

## CONDITIONS OF SALE

### 1 Definitions

In these conditions, unless the context requires otherwise:

- 1.1 'Buyer' means the person who buys or agrees to buy the goods from the Seller;
- 1.2 'Conditions' means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller;
- 1.3 'Delivery Date' means the date specified by the Seller when the goods are to be delivered;
- 1.4 'Goods' means the articles which the Buyer agrees to buy from the Seller;
- 1.5 'Price' means the price for the Goods excluding carriage, packing, insurance and VAT; and
- 1.6 'Seller' means Rotolok Ltd, 1 Millennium Place, Tiverton Business Park, Tiverton, Devon, EX16 6SB.

### 2 Conditions applicable

- 2.1 These Conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order, confirmation of order or similar document.
- 2.2 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these Conditions.
- 2.3 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these Conditions.
- 2.4 Any variation to these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Seller.

### 3 Price and payment

- 3.1 The Price shall be the price quoted on the Seller's Acknowledgement. The Price is exclusive of VAT which shall be due at the rate ruling on the date of the Seller's invoice.
- 3.2 Unless otherwise stated by the Seller, payment of the Price and VAT shall be 'net 30 days' i.e. due on the last working day of the month following the end of the month in which the Goods are invoiced. Time for payment shall be of the essence.
- 3.3 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 8% above Barclays Bank plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgment.

### 4 The Goods

- 4.1 The Goods shall be supplied in accordance with the description contained in the Seller's specification.
- 4.2 The Seller may from time to time make changes in the specification of the Goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the Goods.
- 4.3 Any contractual description of the Goods by the Seller relates to the identity of the Goods but only if it relates to a central characteristic of the Goods or to a substantial ingredient in their identity.

### 5 Warranties and liability

- 5.1 The Seller warrants that the Goods supplied will at the time of delivery correspond to the description given by the Seller.
- 5.2 The Seller gives to the Buyer (subject to the terms of payment being strictly observed) the following warranty. Should any defect of material or workmanship arise within twelve months in any part of the Seller's manufacture, the Seller undertakes to make good the defect at the Seller's own expense, or if in the Seller's opinion, to substitute for the defective goods, others of the description ordered provided that written notice is given to the Seller as soon as the defect is discovered, and that the article is forwarded, carriage paid, to the Seller's works, without being dismantled. The Seller's responsibility is, in all cases limited to making good the defect. This warranty does not apply to defects caused by accident, misuse, neglect, or wear and tear, nor can the Seller be held responsible in cases where alterations have been executed without the Seller's knowledge or consent. For Equipment of 'others' manufacture the Seller can only pass on the warranties given to the Seller, and is the limit of the Seller's responsibility.
- 5.3 All other terms, conditions, warranties and representations (whether implied or made expressly) whether by the Seller its servants or agents or otherwise (other than those express warranties set out in the current edition of the

Seller's specification) relating to the quality and/or fitness for the purpose of the Goods or any of the Goods are excluded to the fullest extent permitted by law.

### 6 Delivery of the Goods

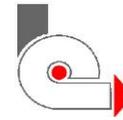
- 6.1 Delivery is ex-works unless otherwise stated.
- 6.2 The Seller may deliver the Goods by separate instalments or in accordance with the agreed delivery schedule. The Seller may raise a separate invoice and require payment for each instalment.
- 6.3 The failure or refusal of the Buyer to take delivery or to pay for any one or more of the said instalments of the Goods on the due dates shall entitle the Seller (at the sole option of the Seller):
  - 6.3.1 Without notice to suspend further deliveries of the Goods pending payment by the Buyer; and/or
  - 6.3.2 To treat this contract as repudiated by the Buyer.
- 6.4 The Seller shall not be liable for any loss or damage whatever due to failure by the Seller to deliver the Goods (or any of them) promptly or at all.
- 6.5 Notwithstanding that the Seller may have delayed or failed to deliver the Goods (or any of them) promptly the Buyer shall be bound to accept delivery and to pay for the Goods in full provided that delivery shall be tendered at any time within 6 months of the Delivery Date.

### 7 Acceptance of the Goods

- 7.1 The Buyer shall be deemed to have accepted the Goods 24 hours after delivery to the Buyer.
- 7.2 After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.
- 7.3 If the Buyer properly rejects any of the Goods which are not in accordance with the contract the Buyer shall nonetheless pay the full Price for such Goods unless the Buyer promptly gives notice of rejection to the Seller and at the Buyer's cost returns such Goods to the Seller before the date when payment of the Price is due.

### 8 Title and risk

- 8.1 The Goods shall be at the Buyer's risk as from delivery.
- 8.2 In spite of delivery having been made property in the Goods shall not pass from the Seller until:
  - 8.2.1 The Buyer shall have paid the Price plus VAT in full; and
  - 8.2.2 No other sums whatever shall be due from the Buyer to the Seller.
- 8.3 Until property in the Goods passes to the Buyer in accordance with clause 8.2 the Buyer shall hold the Goods and each of them on a fiduciary basis as Bailee for the Seller. The Buyer shall store the Goods (at no cost to the Seller) separately from all other goods in its possession and marked in such a way that they are clearly identified as the Seller's property.
- 8.4 Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business at full market value for the account of the Seller. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdrawn bank account and shall be at all material times identified as the Seller's money.
- 8.5 The Seller shall be entitled to recover the Price (plus VAT) notwithstanding that property in any of the Goods has not passed from the Seller.
- 8.6 Until such time as property in the Goods passes from the Seller the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises owned occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under clause 8.4 shall cease.
- 8.7 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
- 8.8 The Buyer shall insure and keep insured the Goods to the full Price against 'all risks' to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
- 8.9 The Buyer shall promptly deliver the prescribed particulars of this contract to the Registrar in accordance with the Companies Act 1985 Part XII as amended. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.



## 9 Remedies

9.1 Where the Buyer rejects any Goods then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by the Seller to supply Goods which conform to the contract of sale.

9.2 Where the Buyer accepts or has been deemed to have accepted any Goods then the Seller shall have no liability whatever to the Buyer in respect of those Goods.

9.3 The Seller shall not be liable to the Buyer for late delivery or short delivery of the Goods.

9.4 The Seller shall be under no liability whatever to the Buyer for any indirect loss and/or expense (including loss of profit) suffered by the Buyer arising out of a breach by the Seller of this contract.

9.5 In the event of any breach of this contract by the Seller the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.

9.6 In the event that the Buyer declines to accept the Goods in breach of this contract the Buyer shall pay to the Seller as and by way of agreed liquidated damages an amount equal to the price of the Goods less any allowance, as determined and at the sole discretion of the Seller, taking into account the net proceeds received by the Seller on reselling the Goods (if at all possible) after deducting the costs and expenses of resale.

9.7 In the event that the Buyer wishes to cancel the contract prior to delivery the Buyer shall pay to the Seller a percentage of the price of the goods as determined by the Seller.

## 10 Proper law of contract

10.1 This contract is subject to the law of England and Wales.

10.2 If any dispute or difference shall arise between the parties as to the meaning of this contract or any matter or thing arising out of or connected with this contract then it shall be referred to the determination of an arbitrator to be appointed by agreement of the parties or (in default of agreement within 21 days of the service upon one party of a written request to concur in such appointment) by the President for the time being of the Chartered Institute of Arbitrators.

## 11 Notices

11.1 Any notice under or in connection with this contract of sale shall be in writing and shall be served by first class post or by hand on the party or sent by recorded delivery or e-mail at or to the address of the party set out in this contract or at or to such other address as may be subsequently notified by one party to the other.

11.2 In the absence of evidence of earlier receipt any notice shall be deemed to be duly served:

11.2.1 If delivered personally when left at the address in clause 1.6;

11.2.2 If sent by recorded delivery 3 days after posting; and

11.2.3 If sent by e-mail, when received.

## 12 Insolvency or other default of buyer

12.1 If the Buyer fails to make payment for the Goods in accordance with this contract of sale or commits any other breach of this contract of sale or if any distress or execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or if any bankruptcy petition is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a receiver, administrator, administrative receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the Goods shall become payable immediately. The Seller may in its absolute discretion and without prejudice to any other rights which it may have:

12.1.1 Suspend all future deliveries of Goods to the Buyer and/or terminate the contract without liability upon its part; and/or

12.1.2 Exercise any of its rights pursuant to clause 8.

## 13 Set-off and counterclaim

The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set off or counterclaim which the Buyer may have or allege to have or for any reason whatever.

## 14 Back orders

The Seller shall be entitled to a general lien on all goods of the Buyer in the Seller's possession (including goods of the Buyer which have been paid for) for the unpaid price of all goods sold to the Buyer by the Seller under this or any other contract

## 15 Third party rights

The provisions of the Contracts (Rights of Third Parties Act) 1999 shall not apply to this contract and a person who is not a party to this contract shall have no right under that Act to enforce any term of the contract.

## 16 Headings

All headings are for ease of reference only and shall not affect the construction of this contract.

## 17 Severance

Any provision of this contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable and shall not affect any other provision of this contract.

## 18 Waiver

No waiver or forbearance by the Seller (whether express or implied) in enforcing any of its rights under this contract shall prejudice its right to do so in the future.

## 19 Sub-contracting

The Seller may licence or sub-contract all or any part of its rights and obligations under this contract without the Buyer's consent.

## 20 Force majeure clause

20.1 Save for the Buyer's obligation of payment under clause 3 neither party shall be liable for any default due to any act of God, war, civil disturbance, malicious damage, strike, lockout, industrial action, fire, flood, drought, extreme weather conditions, compliance with any law or governmental order, rule, regulation, direction or other circumstance beyond the reasonable control of either party ('Force Majeure Event').

20.2 Each party shall give notice forthwith to the other upon becoming aware of a Force Majeure Event, the notice to specify details of the circumstances giving rise to the Force Majeure Event.

## 21 Seller's cancellation clause

The Seller may cancel this contract at any time before the Goods are delivered by giving written notice. On giving such notice the Seller shall promptly repay to the Buyer any sums paid in respect of the Price. The Seller shall not be liable for any loss or damage whatever arising from such cancellation.