

**1. GENERAL**

- 1.1 These Terms apply to all agreements entered into with, inquiries and requests for quotations made to, and quotations and offers made by Roxtec Australia Pty Ltd or by any company within the group of companies of Roxtec Australia Pty Ltd (hereinafter the "Roxtec Group" and jointly with Roxtec Australia Pty Ltd, "Roxtec") including orders placed by a Customer and accepted by Roxtec for the sale or delivery of Works. 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 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.
- 1.3 THESE TERMS WILL SUPERSEDE ANY WRITTEN TERMS OR CONDITIONS OF CUSTOMER, WHETHER INCLUDED IN CUSTOMER'S ORDER, IN PRE-TERMS NEGOTIATIONS OR IN ANY OTHER DOCUMENT, which are hereby rejected, and Customer waives any right to rely on any other terms or conditions. Acceptance of any Works by Customer constitutes an agreement by Customer to be bound by these Terms. To the extent permitted by applicable law, there are no other agreements, representations, or warranties other than those expressly provided for in this Agreement.

**2. DEFINITIONS**

"**Agreement**" refers to these Terms. The terms "Agreement" or "Terms" shall be used interchangeably to refer to these Roxtec Australia Pty Ltd General Terms & Conditions for Sale of Goods and Services.

"**Confidential Information**" shall mean all technical and commercial information and know-how of Roxtec, including but not limited to Roxtec's manufacturing methods, Goods, Services, businesses, formulas, designs, data, test reports, samples, measures, statements, specifications, information concerning customers, prices, drawings (including but not limited to technical drawings created through the Digital Solutions), contractual arrangements, or other dealings or transactions of Roxtec, which is identified as being confidential or is deemed to be confidential due to the nature of the information and the circumstances of its disclosure.

"**Customer**" refers to the physical or legal person receiving quotations from Roxtec, ordering and/or receiving Works, placing Orders and entering into agreements with Roxtec.

"**Digital Solutions**" shall mean the online or stand-alone software for designers, construction quality assurance software, management tools to register and control cable and pipe transit seal systems, and all associated features and functionalities, accessed through websites or other user interfaces, such as mobile applications, offered by Roxtec to help users save time, increase quality, and optimize safety in its sealing solutions.

"**Goods**" refers to any tangible or intangible goods or parts of goods sold or delivered by Roxtec.

"**Inspection**" shall mean the services of inspection of installed Transits on the Site, performed by Roxtec.

"**Inspector(s)**" shall mean the person(s) appointed by Roxtec to carry out Inspection.

"**Installation Supervision**" shall mean the service of on-site visual supervision of installation of Transits performed by the Installers, provided by Roxtec on the Site.

"**Installers**" shall mean the personnel of Customer or third parties appointed by Customer to perform installations of Transits.

"**Order**" shall mean a written request issued by the Customer to Roxtec for the supply of Works, in the form of a purchase order.

"**Parties**" refers collectively to Roxtec and Customer.

"**Party**" refers to Roxtec or Customer individually.

"**Personal Data**" shall mean personal data according to the Privacy Act 1998 (Cth).

"**Price(s)**" shall mean the prices for the Works, as per Roxtec's price list.

"**Privacy Regulation**" shall mean, collectively, the applicable data protection law(s), regulations, treaties or directives, including but not limited to the Privacy Act 1998 (Cth).

"**Project Supervision**" means the service provided by Roxtec to Customer that includes: a) in-site visual evaluation of the condition of installed Transits and advise, for such Transits to be refurbished to fulfil again the requirements of the corresponding certification or manufacturer statement, if possible and/or; b) assisting in the development of documentation, and/or analysis of the correctness of existing documentation, that outlines the installation of new Transits or the refurbishment of already installed Transits and/or; c) assisting in the evaluation of solutions if additional new Transits are needed to be

installed in the Site and/or; d) Inspection and/or; e) Installation Supervision.

"**Sanctions Regime**" shall mean all laws and regulations adopted or maintained (now or in the future) by a governmental or inter-governmental authority, including the United Nations (UN), the European Union (EU) and its member states, the United States of America (US) and which are applicable (now or in the future) to Roxtec imposing prohibitions or authorisation requirements on the export or re-export of a product due to e.g. a product's nature or contents, or prohibitions or restriction to conduct business with specific individuals and entities or on specific territory identified by the governmental or inter-governmental authorities specified in this paragraph.

"**Services**" refers to the services of Inspection, Installation Supervision, Project Supervision, Training and repairs provided by Roxtec to Customer.

"**Site**" shall mean the actual location where Roxtec will perform a Service or parts of it, as detailed in the Orders issued by Customer and accepted by Roxtec.

"**Supervisor(s)**" shall mean the person(s) appointed by Roxtec to provide the Project Supervision and/or the Installation Supervision services.

"**Terms**" shall mean these General Terms & Conditions for Sale of Goods and Services.

"**Training**" means the training service that Roxtec shall arrange and provide to prepare and educate the Installers and other Customer's personnel in installation of Transits and functionality of the Goods.

"**Training Material**" shall mean the training material that may be needed by Customer and by the Installers for the Works and that is provided directly or indirectly by Roxtec.

"**Transit**" shall mean the frames, combinations of frames, modules, stay plates, wedges, and round sealings installed or to be installed on the Site.

"**Warranty**" refers to the warranty granted by Roxtec to Customer, for a maximum of twelve (12) months from delivery to Customer, that the Goods are free from defects in material, design, and workmanship.

"**Works**" refers collectively to the Goods and the Services.

**3. ORDERS**

3.1 Customer shall request the Works in writing by issuing an Order. Roxtec shall perform the Works under the accepted Order but only subject to these Terms.

3.2 The Orders issued by Customer for the purchase of Works shall include, with respect to Goods, the number and 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 location and description of the Site. Roxtec will confirm such Orders in writing, including estimated time for delivery.

3.3 All Orders are subject to approval and acceptance by Roxtec. No Order shall be binding for Roxtec unless and until it has been accepted in writing and Roxtec shall be entitled to reject Orders (without notice) for any reason and without liability.

3.4 Each Order shall be subject to the conditions of the 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.

3.5 Customer may not cancel or change accepted Orders unless Roxtec has consented to such cancellation or change. Roxtec reserves the right to charge Customer all direct costs associated with the cancelled or changed Order and, in addition, a reasonable cancellation fee.

**4. DELIVERY TERMS – FREIGHT POLICY**

4.1 Except as otherwise expressly accepted by Roxtec in an Order confirmation, all shipments of Goods shall be C.I.P. -INCOTERMS 2020- (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. Risk will pass to Customer as set out in C.I.P. -INCOTERMS 2020.

4.2 Roxtec shall use reasonable efforts to perform timely all deliveries of Works ordered by Customer. However, Orders are issued by Customer with the express understanding that time of delivery shall not be of the essence and that therefore, subject to the Australian Consumer Law, Roxtec shall have no liability to Customer for delays in delivery due to any cause whatsoever (including, but not limited to any losses or damages resulting from any delay in delivery), except to the extent that such liability arises as a result of Roxtec's negligence, fraud or wrongful action or omission.

4.3 Subject to the Australian Consumer Law, 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.

## 5. PRICE, TERMS OF PAYMENT AND QUOTATION POLICY

5.1 The Prices 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.

5.2 The Prices do not include GST, sales 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 Customer to Roxtec at the same time and on the same terms as applied to the payment due.

5.3 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 thereof. Except as otherwise agreed, the Prices shall not include the cost of any Training Material that may be needed by Customer for the Works, which shall be charged on a case-by-case basis.

5.4 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 Australian dollars.

5.5 If Customer considers that an invoice contains incorrect information, Customer shall notify Roxtec within eight (8) days, 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, except in the case of manifest error or Roxtec's wilful default or gross negligence.

5.6 Roxtec shall be entitled to interest on overdue payment by Customer at the fixed rate of twelve per cent 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.

5.7 Should Customer not duly fulfil its obligation to make timely payments, then Roxtec may, acting reasonably, require advance payment or adequate security from Customer for any future sales. 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.

5.8 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.

5.9 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.

## 6. RETURNED UNUSED GOODS

6.1 This Section 6 is subject to any rights Customer may have under the Australian Consumer Law.

6.2 Roxtec and Customer may agree in writing on the return to Roxtec of unused Goods purchased by Customer. Customer must request written authorization from Roxtec to return such purchased unused Goods. The agreement to allow or accept a return or issue any credit related to a return shall be at the sole discretion of Roxtec.

6.3 In the event that Roxtec accepts the return of unused Goods by Customer, a credit for such accepted returned Goods will be applied by Roxtec to the Customer's account for use with their next purchase from Roxtec. All Goods returned under this section must be unused, unopen, and in saleable condition as reasonably determined by Roxtec for a credit to be issued.

6.4 For the avoidance of doubt, the stipulations of this Section 6 are only applicable to Roxtec's standard Goods. Therefore, unused Customer customized products manufactured by Roxtec; products designed for the Customer or following instructions of the Customer or manufactured by Roxtec to fit specific needs or projects of the Customer are not returnable.

6.5 There will be a minimum 10% restocking charge on all return unused Goods. All costs and expenses arising from the return of unused Goods shall be paid by Customer.

6.6 If Roxtec provides written authorization of a return of or credit for unused Goods, Customer shall return the Goods to Roxtec at Roxtec's offices located in Sydney, Australia. No returns will be accepted without Roxtec's express authorization. Roxtec reserves the right to cancel an open authorization for return of Goods if the approved shipment hasn't been delivered to Roxtec in Roxtec's premises in Sydney, Australia within sixty (60) days of issue of the written authorization by Roxtec. All returns must be packaged in standard box quantities as received.

6.7 All returns of any unused Goods must be by freight prepaid by Customer; no collect shipments will be accepted. Roxtec shall be entitled to reject, without liability, any attempt of Customer of returning unused Goods by collect shipments.

6.8 Notwithstanding this Section 6, Roxtec shall automatically reject all requests for return of unused Goods by Customer when the delivery of such Goods has taken place 12 (twelve) months or more prior to such request.

## 7. RETENTION OF TITLE

7.1 Without affecting the passing of risk and to the extent possible under applicable law, the Goods shall remain the property of Roxtec until paid in full. The retention of title shall not affect the transfer of risk after delivery.

7.2 Failure by Customer to effect full payment on agreed payment date shall entitle Roxtec to repossess the Goods or relevant parts thereof. Customer is obliged to reimburse Roxtec for all reasonable costs which Roxtec incurs in conjunction with the repossession and restoration of the Goods to the same condition they were in upon delivery.

7.3 Customer agrees that Roxtec has a security interest for the purposes of the Personal Property Securities Act 2009 (Cth) ("PPSA") in the Goods and all proceeds.

7.4 Customer consents to Roxtec perfecting its security interest in the Goods by registration under the PPSA. Customer shall give all assistance reasonably required by Roxtec in connection with registration under the PPSA and to ensure any security interest under this Agreement is fully effective and enforceable with first-ranking priority.

7.5 To the extent the law permits:

7.5.1 Roxtec need not comply with any provisions of Chapter 4 of the PPSA that may be contracted out of, and Customer may not exercise rights under them; and

7.5.2 Customer waives its rights to receive any notice that is required by the PPSA (but this does not prohibit Roxtec from giving such a notice).

7.6 To the extent permitted by law Customer agrees not to exercise its rights to make any request of Roxtec under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

## 8. SCOPE OF THE SERVICES

8.1 The Inspections shall be limited to visual inspections carried out by the Inspectors in respect of how Transits have been installed. Roxtec shall not conduct a detailed investigation or testing of the installation of the Goods and so shall only conduct an initial visual inspection that is intended to identify clear and visible Transits that have been improperly installed.

8.2 The Installation Supervisions shall be limited to visual observation by the Supervisors, of the installation process of Transits on the Site carried out by the Installers, and to providing oral guidance to the Installers during the process of installation of the Transits. The Supervisors shall intervene in the installation process only to explain the correct procedures and technics to the Installers, to stop ongoing installations that are being performed wrongfully, when such installation mistakes are obvious and visible, and to request corrections if any errors are noted, which shall be carried out by the Installers.

8.3 Customer hereby acknowledges that any Inspection and Installation Supervision is carried out by a visual inspection only of the readily accessible features of the Transits and/or products and that any Installation Supervision and Inspection that may be provided is a "snap-shot" of the

- inspected Transits at the time of the Inspection and/or installation work performed by the Installers. Customer agrees that under no circumstances will Roxtec be liable for failure to identify defects in any work or products of third parties.
- 8.4 When the Project Supervision includes on-site surveys to evaluate the condition of existing Transits for possible re-use, the conclusions of such evaluations shall be considered exclusively an assessment of the physical state of the Transits, based on a visual inspection, and not an evaluation or advice related to their installation.
- 8.5 Customer acknowledges that any Transits or other products inspected by Roxtec or observed by Roxtec during an installation process in the provision of a Service, may change at any unknown point-in-time after such Service, including due to actions by parties other than Roxtec or eventualities beyond Roxtec's control, including but not limited to, re-installations or de-installations of 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 Service was performed; ignorant non-intended actions to the inspected Transits and products; etc. Customer acknowledges that the condition of the Transits may change after any Inspection, Installation Supervision, Project Supervision or observation of installation process carried out by Roxtec, and Roxtec is not responsible for those changes/conditions.
- 8.6 The Trainings provided by Roxtec shall consist of explanations, demonstrations and guidance to the Installers and other Customer's staff about how the Goods should be correctly installed. As Roxtec does not assess the capability or qualifications of the Installers or other Customer's staff, Roxtec shall in no event be responsible for the performance of such Installers or other Customer's staff in the installation of Goods or Transits in general. The participants of the Trainings provided by Roxtec are not evaluated by Roxtec and therefore Roxtec cannot assess the ability of the participant(s) to install 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 made by the participant(s) of a Training provided by Roxtec.
- 8.7 Customer acknowledges that Roxtec is neither an insurer nor a guarantor of services such as installation services performed by Customer or carried out by the Installers or other Customer's personnel trained by Roxtec during a Training service. 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 the Installers or other Customer's personnel trained by Roxtec, even if Roxtec is alleged to be negligent (or without regard to the alleged negligence of Roxtec).
- 8.8 Roxtec shall be entitled to replace personnel to provide the Services at its own discretion in the course of the performance of any Works under this Agreement.
- 9 ACCESS, SECURITY AND PREPARATION OF THE SITE**
- 9.1 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.
- 9.2 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 or firefighting training), Customer undertakes to provide such training free of charge to the personnel appointed by Roxtec for the Service.
- 9.3 When necessary for the fulfilment of the Service, Customer shall make its best efforts to keep the Transits and the openings clean from dust, paint or other obstacles that could interfere with Roxtec's supply of a Service, and shall provide the necessary elements to perform any Service, such as ladders or scaffolding when necessary. Before starting the provisions of any Service where access to the Transits by Roxtec personnel is necessary, 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 in the corresponding Order as part of the Works.
- 9.4 Roxtec reserves the right to suspend at any time the performance of the Works at Customer's Site where, in its reasonable opinion, any condition at the Site potentially or actually represents a hazard to the safety or health of the personnel appointed to perform the Works and/or of any Roxtec employee. In such cases, in the event that Site safety conditions are not rectified to Roxtec's reasonable satisfaction to address such concerns, then Roxtec shall be entitled to cancel the Order and to compensation for any Works that has been carried out.
- 9.5 CUSTOMER SHALL BE LIABLE FOR AND SHALL INDEMNIFY, DEFEND AND HOLD ROXTEC HARMLESS (INCLUDING FOR REASONABLE ATTORNEY AND EXPERT FEES AND EXPENSES) 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, PROVIDED SUCH CONDITIONS DO NOT SOLELY AND DIRECTLY ARISE FROM ROXTEC'S GROSS NEGLIGENCE, FRAUD OR WILFUL MISCONDUCT OR OMISSION.
- 10 DIGITAL SOLUTIONS**
- 10.1 Customer acknowledges that the Digital Solutions are owned and provided by the Swedish company Roxtec International AB, which is solely responsible for the maintenance and management of the Digital Solutions as well as, directly or through sub-suppliers, the supplier of all services related to the Digital Solutions. Customer also acknowledges that all the intellectual property rights contained in the Digital Solutions belong to Roxtec International AB.
- 10.2 Customer understands and acknowledges that Roxtec is entitled to offer the Digital Solutions as a representative of Roxtec International AB in the local market and, as such, Roxtec shall be entitled: to invoice and collect payments in the way stipulated in Section 5 of these Terms for the sale and use of the Digital Solutions by the Customer; and to bring any claims before the competent authorities that may be necessary to collect or to recover any payments due to the purchase of Digital Solutions by Customer.
- 11 INTELLECTUAL PROPERTY RIGHTS**
- 11.1 All intellectual property rights, drawings and know-how in or relating to the Goods are and shall remain the property of Roxtec or of the Roxtec Group. Roxtec grants to Customer a non-transferrable, non-exclusive, royalty-free licence to use the intellectual property rights, drawings and know-how in or relating to the Goods solely to the extent necessary for Customer to receive the benefit of the Goods. 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. Nothing in this Agreement shall be construed as granting the Customer any license or rights to Roxtec's intellectual property.
- 11.2 Any intellectual property rights arising out as a result of the cooperation between Roxtec and Customer related to the Works, shall be the sole and exclusive property of Roxtec. Customer shall promptly notify Roxtec of any modifications, improvements, enhancements, adaptations, inventions and discoveries related to the Works made by Customer or by its employees or consultants during the term of this Agreement.
- 11.3 Roxtec shall retain all title, copyrights and other intellectual property rights in any documentation related to the Works, including but not limited to technical drawings, installation instructions, marketing material and the Training Material and in all copies of all or any portion thereof, including all modifications to the Training Material.
- 12 WARRANTIES AND LIABILITY**
- 12.1 This Section 12 is subject to the Australian Consumer Law.
- 12.2 Roxtec's goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. This Section 12.2 applies only to the extent the Australian Consumer Law applies to this Agreement. For major failures with the Service, Customer is entitled: (i) to cancel its Agreement with Roxtec; and (ii) to a refund for the unused portion, or to compensation for its reduced value. Customer is also entitled to choose a refund or replacement for major failures with Goods. If a failure with the

Goods or a Service does not amount to a major failure, Customer is entitled to have the failure rectified in a reasonable time. If this is not done, Customer is entitled to a refund for the Goods and to cancel the contract for the Service and obtain a refund of any unused portion. Customer is also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the Goods or Service.

- 12.3 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. In the event that a defective Good has been replaced or repaired under the terms of this Warranty, a new warranty period of twelve (12) months shall start from the date of replacement or completion of the repair. This extended warranty shall cover the replaced or repaired Goods subject to the terms and conditions of the Warranty as set forth in this Section 12. This warranty extension is the sole remedy available to the Customer for replaced or repaired Goods and supersedes any prior warranty coverage for the original defective Goods.
- 12.4 Roxtec's obligations for any Goods as set forth in the Warranty 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.
- 12.5 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.
- 12.6 The Warranty shall not cover, and Roxtec shall not be liable for defects in any Goods that are caused by or related to improper storage, faulty maintenance, misuse, unusual external conditions, incorrect installation, alterations, or reparations of the Goods not performed or authorized by Roxtec, except to the extent that such defects arise as a direct result of Roxtec's negligence, fraud or wilful misconduct. 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 12 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 the Goods have been manufactured by Roxtec according to 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.
- 12.7 Roxtec does not provide a warranty for any product or part not manufactured by Roxtec or services provided by third parties. With respect to products, parts, and equipment not engineered or manufactured by Roxtec (whether or not supplied by Roxtec or affected by the Works), Roxtec waives and disclaims any and all liabilities and warranties whether express or implied, except to the extent that such liability arises as a result of Roxtec's gross negligence, fraud or wilful misconduct.
- 12.8 With respect to Services, Roxtec disclaims and Customer waives any and all liabilities and warranties whether express or implied, except to the extent that such liability arises as a result of Roxtec's gross negligence, fraud or wilful misconduct.
- 12.9 The product information provided by Roxtec about the Goods does not release Customer, or part thereof, from the obligation to independently determine the suitability of the Goods for the intended process, installation and/or use.
- 12.10 This Section 12 sets forth the exclusive remedies for claims based on defect, failure or nonconformity of the supplied Works. This exclusivity applies whether a claim is in contract, indemnity or tort or otherwise and however instituted and whether a defect arises before or during the

warranty period, unless such claims arise due to Roxtec's fraud, gross negligence or wilful misconduct. The Warranty is exclusive and in lieu of all other warranties whether written, oral, implied or statutory. TO THE EXTENT PERMITTED BY APPLICABLE LAW, NO IMPLIED OR STATUTORY WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY TO THE WORKS.

### 13 PRODUCT LIABILITY

- 13.1 Subject to the Australian Consumer Law, Roxtec shall indemnify Customer 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, fraud or wilful misconduct and provided that Customer has immediately informed Roxtec of such claim being made to Customer and permitted Roxtec to conduct all negotiations 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.
- 13.2 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 negligence, fraud or wilful misconduct.
- 13.3 Customer shall maintain general liability insurance with limits of not less than Australian dollars 5,000,000 (five 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 and 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.

### 14 LIMITATION OF LIABILITY

- 14.1 To the extent permitted by law, including the Australian Consumer Law, 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 or any other indirect or consequential loss or damages whether or not such loss or damage could have been reasonably foreseen, except to the extent that such loss arises as a result of Roxtec's gross negligence, fraud or wilful misconduct. For jurisdictions where the exclusion or limitation of liability for consequential or incidental damages is not permitted, Roxtec's liability shall be limited to the maximum extent permitted by applicable law, including the Australian Consumer Law.
- 14.2 To the extent permitted by law, including the Australian Consumer Law, Roxtec's and the companies of the Roxtec Group maximum aggregate liability to Customer arising under or in connection with the Agreement 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 Australian dollars 300,000 (three hundred thousand). Such limitation does not apply to the extent that Customer's loss arises from Roxtec's gross
- 14.3 Roxtec's and the companies of the Roxtec Group maximum aggregate liability to Customer arising under the Australian Consumer Law for the supply of any Goods is the lesser of: (a) the cost of replacing the Goods; or (b) the cost of obtaining goods equivalent to the Goods; or (c) the cost of having the Goods repaired.
- 14.4 Roxtec's and the companies of the Roxtec Group maximum aggregate liability to Customer arising under the Australian Consumer Law for the supply of any Service is the lesser of: (a) the cost of supplying the service again; and (b) the payment of the cost of having the service supplied again.

### 15 CONFIDENTIALITY

- 15.1 In connection with the Agreement, Roxtec has disclosed or may at its own discretion disclose to Customer certain Confidential Information, either directly or indirectly in writing, orally, in drawings, samples, visual inspections or otherwise.
- 15.2 Customer shall during the term of this Agreement and a period of five (5) years thereafter, maintain the Confidential Information in strict confidence and shall not disclose, divulge or communicate the Information to any person (other than as permitted or contemplated by this Agreement or with the written approval of Roxtec or as may be required by law) nor use the Confidential Information outside the scope of the Agreement.

- 15.3 Customer shall not make use of the Confidential Information or any part of the Confidential Information 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.
- 15.4 The restrictions stated in this Section 15.4 shall not apply to the extent that Customer can show that the relevant part of the Confidential Information: (i) is publicly available through no fault of Customer; (ii) was in Customer's possession prior to the date of disclosure by Roxtec; or (iii) Customer is authorised to disclose it by any subsequent written agreement between the Parties hereto.
- 16 FORCE MAJEURE**
- In the event that a Party shall be wholly or partially unable to fulfil its obligations under these Terms by reason of causes beyond the Party'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, pandemics, labour disputes (whether or not the Party is a party to such dispute), strikes, general shortage of material, machine damage, delay in delivery by sub-contractor or transportation failure, then the Party'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.
- 17 MISCELLANEOUS**
- 17.1 If a provision of 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.
- 17.2 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.
- 17.3 Roxtec contact details are as follows:  
Roxtec Australia Pty Ltd  
Unit 114, 14 Loyalty Road, North Rocks NSW 2151  
PO Box 4415, North Rocks NSW 2151  
(P) +61 2 9708 0055  
(E) info@roxtec.com.au
- 18 COMPLIANCE WITH SANCTIONS AND EXPORT CONTROLS**
- 18.1 Customer shall not, directly or indirectly, sell or otherwise transfer the Goods to any individual or entity (including countries) in violation of any Sanctions Regime.
- 18.2 Customer guarantees and warrants that neither it nor any person or entity owning or controlling Customer (whether directly or indirectly) nor any director, officer or employee of Customer, nor any third party providing services to Customer in relation to the Goods, is an individual or entity with whom dealings are restricted or prohibited under Sanctions Regime.
- 18.3 Customer shall promptly upon becoming aware inform Roxtec that Customer, or any of its direct or indirect owners or controllers, or any of its directors, officers or employees, or any applicable third party, is or has become a person or entity subject to Sanction Regime.
- 18.4 Roxtec has the right to unilaterally terminate this Agreement or any Order upon a written notice with immediate effect in the event that the performance of any of its obligations under the Agreement would constitute in any jurisdiction a violation either by Roxtec and/or by any other company of the Roxtec Group of a Sanction Regime. This right is in addition to any other right of termination Roxtec may have under the Agreement or law.
- 18.5 Roxtec shall not be liable to Customer for any losses resulting from the unilateral termination of this Agreement or an Order by Roxtec under Section 18.4.
- 18.6 The non-compliance of Customer with a provision of this Section 18 shall constitute a material breach of the Agreement entitling Roxtec to terminate the Agreement or the Order with immediate effect.
- 18.7 Customer shall indemnify and hold harmless Roxtec and Roxtec Group against any and all claims, fines, losses, costs, damages, expenses or liability whatsoever arising out of, or relating to any breach by Customer of any representation, warranty or undertaking made under this Section 18, except to the extent that this arises as a result of Roxtec's negligence, fraud or wilful misconduct. The foregoing compensation shall cover any liability as well as any costs and expenses including legal and other professional fees arising out of such claims and including all such costs incurred in the defence and settlement of such claims. The provisions of this Section 18.7 shall be unaffected by any completion, termination or cancellation of this Agreement or any part thereof and shall apply notwithstanding any other provisions of this Agreement or any other contract or agreement between the Parties.
- 19 DATA PROTECTION AND PRIVACY**
- 19.1 Each Party agrees in respect of any personal information it receives, or has access to, in connection with this Agreement, to comply at all times with the Privacy Act 1998 (Cth) and any other applicable privacy laws.
- 19.2 Roxtec collects, uses, discloses and handles personal information in accordance with its Privacy Policy at <https://www.roxtec.com/au/about-us/about-roxtec/privacy-cookie-information/>.
- 19.3 Each Party acknowledges its obligations to control access to and/or exportation of technical data under applicable export laws and regulations, and each Party agrees to adhere to and comply with the laws and regulations with respect to any technical data received under this Agreement.
- 20 GOVERNING LAW**
- The construction, validity and performance of this Agreement and all non-contractual obligations arising from or connected with this Agreement shall be governed by and construed and enforced in accordance with the laws of New South Wales, Australia without giving effect to its principles or rules of conflict of laws to the extent such principles or rules would require or permit the application of the laws of another jurisdiction, and excluding the UN Convention on International Sale of Goods.
- 21 ARBITRATION – COMMERCIAL COURT**
- 21.1 Any and all disputes, controversies and claims arising out of or in connection to the Agreement, or the breach, termination or invalidity thereof, shall be finally settled in arbitration before the Australian Centre for International Commercial Arbitration in accordance with its Arbitration Rules. Unless the Parties agree otherwise, the seat of arbitration shall be Sydney, Australia. The language to be used in the arbitral proceedings shall be English.
- 21.2 Notwithstanding the above, each Party shall be entitled to seek injunctive relief and other interim measures at the local competent public courts or proper authorities, including (but not limited to) to enforce its intellectual property rights, avoid unauthorized disclosure of Information, or secure claims of any payments due for deliveries or other due debt under this Agreement.
- 22 INTERPRETATION**
- 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 any agreement or making any purchase with Roxtec.
- END OF DOCUMENT**