scope of Work;
 - (b) be free from material defects in design and workmanship.
- 4.2 Subject to clause 4.3, if:
- (a) the Customer, during the warranty period, gives notice in writing to the Supplier within a reasonable time of discovery that some or all of the Services do not comply with the warranty set out in clause 4.1; and
 - (b) the Supplier is timely given a reasonable opportunity of examining the Services upon its request to the Customer;
- the Supplier shall, at its option, repair or replace the defective Services so delivered, or refund the price of the defective Services that has been paid.
- 4.3 Notwithstanding the above provisions set forth in clauses 4.1 and 4.2, the Supplier shall not be liable to the Customer for Services' failure to comply with the warranty set out in clause 4.1 in any of the following events, to which the Customer agrees:
- (a) the defect arises because the Customer failed to follow the Supplier's oral or written instructions in respect of the Services or (if there are none) good trade practice;
 - (b) the defect arises as a result of the Supplier following any drawing, design or Scope of Work supplied by the Customer or any written instructions of the Customer;
 - (c) the Customer alters or repairs such Services without the written consent of the Supplier;

- (d) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage, misuse or working conditions attributable to the Customer or any person or party under its charge;
- (e) the Services differ from the Scope of Work as a result of changes made to ensure they comply with applicable statutory or regulatory requirements;
- (f) a Force Majeure Event occurs, which is beyond the reasonable control of the Supplier; or
- (g) the warranty set forth in clause 4.1 does not extend to the Goods not manufactured by the Supplier, in respect of which the Customer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer directly to the Supplier.

4.4 Except as provided in this clause 4, the Supplier shall have no liability to the Customer in respect of the Services' failure to comply with the warranty set out in clause 4.1.

4.5 These Conditions shall apply to any repaired or replacement Services supplied by the Supplier. In the case that any repair or replacement Services are carried out on the Goods supplied [and manufactured] by the Supplier and are under warranty, the warranty on those Goods shall be for 3 months from the date of provision of repair or replacement Services or their original warranty period applicable to such Goods and offered by the Supplier, whichever is longer.

4.6 The Supplier's General Terms and Conditions for the Sale of Goods ("**Conditions of Sale**") shall apply to any Goods (which shall include, without limitation, spare parts, materials and any ancillary or replacement goods) provided with the Services under these Conditions. The Conditions of Sale are available to download from the Supplier's website at <http://www.rotork.com/en/about-us/index/termsandconditions> and the Customer acknowledges that he has read and agrees to the Conditions of Sale.

5. OBLIGATIONS OF THE CUSTOMER

5.1 The Customer shall:

- (a) ensure that the terms of the Order and any information it provides in the Scope of Work are complete and accurate;
- (b) promptly co-operate with the Supplier in all matters relating to the Services;
- (c) timely provide the Supplier, its employees, agents, consultants and subcontractors, with access to the premises of the Customer, office accommodation and other facilities as reasonably required by the Supplier;
- (d) promptly provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- (e) properly and timely make the premises of the Customer available for the supply of the Services;

- (f) duly obtain and maintain all necessary licences, permissions and consents which may be required before the date on which the Services are to start;
- (g) keep and maintain all materials, equipment, documents and other property of the Supplier ("**Supplier Materials**") at the premises of the Customer in safe custody at the Customer's risk, maintain the Supplier Materials in good condition until returned to the Supplier at the request of the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the written instructions or authorisation of the Supplier; and
- (h) timely fulfil any other relevant obligations specified in the Scope of Work or at the reasonable request of the Supplier.

5.2 If the performance of the Supplier of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation set forth in clause 5.1 and elsewhere in the Contract ("**Customer Default**"):

- (a) the Supplier shall without limiting its other rights or remedies have the right to suspend performance of any or all of the Services until the Customer remedies the Customer Default within [10] days after the Supplier's notice of the Customer Default to the Customer, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays the performance of the Supplier of any of its obligations based on the reasonable judgment of the Supplier;
- (b) the Supplier shall not be liable for any costs, damages or losses sustained or incurred by the Customer arising directly or indirectly from the failure or delay of the Supplier to perform any of its obligations in the Contract as a result of the Customer Default; and
- (c) the Customer shall promptly reimburse the Supplier on written demand for any costs, damages or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

6. CHARGES AND PAYMENT

6.1 The Charges of the Supplier for the Services shall be on a time and materials basis, to which the Customer agrees, as follows:

- (a) the Charges shall be calculated in accordance with the standard daily fee rates of the Supplier, as provided in writing to the Customer by the Supplier from time to time;
- (b) the standard daily fee rates of the Supplier for each Services individual are calculated on the basis of an eight-hour day from 8.00 am to 5.00 pm worked on Business Days;
- (c) the Supplier shall be entitled to charge an overtime rate in accordance with the standard overtime daily fee rates provided by the Supplier to the Customer from time to time for any time worked by Services individuals outside the hours referred to in clause 6.1(b);
- (d) the Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties

and required by the Supplier for the performance of the Services, and for the cost of any materials. The Supplier shall also be entitled to charge the Customer an additional 10% administrative surcharge in relation to these expenses;

- (e) the Supplier shall be entitled to charge the Customer for all waiting time. These amounts shall be calculated in accordance with clause 6.1; and
- (f) the Supplier shall be entitled to charge the Customer for all travelling time to the Customer's site from the Supplier's closest office for up to a maximum of twelve consecutive hours in accordance with clause 6.1. The Supplier shall make no charge in the event of a delay which is not attributable to the Customer. In the event the Customer is responsible for a delay, this charge shall be made for waiting in accordance with clause 6.1(e) and shall not count towards travelling time.

6.2 The Supplier reserves the right to increase its standard daily fee rates and overtime fee rates, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase 3 month(s) before the proposed date of the increase. If such increase is not acceptable to the Customer, it shall notify the Supplier in writing within 4 weeks of the date of the notice provided by the Supplier and the Supplier shall have the right without limiting its other rights or remedies to terminate the Contract by giving 2 weeks' written notice to the Customer unless the parties in the Contract agree otherwise in writing before the Supplier gives the termination notice to the Customer.

6.3 The Supplier shall, at the option of the Supplier, invoice the Customer all Charges, applicable taxes and other expenses based on clause 6.1(a) through (f) on completion of the Services or on a calendar monthly basis if the Services supplied are unable to complete within a given calendar month.

6.4 The Customer shall pay each invoice submitted by the Supplier:

- (a) within 30 days of the date of the invoice; and
- (b) in full and in cleared funds to a bank account nominated in writing by the Supplier, and

time for payment shall be of the essence of the Contract.

6.5 All amounts payable by the Customer in relation to the Services Charges under the Contract are the net amount that shall be received by the Supplier and exclusive of all applicable taxes ("Tax"). The Customer shall be responsible for paying all applicable taxes pursuant to the Contract. If the Supplier incurs such above expenses, the Customer shall promptly and timely reimburse the same to the Supplier.

6.6 Without limiting any other right or remedy of the Supplier, if the Customer fails to make any payment due to the Supplier under the Contract by the due date for payment in accordance with clause 6.4 ("**Due Date**"), the Supplier shall have the right to charge interest on the overdue amount at the rate of 4% per annum above the then current base rate of BARCLAYS BANK PLC in London accruing 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, and compounding quarterly.

6.7 The Customer shall pay all amounts due under the Contract in full without any deduction or withholding and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part. The Supplier may, without limiting its other rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Customer acknowledges that the Intellectual Property Rights in any and all Services, Goods, Deliverables, quotations, data, software and any other Supplier Materials provided by the Supplier to the Customer (save for any third party product or software) is the Supplier's exclusive property and that nothing in the Contract shall be construed as conferring any license or granting any rights in favour of the Customer in relation to such Intellectual Property Rights. Any Intellectual Property Rights in any third party product or software is subject to the rights of the applicable third party owner of such rights. The Customer covenants that it shall not, and it shall procure its affiliates or subsidiaries not to, contest the Supplier's above Intellectual Property Rights anywhere. Unless otherwise agreed to in a writing signed by the Supplier's duly authorized representative, all right, title and interest in any inventions, developments, improvements or modifications of the Services made by the Supplier or its affiliate or the Customer or its affiliate shall exclusively remain with the Supplier or its affiliate. The information, drawings, plans, standards, Deliverables, Goods or other materials furnished by the Supplier were developed at the Supplier and its affiliated companies' expense and may not, without the Supplier's prior written consent, be used nor disclosed by the Customer for any purpose other than for the Customer's intended business.
- 7.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights, the use by the Customer of any such Intellectual Property Rights is conditional on the Supplier obtaining a written licence from the relevant licensor on such terms as will entitle the Supplier to license such rights to the Customer.
- 7.3 The Customer shall not use (other than pursuant to the Contract) or seek to register any trade mark or trade name (including any company name) which is identical to, confusingly similar to or incorporates any trade mark or trade name which the Supplier or any associated company or the Supplier owns or claims rights in anywhere in the world
- 7.4 If any claim is made against the Customer that the Customer's use of the Deliverables (always excluding third party product or software) infringes the patent, copyright, design, trademark or other industrial or intellectual property rights of any other person, the Supplier shall indemnify the Customer against all loss, damages, costs and expenses awarded against the Customer in connection with the claim, provided that:
- (a) the Supplier is given full control of any proceedings or negotiations in connection with any such claim;
 - (b) the Customer shall promptly give the Supplier all reasonable assistance for the purpose of any such proceedings or negotiations at the Supplier's request;
 - (c) the Customer shall not pay or accept any such claim, settlement or compromise any such proceedings without the consent of the Supplier;
 - (d) the Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Customer may have in relation to such infringement and this indemnity shall not apply to the extent that the Customer recovers any sums under any such policy or cover (which the Customer shall use its best endeavours to do);
 - (e) the Supplier shall be entitled to the benefit of, and the Customer shall accordingly account to the Supplier for, all damages or costs (if any) awarded in favour of the Customer which are payable by or agreed with the consent of the Customer (which

consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and

- 7.5 without prejudice to any duty of the Customer at common law, the Customer shall take all necessary steps as the Supplier may reasonably require mitigating or reducing any such loss or damages, costs or expenses for which the Supplier is liable to indemnify the Customer under this clause.
- 7.6 The Supplier retains full ownership of all inventions, designs and processes and all Intellectual Property Rights therein made or evolved by it in preparing its quotation or during the course of any work on any Contract or Order resulting therefrom.

8. CONFIDENTIALITY

- 8.1 During the entire term of the 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.
- 8.2 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.
- 8.3 The Receiving Party undertakes to the Disclosing Party to take all steps necessary from time to time to ensure compliance with the provisions of this clause 8 by 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. This clause 8 shall survive termination or expiration of the Contract.

9. LIMITATION OF LIABILITY

- 9.1 Nothing in these Conditions shall limit or exclude the liability of the Supplier for:
- (a) death or personal injury caused by its gross negligence, or the gross negligence of its employees, agents or subcontractors; or
 - (b) intentional fraud or fraudulent misrepresentation; or

- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).

The Customer shall report immediately to the Supplier any incident of which the Customer has knowledge which might involve any Services and the loss of life, personal injury or property damage, and participate in an investigation of the incident at the Supplier's reasonable request.

9.2 Subject to clause 9.1:

- (a) the Supplier shall not under any circumstances whatever be liable to the Customer, whether in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any: (i) loss of profit; or (ii) loss of goodwill; or (iii) loss of business; or (iv) loss of business opportunity; or (v) loss of anticipated saving; or (vi) loss of or corruption of data or information; or (vii) other special, indirect or consequential damage suffered by Customer that arises under or in connection with the Contract, even if the Supplier is advised in advance of the possibility of such losses or damages; and
- (b) the total financial liability of the Supplier to the Customer in respect of all 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 relevant Services Charges of the Contract (the monetary value) in connection with the relevant Services associated with the relevant Contract.

9.3 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

9.4 This clause 9 shall survive termination of the Contract.

10. TERMINATION

10.1 Without limiting its other rights or remedies, each party may terminate the Contract with immediate effect by giving written notice to the other party if:

- (a) the other party commits breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing of the breach;
- (b) the other party 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 a partnership) has any partner to whom any of the foregoing apply;
- (c) the other party 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 a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (d) 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 that other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

- (e) a creditor or encumbrancer of the other party 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;
 - (f) 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 other party (being a company);
 - (g) a floating charge holder over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (h) a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party;
 - (i) any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.1(b) to clause 10.1(h) (inclusive);
 - (j) the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business;
 - (k) the Customer engages in any activity that is considered a conflict of interest with the Supplier, or the Customer directly or indirectly competes with the Services or any business of the Supplier or any of its affiliates; or
 - (l) 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.
- 10.2 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 this Contract on the due date for payment.
- 10.3 Without limiting its other rights or remedies, each party shall have the right to terminate the Contract by giving the other party 1 months' written notice.
- 10.4 Without limiting its other rights or remedies, the Supplier shall have the right to suspend provision of the Services 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 10.1(b) to clause 10.1(l), 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.

11. CONSEQUENCES OF TERMINATION

On termination of the Contract for any reason:

- (a) All unpaid amount owed by the Customer to the Supplier shall immediately become due and payable to the Supplier and the Customer shall immediately pay to the Supplier all of the outstanding unpaid invoices and applicable interest to the Supplier and, in respect of Services supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- (b) The Customer shall immediately cease using all Goods, Deliverables, quotations, data, software and any other Supplier Materials which have not been fully paid for and the Customer shall return to the Supplier all Goods, Deliverables, quotations,

data, software and any other Supplier Materials which have not been fully paid for. If the Customer fails to do so, then the Supplier may at its option pursue any legal recourse it may have to take possession of them or invoice the Customer for them. Until they have been returned or payment for an invoice issued by the Supplier to the Customer has been paid, the Customer shall be solely responsible for their safe keeping and associated costs and will not use them for any purpose not connected with this Contract;

- (c) Any accrued rights, remedies, obligations and liabilities of the parties as at expiry or termination of the Contract shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and
- (d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

12. SAFETY

- 12.1 The Customer shall follow the more stringent safety procedures of the Supplier or the Customer during the performance of this Contract. In the later case, the Customer's safety procedures shall be comparable with those of the Supplier. The Supplier's safety policies and procedures are available upon written request by the Customer or available to download from the Supplier's website at: <http://www.rotork.com/document/index/versions/masterID/3373> and <http://www.rotork.com/master-popup/8995>.
- 12.2 The Supplier and its Services individuals shall be entitled to stop work if, in the Supplier's sole opinion, it is not safe to work. To the extent that unsafe circumstances are attributable to the Customer, the Supplier shall be entitled to charge the Customer for the entire waiting period in accordance with clause 6.1(e) until the Customer remedies the unsafe circumstances.

13. CURRENCY FLUCTUATIONS

- 13.1 If any losses incurred by the Supplier due to that any prices for the Services quoted from one party to the other require any currency conversion from one currency to another currency, the Customer shall indemnify and hold the Supplier harmless against any such losses incurred by the Supplier which arises or results from any variation in the exchange rate between the two currencies between the date of the relevant price quotation and the date upon which the Customer places its Order. The Customer shall promptly pay the price shortfalls to the Supplier based on the Supplier's invoice of such shortfalls.

14. GENERAL

- 14.1 The Supplier is a member of the group of companies whose holding company is Rotork p.l.c., and accordingly the Supplier may perform any of its obligations to exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of an act of any such other member shall be deemed to be the act or omission of an act of the Supplier.
- 14.2 Force majeure:
 - (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any

other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from providing any of the Services for more than 12 weeks, the Supplier shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the Customer.

14.3 Assignment and subcontracting:

- (a) The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any of its affiliate, any third party or agent.
- (b) The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

14.4 Notices:

- (a) Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other party's main fax number.
- (b) Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or 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, on the next Business Day after transmission.
- (c) This clause 14.4 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

14.5 Waiver:

- (a) A waiver of any right under the Contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. 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.
- (b) Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

14.6 Severance:

- (a) If a court or any other competent authority finds that any provision (or part of any provision) of the Contract is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed 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.
- 14.7 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. This provision shall survive any termination and expiration of the Contract.
- 14.8 Third parties: A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 14.9 Variation: Except as set out in these Conditions, any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Supplier.
- 14.10 Governing law: This 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.

15. DISPUTE RESOLUTION

- 15.1 Any dispute, controversy or claim arising out of or relating to the Contract, or the performance, interpretation, breach, termination or validity hereof, shall first be resolved through friendly consultation. Such consultation shall begin immediately after one party has delivered to the other party written request for such consultation stating specifically the nature of the dispute, controversy or claim. If the dispute cannot be resolved within thirty (30) days following the date on which such notice is given, the dispute shall be submitted to arbitration upon the request of any party with notice to the other party. The parties acknowledge and agree that any dispute, controversy or claim arising out of or relating to the Contract shall be raised by one party as against the other party herein and shall be resolved as between the parties. Therefore, the parties acknowledge and agree that any dispute, controversy or claim arising out of or relating to the Contract shall not be raised by one party herein as against an affiliate of the other party.
- 15.2 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.

- 15.3 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.
- 15.4 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.
- 15.5 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.
- 15.6 During the period when a dispute is being resolved, except for the matter being disputed, the Contract shall, in all other respects, continue to be implemented.

16. BRIBERY AND CORRUPTION

- 16.1 The Customer shall:
- (a) comply with all applicable laws, statutes and 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 Supplier's Ethics and Values Statement (the latest version of which is available to download from <http://www.rotork.com/master-popup/4433>) (Relevant Policy).
 - (d) have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policy and clause 16.1 (b), and will enforce them where appropriate;
 - (e) promptly report to the Supplier any request or demand for any undue financial or other advantage of any kind received by the Customer in connection with the performance of the Contract;
 - (f) The Customer shall ensure that any person associated with the Customer who is performing services or 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 Customer in this clause 16 (Relevant Terms). The Customer shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Supplier for any breach by such persons of any of the Relevant Terms.
 - (g) Breach of this clause 16 shall be deemed a material breach and the Supplier shall be entitled to immediately terminate the Contract without liability to the Customer.

- (h) For the purpose of this clause 16, the meaning of adequate procedures 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) and section 8 of that Act respectively. For the purposes of this clause 16 a person associated with the Customer includes but is not limited to any subcontractor of the Customer.