

## 1. GENERAL

- 1.1 These general terms and conditions (the “Agreement” or the “Terms”) apply to all agreements, inquiries, quotations and offers made by or to Roxtec India Private Limited (hereinafter “Roxtec”) including orders placed by a customer (hereinafter “Customer”, and together with Roxtec the “Parties”) and accepted by Roxtec for the sale or delivery of products (“Goods”), parts of Goods and services such as training, inspections and/or consultancy services related to installation, by Roxtec to Customer (the “Services”, and together with the sale of Goods, the “Work”). In the event Roxtec and Customer have signed a frame agreement for the supply, sale or use of Goods or Services, these Terms and such agreement shall constitute the entire agreement between the Parties. Except as otherwise indicated in the frame agreement, in case of any inconsistencies between the Terms and such frame agreement, the frame agreement shall prevail.
- 1.2 The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of Roxtec which is not expressly set out in the Agreement or these Terms.
- 1.3 No alteration or amendment to these Terms shall be valid unless such alteration or amendment is reduced to writing and signed by the duly authorized representatives of both Parties.
- 1.4 THESE TERMS WILL SUPERSEDE ANY TERMS OR CONDITIONS OF CUSTOMER, WHETHER INCLUDED IN CUSTOMER’S ORDER, IN PRE-TERMS NEGOTIATIONS OR IN ANY OTHER DOCUMENT, and Customer waives any right to rely on any other terms or conditions. Acceptance of any Work by Customer is an agreement by Customer to be bound by these Terms. There are no other agreements, representations, or warranties other than those expressly provided for in this Agreement.
- 1.5 Any drawings, illustrations, description or specification contained in Roxtec’s catalogues, brochures, samples, and/or other advertising material is intended only to present a general picture of the Goods or Services, as the case may be, and will neither constitute part of the Agreement nor be binding on Roxtec.

## 2. ORDERS

- 2.1 Customer shall request the Works in writing by issuing a purchase order (“Order”). Roxtec shall perform the Work under the accepted Order but only subject to these Terms.
- 2.2 The Orders issued by Customer for the purchase of Goods and/or for availing Services shall include, with respect to Goods, the number, description of Goods

ordered and with respect to Services, the type of Services, estimated hours of work required by Roxtec’s personnel and other details such as the actual site where Roxtec will perform a Service or parts of it (the “Site”). Roxtec will confirm such Orders in writing, including estimated time for delivery.

- 2.3 All Orders are subject to approval and acceptance by Roxtec. No Order shall be binding on Roxtec unless and until it has been accepted in writing by Roxtec and Roxtec shall be entitled to reject Orders (without notice) for any reason and without any liability.
- 2.4 Each Order shall be subject to the conditions of these Terms. Except as otherwise expressly indicated in these Terms, in case of any inconsistencies between the Terms and any confirmed Order, the Terms shall prevail.
- 2.5 Customer may not cancel or change Orders approved and accepted by Roxtec, unless Roxtec has consented to such cancellation or change. Roxtec reserves the right to charge Customer all costs associated with the cancelled or changed Order and, in addition, a reasonable cancellation fee.

## 3. DELIVERY TERMS – FREIGHT POLICY

- 3.1. Except as otherwise expressly accepted by Roxtec in an Order confirmation, all shipments of Goods shall be in accordance with C.I.P. -INCOTERMS 2010-(destination of the Goods stated in the corresponding Order expressly accepted by Roxtec). Estimated time of delivery shall be confirmed in the corresponding confirmation of the Order issued by Roxtec.
- 3.2. Roxtec shall use reasonable efforts to perform in a timely manner all deliveries of Works ordered by Customer, in accordance with the terms of an Order duly confirmed by Roxtec. However, Orders are issued by Customer with the express understanding that time of delivery shall not be of the essence and that therefore Roxtec shall have no liability to Customer for delays in shipment or delivery due to any cause whatsoever (including, but not limited to any losses or damages resulting from any delay in delivery).
- 3.3. Customer shall examine the Goods immediately upon delivery and shall report to Roxtec in writing, within ten (10) days of delivery, any shortages, damages to packaging or other defects apparent from a visual inspection of the Goods. Roxtec shall be discharged from all liability for shortages and apparent defects if not notified by Customer in the said reporting period. In case of incomplete or wrong delivery or delivery of defected Goods, and the same having been notified within the aforementioned reporting period, Customer’s exclusive remedy is redelivery of a correct consignment

at Roxtec's expense. Roxtec shall have no further liability in this regard to the Customer.

#### **4. PRICE, TERMS OF PAYMENT AND QUOTATION POLICY**

- 4.1. The prices for the Works (the "Price(s)") shall be in accordance with Roxtec's Price list in effect from time to time. Roxtec reserves the right to adjust the Prices for the Goods and/or Services at any time by issuing a new Price list.
- 4.2. The Prices do not include goods and services tax and similar taxes nor any city, municipal, state or federal taxes or withholding taxes, whether currently imposed or imposed in the future, excluding tax on income. If any such tax is found to be applicable, the appropriate amount of tax shall be invoiced to and paid by the Customer to Roxtec at the same time and on the same terms as applicable to the payment due in respect of the purchase of Works. The amount of any such tax, which Roxtec may be required to pay or collect, will be to the Customer's account, and will be invoiced to the Customer unless appropriate tax exemption certificate has been furnished.
- 4.3. Costs for travel, food, accommodation and other expenses incurred by Roxtec personnel in connection with the Services are not included in the Price and Roxtec shall always be entitled to compensation for reasonable documented costs incurred for or in connection with the provision of Services. Except as otherwise agreed, the Prices shall not include the cost of any training material that may be needed by Customer for the Work (the "Training Material"), which shall be charged on a case-by-case basis.
- 4.4. Unless specific credit terms have been agreed, invoices are payable in full within thirty (30) days from the invoice date. Except as otherwise agreed in writing, all payments shall be made in Indian Rupees. The payments may be made by demand draft or wire transfer to the bank account specified by Roxtec or by such other mode as may be agreed upon by the Parties.
- 4.5. If Customer considers that an invoice contains incorrect information, Customer shall notify Roxtec, within eight (8) days of the date of the invoice, giving details of the alleged error in the invoice. If no such notification is received by Roxtec in the mentioned period, the invoice shall be deemed correct and valid. [If there is a dispute between the Parties regarding the invoice and the same is not resolved within thirty (30) days of commencement of such dispute, the dispute shall be referred to the auditor of Roxtec whose decision on the disputed invoice shall be final and binding on the Parties.
- 4.6. Roxtec shall be entitled to interest on overdue payment by Customer at the fixed rate of twelve per cent (12%)

per annum. Such default interest will accrue on a day-to-day basis and be compounded monthly for the period from the date the amount originally was due through the date the amount was received in full by Roxtec.

- 4.7. Should the Customer not duly fulfil its obligation to make timely payments, then Roxtec shall have the right to demand advance payment or adequate security from Customer for any future sale of Goods and/or provision of Services to such Customer. Roxtec reserves the right to assign or transfer to any third party any debt owed by Customer, with full rights of such third party to collect such debt from Customer.
- 4.8. Roxtec reserves its right, after providing Customer written notice and reasonable time to pay a delayed payment in full, to suspend its performance until such sums are paid in full or terminate the Agreement.
- 4.9. Customer shall not be entitled to assert any set-off or counterclaim whether arising from breach of agreement, breach of statutory duty or any other matter whatsoever in order to justify withholding payment of any such sum in whole or in part.

#### **5. QUOTATION POLICY**

- 5.1. Roxtec reserves the right to, at any time and without prior notification, alter the specifications and prices of the Goods to be supplied by it due to continual Goods improvements or to withdraw, add to and/ or modify any Goods.

#### **6. RETENTION OF TITLE**

- 6.1. Without affecting the passing of risk and to the extent possible under applicable law, the Goods shall remain the property of Roxtec until paid for, in full. Title to the Goods shall pass to the Customer upon full payment of the agreed Price, taxes and all other charges in respect thereof by the Customer to Roxtec. Failure by Customer to effect full payment on agreed payment date shall entitle Roxtec to repossess the Goods or relevant parts thereof. The retention of title shall not affect the transfer of risk upon delivery.
- 6.2. Up until the time at which title of the Goods has passed to the Customer, the Customer (a) shall not assign, transfer, pledge, mortgage, encumber and/ or otherwise dispose of the Goods or part thereof or any interest therein; (b) shall take all reasonable measures to protect the proprietary interests of Roxtec in the Goods; (c) shall refrain from all activities which may incur negatively on the retained title of Roxtec to the Goods, this not limiting the Customer's right to use the Goods for their intended purpose; (d) shall store the Goods separately from all other products held by the Customer so that they remain readily identifiable as Roxtec's property; (e) shall not remove, deface or obscure any

identifying mark or packaging on or relating to the Goods; (f) shall maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; and (g) shall give Roxtec such information relating to the Goods as Roxtec may require from time to time.

6.3. Customer is obliged to reimburse Roxtec for all costs which Roxtec incurs in conjunction with the repossession and/or restoration of the Goods (pursuant to Section 6.2 above) to the same condition they were at the time of delivery.

## **7. ACCESS, SECURITY AND PREPARATION OF THE SITE**

7.1. When access is needed to the Site for the performance of a Service, Customer shall grant Roxtec unlimited access to such premises, facilities, utilities and resources in the Site and also to documents and information reasonably required by Roxtec for the provision of the Services. Customer is responsible to provide all the necessary information (in English language) and to clearly communicate to the personnel appointed to perform the Services all safety rules and regulations necessary to perform safely the Services in the Site.

7.2. In case special training is needed to obtain permission to access the Site or some specific parts of it (e.g. off shore safety training, firefighting training), Customer undertakes to provide such training free of charge to the personnel appointed by Roxtec for the Service.

7.3. When necessary for the fulfilment of the Service, Customer shall make its best efforts to keep the frames, combinations of frames, modules, stay plates, wedges and round sealings installed in a Customer's site (the "Transits") and the openings clean from dust, paint or other obstacles that could interfere with the Service, and shall provide the necessary elements to perform the Service, such as ladders or scaffolding when necessary. Before any Service that includes inspection, Customer shall provide a detailed list identifying each relevant Transit in the Site. The list shall attach the corresponding documentation (e.g. drawings), necessary for the localization and identification of the Transits in the Site. Roxtec is not liable or responsible for the condition or inspection of any Transit, or any product, or any condition that is not on the list, and not identified on the corresponding Order as part of the Work.

7.4. Roxtec reserves the right to suspend at any time the performance of the Work at Customer's Site where, in its sole opinion, any condition at the Site potentially or actually represents a hazard to the safety or health of the personnel appointed to perform the Work and/or of any Roxtec employee.

7.5. CUSTOMER SHALL BE LIABLE FOR AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS (INCLUDING FOR REASONABLE ATTORNEY AND EXPERT FEES AND EXPENSES) ROXTEC IN RESPECT OF ANY AND ALL CLAIMS, LOSSES, COSTS, CAUSES OF ACTION, DAMAGES AND EXPENSES RELATED TO PERSONAL INJURY (INCLUDING DEATH OR DISEASE) OR PROPERTY DAMAGE ARISING FROM OR RELATED TO CONDITIONS ON THE SITE.

## **8. INTELLECTUAL PROPERTY RIGHTS**

8.1. All intellectual property rights, drawings and know-how in or relating to the Goods and Services are and shall remain the property of Roxtec or of the respective entities belonging to the Roxtec group ("Roxtec Group"). The use of intellectual property rights belonging to Roxtec or to any company of the Roxtec Group by Customer shall not imply the transfer or assignment of any rights from such company to Customer. Customer acknowledges that Roxtec shall retain the full and exclusive ownership of all intellectual property rights that are designed by/or originate from Roxtec relating to changes, developments or improvements to the Goods and relate to the provision of Services.

8.2. Customer shall promptly notify Roxtec of any modifications, improvements, enhancements, adaptations, inventions and discoveries related to the Goods made by Customer or by its employees or consultants during the term of this Agreement or these Terms ("Improvements"). All intellectual property rights, in whole or in part accruing from or in any way relating to the Improvements, shall be or become the sole and exclusive property of Roxtec and the Customer shall do all acts necessary to transfer absolute title in all Improvements to Roxtec including by way of timely assignment and transfer in favour of Roxtec or any of its subsidiaries or affiliates, all rights, title, and interest to the Improvements and execution of all such deeds and documents, as Roxtec may require, to effectually vest in Roxtec or its subsidiaries/affiliates as Roxtec may require.

8.3. The Customer agrees to indemnify Roxtec and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by Roxtec, or for which Roxtec may become liable, with respect to any intellectual property infringement claim against the Customer (on account of its own wilful negligence) during the course of the Agreement/ these Terms.

8.4. For the purposes of these Terms, the term "intellectual property" means all of the following and similar intangible property and related proprietary rights, interests and protections, however arising, pursuant to

the applicable laws of any jurisdiction throughout the world: (a) inventions, discoveries, or improvements, including patents, patent applications, and certificates of invention; (b) trade secrets, Confidential Information, know-how, and technical and engineering, data, drawings and information; (c) indicators of source or origin, including trademarks, service marks, designs, logos, and slogans; (d) works of authorship or expression, including copyrights and moral rights; (e) data, databases, data models, and schema; (f) industrial designs and design patents; (g) computer code, including source code and object code; and (h) any other similar intellectual property, all whether or not registered or registerable.

8.5. In the event that the Goods are, for any reason, to be manufactured by Roxtec in accordance with a specification supplied by the Customer, the Customer shall indemnify Roxtec against all liabilities, costs, expenses, damages and losses (including any direct, losses, interest, penalties and legal and other professional costs and expenses) suffered or incurred by Roxtec in connection with any claim made against Roxtec for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with Roxtec's use of the such specification.

8.6. Roxtec shall retain all title, copyrights and other intellectual property rights in or related to the Training Material and in all copies of all or any portion thereof, including all modifications to the Training Material.

## 9. WARRANTIES AND LIABILITY

9.1. All Roxtec's manufactured parts and Goods are thoroughly inspected and tested from the time the raw material is received at Roxtec's plant until the Goods is complete. Roxtec warrants for a maximum of twelve (12) months from delivery to Customer, that all Goods are free from defects in material, design and workmanship ("Warranty(ies)"). [Customer shall immediately report in writing to Roxtec any claimed defect upon discovering the same within the said 12 months' period. After receiving notice from Customer and substantiation by Roxtec of the claim as being within the Warranty, Roxtec shall, at its option: (i) repair the defected Good, (ii) refund an equitable portion of the Order's value, or (iii) furnish replacement Goods or parts, as necessary at the original shipping point. In no event will Roxtec at any time be responsible for disassembling, and/or reassembling, uninstalling and/or reinstalling any Goods.

9.2. Any Goods that may prove defective in regard to material or workmanship within the said twelve (12) months period, will, at Roxtec's option, be promptly repaired and/ or replaced at Roxtec's expense or the Customer will be given credit for future orders.

9.3. The Warranties contained in this Section 9 are in lieu of all other warranties with respect to the Goods, expressed or implied and specifically any warranties of merchantability and fitness for a particular purpose.

9.4. Roxtec's obligations for any Goods as set forth in Section 9.1 above is subject to Roxtec being notified in writing by Customer without undue delay and no later than thirty (30) days after a defect is discovered or ought to have been discovered upon a careful inspection. Any claim notified by Customer shall be deemed to have been withdrawn and waived by Customer unless legal proceedings in respect thereof have been initiated within three (3) months of the notification of such claim to Roxtec. Defective Goods, which have been replaced by Roxtec, shall be Roxtec's property. Customer is obliged to carry out dismantling and re-installation of defective Goods at its own risk and cost.

9.5. If Roxtec has not successfully remedied the defect within a reasonable time, Customer may, by written notice, fix a final time for completion of Roxtec's obligation. If Roxtec has not remedied the defect by such final time, Customer is entitled to terminate the purchase in respect of such defective Goods.

9.6. The Warranties in this Section 9 shall not cover, and Roxtec shall not be liable for defects that are caused by or related to improper storage, faulty maintenance, misuse, unusual external conditions, non-adherence to Roxtec's installation instructions and/or incorrect installations, alterations and/or reparations of the Goods carried out without Roxtec's prior written consent. Modifications or repairs to any Goods, or product or part used with any Goods shall void the Warranty. Customer waives any rights to make a Warranty claim of any kind, express or implied, where a Good has been modified or altered. Roxtec shall in no event be liable under this Section 9 or otherwise if Customer or a customer of Customer has used or installed any parts in or in connection with the Goods, which are not Roxtec's original parts. The Warranty shall not cover defects in design when Roxtec has acted in accordance with Customer's own designs or following Customer's instructions regarding the design of the Goods. Decomposition or corrosion by chemical action or wear or damage caused by the presence of abrasive materials is not and shall not be a product or manufacturing defect. Furthermore, Roxtec's liability does not cover normal wear and tear.

9.7. With respect to Work involving instruction and training of Customer or its personnel, Roxtec disclaims and Customer waives any and all liabilities and warranties whether express or implied. The participants at any trainings provided by Roxtec are not evaluated by Roxtec and therefore, Roxtec cannot assess the ability

of the participant(s) to conduct Work, install, inspect or supervise Transits or any sealing solutions for cables and pipes. Therefore, Customer waives any liability of Roxtec for any default, failure, damage (direct or indirect) or loss of whatever kind and type caused by an installation, inspection or supervision made by the participant(s) of the training services provided by Roxtec.

9.8. This Section 9 sets forth the exclusive remedies for claims based on defect, failure or nonconformity of the supplied Work. This exclusivity applies whether a claim is in contract, indemnity or tort (including negligence) or otherwise and however instituted and whether a defect arises before or during the warranty period. The Warranty set forth in Section 9.1 is exclusive and in lieu of all other warranties whether written, oral, implied or statutory. **NO IMPLIED OR STATUTORY WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY TO THE WORK.**

9.9. Subject only to Section 10 below, this Section 9 outlines Roxtec's exclusive and total liability in respect of defect in the Goods in relation to the Customer and/ or any third parties.

## 10. PRODUCT LIABILITY

10.1. Roxtec shall indemnify, defend and hold Customer harmless from claims directly attributable to the Goods having caused damage to property or personal injury to a third party, but only to the extent that Roxtec has been guilty of gross negligence and provided that Customer immediately has informed Roxtec of such claim being made to Customer and permitted Roxtec to conduct all negotiations, defence, in such claims and proceedings in relation thereto. Customer undertakes to take all the reasonable measures in order to mitigate any damages attributable to the Goods and/or prevent further damages.

10.2. Customer shall indemnify, defend and hold Roxtec harmless from claims related to damage to property or personal injury (including injury that results in death), caused by Customer's gross negligence or wilful misconduct.

10.3. Customer shall maintain general liability insurance with limits of not less than INR 80,000,000 (Indian Rupees eighty million) per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against

whom claim is made or suit is brought subject to the Customer's limit of liability.

## 11. LIMITATION OF LIABILITY

11.1. In no event shall Roxtec or a company of the Roxtec Group be liable, under or in connection with the Agreement, to Customer or to third parties for any loss of profits, loss of use, loss of data, loss of production, pure financial losses, loss of contract, claims from customers and/or any other indirect or consequential loss or damages, whether or not such loss or damage could have been reasonably foreseen.

11.2. Roxtec's and the companies of the Roxtec Group maximum aggregate liability to Customer arising under or in connection with the Agreement, these Terms or with any collateral contract, whether arising in or for breach of contract, tort (including negligence), breach of statutory duty, indemnity or otherwise, shall not exceed the total amount of INR 23,000,000,00 (Indian Rupees Twenty three million).

11.3. Customer hereby acknowledges that any Work that includes inspection activities by Roxtec is carried out by a visual inspection only of the readily accessible features of the Transits and/or products and that any inspection report that may be provided is a "snap-shot" of the inspected Transits and/or products at the time of inspection, and consequently, should not be treated as substitute for specific certification, suggestions, recommendations and/or confirmation in respect of the Transits and/or products, or installation thereof. Customer agrees that under no circumstances will Roxtec be liable for failure to identify defects in the work or products of third-parties over which Roxtec has no control.

11.4. Customer acknowledges that any Transits or other products inspected by Roxtec during the Work may change at any unknown point-in-time after such Work due to actions by other parties than Roxtec or eventualities beyond Roxtec's control, including but not limited to re-installations or de-installations of inspected Transits and/or other products carried out by Customer, its personnel or any other third party not authorized by Roxtec; incidents and accidents; environmental changes; general re-conditioning of the area (or to adjacent areas) in which the Work including inspection was made; ignorant non-intended actions to the inspected Transits and products; etc. Customer acknowledges that the condition of the Transits may change after any inspection by Roxtec, and Roxtec is not responsible for those changes/conditions.

11.5. Customer acknowledges that Roxtec is neither an insurer nor a guarantor of the work performed by Customer or carried out by Customer's personnel or

sub-contractors trained by Roxtec. Customer hereby agrees to defend, indemnify and hold Roxtec harmless (including for reasonable attorney and expert fees) from any and all claims arising from or relating to the designs, installations or maintenance work performed by Customer or carried out by Customer's personnel or sub-contractors trained by Roxtec and even if Roxtec is alleged to be negligent (or without regard to the alleged negligence of Roxtec).

## 12. CONFIDENTIALITY

12.1. Customer shall during the term of this Agreement / these Terms and for a period of ten (10) years thereafter, maintain in strict confidence and shall not, except when the fulfilment of its obligations under this Agreement so requires, disclose, divulge and/or communicate to any person (other than as permitted or contemplated by this Agreement / these Terms or with the written approval of Roxtec or as may be required by law) nor use outside the scope of the Agreement any drawings (including but not limited to technical drawings created through any type of software owned by Roxtec or by any company of the Roxtec Group), manufacturing methods, measures specifications and/or other information concerning the Work, customers, business, prices, finance, contractual arrangements or other dealings or transactions of Roxtec, or with any company of the Roxtec Group, or any other information, including Training Material and any and all information disclosed during the provision of Services, which by its nature reasonably can be referred to as confidential, and which may come to Customer's knowledge. The Customer will take all necessary action to protect such information against misuse, loss, destruction, alterations and/ or deletions thereof. The Customer shall also comply with all data privacy policies of Roxtec and applicable laws pertaining to data privacy.

12.2. Customer shall not make use of any confidential information (as referred to above) for the purpose of manufacturing any mechanism or component being identical or essentially similar to the Goods or any mechanism or component thereof, or for any other commercial or technical purpose.

12.3. The restrictions stated in this Section 12 shall not apply to the extent that Customer can show that (i) the information is publicly available through no fault of Customer; (ii) the information was in Customer's possession prior to the date of disclosure by Roxtec; or (iii) Customer is authorised to disclose the information by any subsequent written agreement between the parties hereto.

## 13. FORCE MAJEURE

13.1. In the event that Roxtec shall be wholly or partially

unable to fulfil its obligations under these Terms or the Agreement by reason of causes beyond Roxtec's control, including but not restricted to acts of God, acts, omissions, or regulations of any government or subdivision thereof, judicial action, fire, storm, accident, war, riot, epidemics, labour disputes (whether or not Roxtec is a party to such dispute), strikes, general shortage of material, machine damage, delay in delivery by sub-contractor or transportation failure, then Roxtec's performance of its obligations, in so far as it is affected by such cause, shall be excused during the period of the continuance of such circumstances.

## 14. MISCELLANEOUS

14.1. If these Terms, or the application thereof to any person or circumstances, shall for any reason or to any extent, be invalid or unenforceable, such invalidity or unenforceability shall not in any manner affect or render invalid or unenforceable the remainder of these Terms. In the event of the invalidity or unenforceability of any provision of these Terms, the parties shall, at the request of either party, negotiate in good faith to agree on changes or amendments to these Terms which are required to carry out the intent and accomplish the purpose of these Terms in the light of such invalidity or unenforceability.

14.2. The failure of Roxtec to insist upon the adherence to any term of this Agreement on any occasion shall not be considered as a waiver of Roxtec nor shall it deprive Roxtec of the right to insist upon the strict adherence to that term or any other term of this Agreement at some other time.

14.3. Roxtec shall be entitled to replace, at its own discretion, the personnel engaged by it to provide Services to the Customers in the course of the performance of any Work under this Agreement.

## 15. MATERIAL BREACH AND TEMRINATION

15.1. If the Customer (a) fails to make payment to Roxtec in terms hereof despite two (2) written reminders in this regard from Roxtec, and the due date is exceeded by thirty (30) calendar days (which shall be considered a material breach); or (b) commits a material breach of any of the provisions of the Agreement or of these Terms or a minor but repeated breach of such provisions and such breach is not remedied within thirty (30) days from receiving a request for such remedial action from Roxtec, then Roxtec, in its sole discretion, shall be entitled to immediately terminate the Agreement and these Terms for cause, withhold, reallocate or cancel individual deliveries on current or future orders of the Goods, or withhold or cancel Services due to be rendered by Roxtec, until payment has been made in full or the breach has been remedied

by the Customer. In addition to the above Roxtec would be entitled to terminate the Agreement and these Terms in the event that any of the following events occurs with respect to the Customer:

- (a) the Customer 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;
- (b) the Customer files a petition for winding up or an order is made, for or in connection with the winding up of the Customer;
- (c) the Customer makes an application to court, or an order is made, for the appointment of a liquidator;
- (d) a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
- (e) the Customer is the subject of a bankruptcy petition or order;
- (f) the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business;
- (g) the Customer's financial position deteriorates to such an extent that in Roxtec's opinion the Customer's capability to adequately fulfil its obligations under the Agreement and these Terms has been placed in jeopardy.

15.2. On termination of the Agreement or the Terms for any reason, the Customer shall immediately pay to Roxtec all of Roxtec's outstanding unpaid invoices, amounts outstanding in respect of Works provided by Roxtec but not invoiced, and interest. Termination of the Agreement or these Terms, however arising, shall not affect any of the Parties' rights, remedies, obligations and liabilities that have accrued as at termination.

## 16. GOVERNING LAW

16.1. The Agreement and these Terms shall be governed by and construed and enforced in accordance with the laws of India, without giving effect to its principles or rules of conflict of laws.

## 17. ARBITRATION – COMMERCIAL COURT

17.1. Any and all disputes, controversies and claims arising out of or in connection to the Agreement, these Terms or the breach, termination or invalidity thereof, shall be finally settled in arbitration before the Delhi International Arbitration Centre, New Delhi in accordance with its Arbitration Rules. Unless the parties agree otherwise, the seat of arbitration shall be New

Delhi, India. The language to be used in the arbitral proceedings shall be English.

17.2. Notwithstanding the above, Roxtec shall be entitled to seek injunctive relief and other interim measures at the local competent public courts or proper authorities to enforce its intellectual property rights or secure claims of any payments due for deliveries or other due debt under the Agreement or these Terms.

## 18. INTERPRETATION

18.1. The fact that Roxtec has proposed these Terms shall not work to Roxtec's disadvantage in case of any dispute. Customer is recommended to seek legal advice as to the content and interpretation of these Terms before entering into an agreement or making any purchase with Roxtec.

## 19. ASSIGNMENT

19.1. The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement or these Terms without the prior written consent of Roxtec. Roxtec shall however be entitled to freely assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement or these Terms.

**END OF DOCUMENT**