

## TERMS AND CONDITIONS OF THE ROSEN GROUP FOR SALES

Unless otherwise agreed upon, contracts with ROSEN shall be concluded subject to the following provisions. By placing an Order with ROSEN, Company accepts the following Terms and Conditions. Any conflicting, additional supplementary or deviating terms and conditions of the Company shall not be binding on ROSEN. In the event that the clauses and/or content of the Contract between Company and ROSEN conflict with these Terms and Conditions, the contractual provisions shall have precedence over these Terms and Conditions. ROSEN's proposals and estimates are non-binding on ROSEN, may be revoked at any time and do not constitute firm offers. In the event that Company has previously submitted a purchase order or any other document containing terms and conditions of sale, ROSEN expressly rejects any and all terms and conditions submitted in said order which conflict with, or are in addition to, these Terms and Conditions. ROSEN's acceptance is expressly conditional upon Company's consent to these Terms and Conditions. Variations or modifications to these Terms and Conditions shall only be enforceable if in writing and signed by ROSEN and Company.

### 1 DEFINITIONS

In the Contract Documents, the following words and expressions when capitalized shall have the meanings hereby assigned to them, except where the context requires otherwise. All personal pronouns used herein and in the Contract Documents, whether used in the masculine, feminine, or neuter gender, will include all other genders; the singular will include the plural, and vice versa. Titles and headings used herein are intended for convenience and easier reference only and shall not be considered in interpreting thereof.

#### 1.1 Acceptance shall mean

- (i) written acceptance of the Proposal by the Company; or
- (ii) if the Company adds any amendments to the Proposal, the written acceptance of such amendments by ROSEN; or
- (iii) if the Parties execute a separate Contract, upon execution of the same by both Parties.

**1.2 Affiliate** shall mean, with respect to any Party, any other Person which is affiliated with such Party, and for the purposes hereof:

- (i) two Persons will be considered to be affiliated with one another if one of them controls the other, or if both of them are controlled by a common third party, and
- (ii) one Person will be considered to control another Person if it has the power to direct or cause the direction of the management and policies of the other Person, whether directly or indirectly, through one or more intermediaries or otherwise, and whether by virtue of the ownership of shares or other equity interests, the holding of voting rights or contractual rights, or otherwise.

**1.3 Amendments** shall mean any permitted amendment signed by both Parties to any of the Contract Documents.

**1.4 Company** shall mean the company and/or organization which has entered into a Contract with ROSEN for the purchase of ROSEN's products and correlated works pursuant to these Terms and Conditions.

**1.5 Contract** shall mean the entire integrated agreement between Company and ROSEN, as evidenced by the Contract Documents.

**1.6 Contract Documents** shall mean any agreed documents, including but not limited to the purchase agreement, the Terms and Conditions, the Proposal, the Purchase Order, the Acceptance, the confidentiality agreement, the appendices referred to in each of such documents, if any and any amendments to any of the foregoing executed after the effective date of the purchase agreement. In the event of any conflict between any of the Contract Documents, the Contract Documents shall take precedence in the following order:

- purchase agreement with its appendices
- Proposal
- these Terms and Conditions of ROSEN
- Acceptance
- Software License Agreement, if provided with the ROSEN product
- purchase order
- request for a proposal

None of the documents abovementioned shall be used by the Company for any purpose other than this transaction.

**1.7 Intellectual Property Rights** shall mean inventions, patents, or applications for a patent, design (registered or unregistered) utility models, rights to inventions, copyright and neighboring and related rights, moral rights, trademarks (registered or unregistered) and service marks, name, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use and protect the confidentiality of confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection or other right in respect of any information, process, work, material or method, which subsist or will subsist now or in the future in any part of the world.

**1.8 Party/Parties** shall mean ROSEN and/or Company individually and/or collectively.

**1.9 Person** means any individual, corporation, partnership, governmental body, association or unincorporated organization.

**1.10 Proposal** shall mean the documents comprising ROSEN's offer for sale of its products.

**1.11 Purchase Order/ Order** shall mean any written order whereby the Company accepts the Proposal from ROSEN, including any call-off order under a long term or framework contract.

**1.12 ROSEN** shall mean the respective ROSEN entity which submits the Proposal and/or signs the Contract with Company.

**1.13 Terms and Conditions** shall mean these Terms and Conditions of the ROSEN Group for Sales.

## 2 PAYMENT AND TAXES

### 2.1 Currency and Place of Payment

All prices are quoted on ex works delivery EXW (Incoterms 2020). All amounts payable to ROSEN shall be paid in the currency stated in the Contract Documents, and shall be due at ROSEN's nominated bank in the invoice.

### 2.2 Payments Due

All invoices from ROSEN shall be due and payable by the Company within thirty (30) calendar days from the date of the invoice.

### 2.3 Payment

Payments shall be made according to project progress as stated in the Contract Documents and shall not be subject to counterclaim, deduction or set-off, whether in connection with the affected or any other Contract in place between the Parties.

### 2.4 Past Due Payments

If Company fails to pay any monies due then any outstanding amount shall bear interest from the date such amount was due until that amount is paid at the maximum rate permitted by applicable law.

### 2.5 Taxes

All prices are excluding taxes, VAT, GST, value added tax and/or goods and services tax, any federal, state and/or local property tax, license, duty, custom or other fee of any nature, gross receipts and/or other taxes which may be applicable now or later concerning this Contract or any services performed in connection therewith.

However, if any exemption certificate is accepted by ROSEN but not recognized and/or invoiced by the governmental taxing authority, all such taxes will be paid by Company. Company shall promptly reimburse ROSEN for any taxes included in said certificate which ROSEN is required to pay, including interest and penalties, if any.

## 3 SECURITY INTEREST

The Company grants ROSEN as security for payment of all sums owing and to be owed to ROSEN a security interest in all goods sold by ROSEN to Company on all accounts receivable and proceeds arising from the sale of such goods. Company agrees to execute and deliver to ROSEN such financing statements and other documents as may be contained on the terms and conditions on the invoice and as ROSEN may request to perfect such security interests.

Company hereby represents and warrants to ROSEN that Company is solvent (on a balance sheet basis) and has the unrestricted ability to pay its debts in the ordinary course of business as and when such debts are due and payable. Company also acknowledges and agrees that each purchase order or request from Company to ROSEN shall constitute a written reaffirmation of Company's representation of solvency as of the date of Company's request, which representation shall be deemed to grant to ROSEN the maximum right of reclamation available at law or in equity under either under the Uniform Commercial Code or any other applicable state law, or in any bankruptcy or insolvency proceeding.

## 4 DELIVERY

### 4.1 Delivery dates

Any delivery dates quoted prior to shipment are approximate only and dependent on ROSEN's prompt receipt of all information necessary to proceed with the work timely and without interruption. ROSEN shall make a good faith effort to complete delivery of the products as indicated by ROSEN in writing, but ROSEN assumes no responsibility or liability and ROSEN shall not accept any back charge, for losses or damages due to delay or inability to deliver. If the price quoted includes the delivery to Company's premises or job site, such price is conditional upon free ingress and egress to and from the location and upon the location being readily accessible by truck or car.

### 4.2 Partial deliveries

ROSEN shall be permitted to make partial deliveries as long as they are commercially reasonable under the circumstances. A delay with respect to one partial delivery shall not affect

Company's obligation to accept and pay for the remaining deliveries. Any equipment whose delivery is delayed due to any acts or failure to act by Company may be placed in storage by ROSEN at Company's risk and obligation to pay for all freight, storage and other costs incurred thereby. Every partial delivery may be invoiced separately by ROSEN.

### 4.3 Software integrated in the product

If software is integrated, whether pre-installed or provided separately, in the ROSEN product, the corresponding software license agreement - provided to Company by ROSEN along with the software - applies.

Company agrees to accept and comply with the provided license terms which may include provisions regarding the use, reproduction, distribution, and modification of the software.

### 4.4 Acceptance and Notice of defects

All delivered goods shall be subject to Company's right of inspection. The Company shall have ten (10) calendar days following the delivery to undertake such inspection, and thereupon accept or reject the goods. In any case claims for obviously alleged shortages or defective products must be made in writing within ten (10) calendar days after receipt of the delivery. Claims for hidden alleged shortages or defective products within the warranty period must be made in writing within ten (10) calendar days after its discovery. After such ten (10) calendar day period, Company shall be deemed to have irrevocably accepted the products, if not previously accepted. After acceptance, Company shall not have any right to reject the products for any reason or to revoke acceptance.

Any allegedly defective products or parts must be held for inspection by ROSEN or, at ROSEN's option, returned to ROSEN's factory. Goods may be returned to ROSEN only after approval by ROSEN and receipt of definitive shipping instructions and written return material authorization. Company shall pay for all shipping charges, duties and taxes applicable for products or parts returned to ROSEN for warranty service. If ROSEN determines that the claim is a warranty issue, Company shall be reimbursed for the return costs.

## 5 FORCE MAJEURE

### 5.1 Force Majeure Event

Force Majeure Events are those events whose effects make it impossible for the affected Party to perform its obligation in whole or in part, provided that the events or circumstances (i) are beyond the control of the Party, (ii) are not attributable to the Party, and (iii) could not be avoided, overcome or remedied in whole or in part by the Party claiming Force Majeure using reasonable care.

The Parties shall be absolved and excused from its obligations under the Contract to the full extent, if one Party's performance is delayed or prevented by any condition or occurrence that is beyond its control including, without limitation, natural events, fires, explosions, nuclear reactions, epidemics, pandemics, quarantine (to the extent ordered by applicable public body), earthquakes, acts of public or foreign enemies, civil disturbances, war and hostilities (whether war is declared or not), invasions, blockades, insurrections, rebellion, revolution, riots, acts of terrorism, strikes, commotion, disorder, lockouts or other industrial disturbances, embargoes, Sanctions (Sanctions shall mean any individually and collectively, respectively, any and all economic sanctions, trade sanctions, financial sanctions, sectoral sanctions, secondary sanctions, trade embargoes, anti-terrorism laws and other sanctions laws, regulations or embargoes, including those imposed, administered or enforced from time to time by: (a) the United States of America, including but not limited to those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"), the U.S. Department of

State, the U.S. Department of Commerce, or through any existing or future executive order, (b) the United Nations Security Council, (c) the European Union or any European Union member state, (d) Her Majesty's Treasury of the United Kingdom, or (d) any other governmental authority of any other state), restraints or prohibitions or orders or regulations by any court, board, department, commission or agency of any state or country, any arrests or restraints.

Neither Party shall be in default of its respective obligations under the Contract which are hindered by Force Majeure; provided, however, that the payment of invoices due and owing hereunder shall in no event be delayed by the Company because of a Force Majeure Event affecting the Company. In the event of any such delay due to a Force Majeure Event, the date for performance or delivery shall be extended for a period equal to the time lost by reason of delay. In no event shall Company have their right to see any damages for delay of delivery if ROSEN is unable to perform due to a Force Majeure Event.

## **5.2 Force Majeure Notification**

In case of Force Majeure, the affected Party shall inform the other Party within seven (7) days after any occurrence of such a case, unless this is publicly known via generally accessible sources of information. If the affected Party fails to send a Force Majeure Notification to the other Party, it loses the right to refer to these Force Majeure circumstances in future.

## **5.3 Cancellation of Contract**

If the event of Force Majeure continues for more than six (6) months, either Party shall have the right to cancel the Contract partially or completely upon written notice to the other Party.

All indemnity claims based on partial or complete non-fulfillment of the affected Party obligations caused by an occurrence as aforementioned are excluded and invalid.

# **6 WARRANTY**

## **6.1 Warranty period**

ROSEN warrants that the goods and/or products which are manufactured by ROSEN's control shall be free from material defects in workmanship or materials and are suitable for their intended purpose. The suitability of the goods is based on the Company provided information and specification. The goods and/or products shall be stored according to the instructions in the product manuals. All warranties will be null and void if the goods and/or products are not properly stored. The warranty period will be twelve (12) months from the date of acceptance of the goods and/or products by the Company, subject to the following conditions.

## **6.2 Repair or replacement**

ROSEN's sole responsibility under this warranty shall be, at its sole discretion, to either repair or to replace any part which fails during the warranty period due to a defect in workmanship or material. Company shall promptly report any alleged part failure to ROSEN.

The warranties mentioned above shall not apply (I) if repair or part replacements are required because of accident, misuse, neglect or failure to maintain in accordance with any specifications, or caused by a non-ordinary use, or (II) if the goods have been modified by Company, or (III) where manufacturer's serial numbers or warranty date badges have been removed or altered, or (IV) if wrong information given by Company has led to the damage in question, or (V) if the good has a minor defect. A minor defect shall be deemed to exist if the functionality of the product is not restricted according to the current state of the art.

Any other claims of the Company against ROSEN or its agents are excluded.

## **6.3 Exclusion of Warranty**

**THIS WARRANTY SHALL NOT APPLY TO COMPONENTS, PARTS AND/OR ACCESSORIES WHICH ARE BEYOND THE SPHERE, POSSIBILITY OF INFLUENCE/ACCESS OF ROSEN, NOR TO NORMAL MAINTENANCE OR NORMAL MAINTENANCE PARTS. ROSEN DOES NOT WARRANT AGAINST DAMAGE DUE TO NORMAL WEAR AND TEAR, ABRASION, THE USE OF THE PRODUCTS OTHER THAN FOR THEIR INTENDED PURPOSE AND/OR MISUSE. ROSEN'S OBLIGATION UNDER THIS WARRANTY DOES NOT INCLUDE ANY TRANSPORTATION CHARGES, COSTS OF INSTALLATION, REMOVAL OR RETURN, DUTIES, TAXES OR ANY OTHER CHARGES WHATSOEVER.**

## **6.4 Limitation of Warranties**

The warranties and any associated remedies expressed or referenced in these Terms and Conditions are exclusive. No other warranty, written or oral, express or implied, is made by ROSEN or may be inferred from a course of dealing or usage of trade.

**ROSEN DISCLAIMS ALL WARRANTIES, CONDITIONS AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY; FITNESS FOR A PARTICULAR PURPOSE, SYSTEM INTEGRATION OR NON-INFRINGEMENT. ROSEN DOES NOT WARRANT AND DISCLAIMS THAT THE DELIVERED GOODS WILL MEET COMPANY'S NEEDS. ROSEN DOES NOT WARRANT, EXPRESS OR IMPLIED, THE SUITABILITY OF ANY RESULTS, CALCULATIONS OR PREDICTIONS OF THE DELIVERED GOODS.**

# **7 LIMITATION OF LIABILITY AND EXCLUSION OF CONSEQUENTIAL DAMAGES**

**7.1 COMPANY'S SOLE AND EXCLUSIVE REMEDY AND ROSEN'S ABSOLUTE LIMIT OF LIABILITY IN CONNECTION WITH ANY LAWSUIT, CLAIM OR CAUSE WHATSOEVER DIRECTLY OR INDIRECTLY RELATING TO OR ARISING OUT UNDER THIS CONTRACT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY OF RECOVERY, SHALL IN ALL CASES BE STRICTLY LIMITED, AT ROSEN'S SOLE OPTION, TO EITHER: (a) REIMBURSING COMPANY FOR COMPANY'S ACTUAL DIRECT DAMAGES UP TO THE AMOUNT OF THE PURCHASE PRICE OF THE PRODUCTS PURCHASED UNDER THIS CONTRACT; OR (b) REPLACING ANY ALLEGED NONCONFORMING PRODUCTS AT THE ORIGINAL POINT OF DELIVERY. AS A CONDITION PRECEDENT TO ROSEN'S OBLIGATION TO REPLACE THE PRODUCTS, COMPANY MUST ASSIST ROSEN IN ALL RESPECTS IN ITS INVESTIGATION OF THE BASIS AND LEGITIMACY OF ANY SUCH CLAIMS. COMPANY ACKNOWLEDGES AND AGREES THAT THE REMEDIES SET FORTH HEREIN ARE COMPANY'S SOLE AND EXCLUSIVE REMEDIES EVEN IF SUCH REMEDIES FAIL IN THEIR ESSENTIAL PURPOSE FOR ANY REASON WHATSOEVER.**

**7.2 NOTWITHSTANDING ANYTHING IN THE APPLICABLE CONTRACT DOCUMENTS, IT IS AGREED THAT IN NO EVENT SHALL ROSEN OR COMPANY BE LIABLE TO THE OTHER IN CONTRACT OR IN TORT (INCLUDING NEGLIGENCE, BREACH OF STATUTORY DUTY OR OTHERWISE) FOR ANY PUNITIVE, INCIDENTAL DAMAGES, LOSS OF USE, LOSS OF PROFIT, LOSS OF REVENUE OR PRODUCTION, CLAIMS OF COMPANY'S CUSTOMERS AND/OR COMPANY'S THIRD PARTIES, LOSS OF USE OF ANY SYSTEM OR OTHER PROPERTY OR FOR BUSINESS INTERRUPTION UNDER / IN CONNECTION WITH THE CONTRACT OR ANY ERROR OR DEFECT THEREIN, OR OF THE PERFORMANCE, NON-PERFORMANCE OR DELAYED PERFORMANCE OF THE SERVICES OR FOR ANY INDIRECT, CONSEQUENTIAL OR**

**ECONOMIC LOSS, WHETHER OR NOT FORESEEABLE AT THE EFFECTIVE DATE OF THE CONTRACT.**

**7.3 COMPANY SHALL COMPLY WITH ANY APPLICABLE LAWS, RULES, OR REGULATIONS RELATED TO ANY FEATURES OF THE DELIVERED GOODS. IF COMPANY FAILS TO DO SO, ROSEN WILL IN NO EVENT BE LIABLE FOR ANY FAILURE BY THE COMPANY TO ABIDE BY THIS SECTION 7.**

**7.4 ALL ACTIONS FILED BY COMPANY AGAINST ROSEN ARISING OUT OF OR RELATED TO THIS CONTRACT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY OF RECOVERY, MUST BE COMMENCED WITHIN THE APPLICABLE STATUTORY PERIOD, BUT IN NO EVENT MORE THAN ONE (1) YEAR FROM THE DATE THE CAUSE OF ACTION ARISES.**

**7.5 IF THE CONTRACT IS SUBJECT TO GERMAN LAW, FOLLOWING LIMITATION OF LIABILITY SHALL APPLY IN DEVIATION FROM THE ABOVE:**

**7.5.1** ROSEN shall only be liable for willful misconduct and gross negligence. Liability for simple negligence shall be limited to the Contract Price.

**7.5.2** Notwithstanding the above, liability is excluded in cases of simple negligence for the following damages

- for consequential damages. This refers to damages that arise directly or indirectly and as a result of another damage, i.e. in particular loss of use, loss of profit, loss of sales or production, loss of business, financial loss, other consequential damages, etc.
- for environmental damage caused by the Services, unless this is due to an unexpected, sudden, unforeseeable cause. Clause 8.5.1 shall apply here accordingly.

**7.5.3** Excluded from the limitation of liability in accordance with clauses 7.5.1 and 7.5.2 is

- liability for damages resulting from injury to life, body or health which are based on a negligent breach of duty by ROSEN or an intentional or negligent breach of duty by a legal representative or vicarious agent of ROSEN;
- liability for damages arising from the negligent breach of cardinal obligations. Cardinal obligations are those whose fulfillment is essential for the proper execution of the contract and on whose compliance the contractual partner may regularly rely. In such cases, liability shall be limited to the foreseeable damage typical of the Contract.
- liability for damages resulting from the assumption of a guarantee, a procurement risk or from the breach of an expressly agreed fixed delivery date.
- liability for damages based on mandatory statutory liability, in particular under the German Product Liability Act.

**7.5.4** The Company shall indemnify ROSEN against third-party claims in accordance with the above liability provisions under clauses 7.5.1 and 7.5.2.

**7.5.5** ROSEN within the meaning of this liability clause also includes the affiliated companies of the ROSEN Group within the meaning of Section 15 of the German Stock Corporation Act, as well as their legal representatives and vicarious agent.

## **8 SAFETY NOTICE**

### **8.1 General Safety Notice**

The Company shall comply with all relevant laws, regulations or specifications governing the use and storage of the goods delivered. Under no circumstances shall ROSEN be responsible for non-compliance with the provisions of this section.

### **8.2 Special Safety Notice**

If applicable, the following shall apply:

Any operation involving work on pipelines containing liquids and/or gases under pressure is potentially hazardous. It is imperative that proper procedures are followed in the use of ROSEN equipment to maintain a safe working environment.

No person should be permitted to use this equipment/products who is not fully trained in the procedures stated in the handling instruction manual and who is not fully aware of the potential hazards connected with work on pipelines containing liquids and/or gases under pressure.

The Company shall be responsible for the manner in which the equipment/product is used and the training and competence of the operators. Should any problem arise at any time in the use of equipment/product, Company shall notify ROSEN immediately in writing. Furthermore, Company shall indemnify, defend, and hold ROSEN harmless from any claim, liability, damages, lawsuits, and costs (including attorney's fees), whether for personal injury, property damage or other, brought by or incurred by Company, Company's employees, or any other person, arising out of the improper application or other misuse of products purchased by Company from ROSEN.

Company hereby acknowledges and accepts certain risks involved with the performance of pipeline cleaning tools and runs, including but not limited to, the lodging of a cleaning tool in the pipeline. Company acknowledges that it is its sole responsibility and risk to operate ROSEN's goods, even if technical specifications of a pipeline have been made known to ROSEN prior to ordering the equipment.

## **9 OWNERSHIP**

To the extent permitted by law, following shall apply:

**9.1** The delivered goods (reserved goods) shall remain the property of ROSEN until full payment arising from the Contract.

**9.2** If the Company is in default with the payment of the purchase price, the Company has the right to withdraw from the Contract and to demand the return of the reserved goods from the Company, provided that ROSEN has unsuccessfully granted the Company a reasonable deadline for payment. This shall not apply if deadline is not required according to the statutory provisions. The demand for return does not at the same time include a declaration of withdrawal; rather, ROSEN is entitled to merely demand the return of the goods and reserve the right to withdraw from the Contract.

**9.3** The goods subject to retention of title shall not be pledged to third parties or assigned as security until the secured claim has been paid in full.

**9.4** If the Company files for insolvency, Company shall inform ROSEN immediately in writing. If the goods subject to retention of title are seized by third parties or are subject to other interventions by third parties, the Company is obliged, as long as ownership has not yet been transferred to Company, to inform the third party of ROSEN's ownership rights and to notify ROSEN immediately in writing so that ROSEN can enforce his ownership rights. To the extent permitted by law, the Company shall be liable to the Seller

for any legal or other costs, unless the third party is able to reimburse these costs to ROSEN.

## 10 INTELLECTUAL PROPERTY RIGHTS

All data which ROSEN has prepared or supplied to Company and all patents, copyrights, design rights, and other intellectual property rights therein shall remain the property of ROSEN. Company shall promptly disclose to ROSEN all inventions which Company or Company's personnel may create and/or which are wholly or substantially based on concepts or data developed or supplied by ROSEN. Ownership of and all Intellectual Property Rights to such inventions shall vest in ROSEN.

Company shall indemnify, defend and hold ROSEN harmless from any action, claim or loss resulting from infringement of patents, licenses, copyrights or other protected rights in connection with the goods.

## 11 CONFIDENTIALITY

11.1 Each Party shall keep confidential any Confidential Information disclosed by the other Party in respect of the Proposal, the Services or Contract and will neither use the same for any purpose other than for the purpose of performing the Services nor disclose the same to any third party (other than the other Party's own personnel to whom disclosure is necessary in the provision of the Services) without the prior written approval of the other Party.

The foregoing restrictions on disclosure and use of Confidential Information shall not apply to the information which:

- is or becomes part of the public domain otherwise than by a breach of this clause at the time of or after disclosure, or
- can be proven by recipient to have been in his possession prior to disclosure; or
- will lawfully become available from a source having the right to disclose the same; or
- can be proven by recipient to have been developed by or for the recipient at any time independently from the information disclosed to it by the disclosing Party.

The restrictions shall also not apply if the recipient is required to disclose Confidential Information by a judicial, legislative or administrative body. If recipient receives such a request, recipient shall provide prompt written notice of such requirement to the other Party and allow the other Party an opportunity to contest the disclosure requested by a governmental entity.

In no event shall the receiving Party be entitled to copy, alter, modify, reverse engineer, or attempt to derive the composition or underlying information, structure or ideas of any Confidential Information and shall not remove, overprint, deface or change any notice of confidentiality, copyright, trademark, logo, legend or other notices of ownership from any originals or copies of Confidential Information it receives from the disclosing Party.

11.2 The Company acknowledges the highly secret and valuable nature of all proprietary inventions, methods, processes, designs, know-how and trade secrets (the "Confidential Data") embodied in ROSEN's equipment, including, without limitation, the cleaning tools and inspection tools and their components or any other goods. The Company agrees not to disclose or use any Confidential Data or Information provided by ROSEN. For these purposes, "Information" means any and all technical, commercial and financial information that is disclosed to the Company by ROSEN under the Contract in oral, written, graphic, digital and/or sample form, including the

execution of the Contract itself. The Company guarantees that no photos will be taken of ROSEN's equipment without the prior written approval of ROSEN. The Company further agrees to take all necessary precautions to prevent disclosure of the Confidential Data and Information to persons other than those employees of the Company to whom such disclosure is necessary for the performance of the Contract. The Company shall obtain written agreements from such employees, obligating them not to make any unauthorized use or disclosure thereof.

11.3 This Section 11 shall survive any termination or expiration of the Contract.

11.4 In the event of a breach or misuse of Confidential Data or Information under the Contract by Company, ROSEN shall be entitled to demand a fine equal to the actual loss. The Company shall be entitled to provide proof that either no damage or a substantially lesser damage has occurred. Further claims for damages and rights remain unaffected.

## 12 TERMINATION

12.2 ROSEN has the right to terminate the Contract for convenience, at ROSEN's absolute discretion, by giving Company thirty (30) calendar days written notice.

12.3 Without prejudice to any other remedy to which ROSEN may be entitled at law or in equity or elsewhere under the Contract Documents, upon the occurrence of any of the following events, ROSEN may terminate the Contract in writing without notice, provided that the Company has previously been given a fourteen (14) calendar day period to remedy the breach of Contract:

- a. an order for relief is entered on behalf of Company, or Company makes a general assignment for the benefit of its creditors or Company declares insolvency; or
- b. failure by the Company in the performance or compliance with any of the agreements, terms, covenants or conditions contained in the Contract Documents; or
- c. failure by the Company to make prompt payments when due to ROSEN in accordance with the Contract Documents.

12.3 In any event, Company shall bear all costs incurred by ROSEN under the Contract until the specified date of termination. In no event shall Company be entitled to charge ROSEN any cancellation fees.

## 13 SUBCONTRACTING AND ASSIGNMENT

Company shall not assign, transfer or novate its rights or obligations under the Contract or any part thereof or any benefit or interests therein without prior written approval by ROSEN.

ROSEN shall be entitled to assign, transfer or novate its rights or obligations under the Contract or any part thereof or any benefit or interests therein to any of its Affiliates. ROSEN shall inform Company about any such assignment.

## 14 PERSONAL DATA PROTECTION

ROSEN and the Company may in the course of performance of the Contract provide each other with Personal Data. Personal Data, is any information relating to an identified or identifiable individual, unless otherwise defined related to the protection of individuals, the processing of such information, and security requirements for and the free movement of such information. Any processing of Personal Data will be done in accordance with the terms of this Contract and the applicable laws.

The Company will implement all appropriate security measures to protect Personal Data against accidental, unlawful, or unauthorized (i) destruction (ii) loss, (iii) alteration, (iv) disclosure,

or (v) access (including remote access). The Company will protect Personal Data against all other forms of unlawful processing, including unnecessary collection, transfer, or processing, beyond what is strictly necessary for the performance of the Contract.

Prior to any transfer of Personal Data by the Company, the Company will impose all obligations as required by the Contract and the applicable laws.

Any person acting under the authority of the Company must not process the data except on instructions from ROSEN.

Where ROSEN Personal Data is transferred or gathered from the European Economic Area and the Company is located in a country that has not been deemed to provide an adequate level of protection for personal data within the meaning of Regulation (EU) 2016/679, the Company will either:

- enter into any standard data protection clauses adopted or approved by the European Commission in line with Regulation (EU) 2016/679; or

- confirms that it has fully implemented binding corporate rules which provide adequate safeguards as required by Regulation (EU) 2016/679, or has any other similar program or certification that is recognized as providing an adequate level of protection in accordance with Regulation (EU) 2016/679.

The Company will promptly, and in any case within seventy two (72) hours inform ROSEN through the ROSEN Data Protection Officer at [DSB-ROSEN-Swiss@intersoft-consulting.de](mailto:DSB-ROSEN-Swiss@intersoft-consulting.de) if it determines and discloses to a competent public authority and/or affected data subjects that an accidental, unlawful, or unauthorized (i) destruction (ii) loss, (iii) alteration, (iv) disclosure, or (v) access (including remote access) of ROSEN Personal Data has occurred.

## 15 CODE OF CONDUCT

ROSEN conducts its business responsibly and in compliance with the legal requirements and official regulations of the countries in which ROSEN operates. ROSEN expects its contractual partners to comply with applicable law and legislation. The Company hereby acknowledges and confirms its adherence to the ROSEN Code of Conduct available on the ROSEN website at <https://www.rosen-group.com/global/company/misc/compliance.html>.

## 16 MISCELLANEOUS

### 16.1 Amendments and Modifications

Any amendment or modification of any Terms and Conditions contained in the Contract Documents subsequent to the effective date of this Contract will be valid only if made by a subsequent written agreement. Such subsequent written agreement shall be signed by duly Authorized Representatives of ROSEN and the Company. It shall specify by reference to the particular Contract Document that contains the Terms and Conditions to be amended by reference to the origin clause.

If the Contract is subject to German law, the following shall apply:

All side agreements, modifications, and Amendments to the Contract and/or these Terms and Conditions require written form for their effectiveness, unless otherwise stipulated. This also applies to the modification or revocation of this form requirement itself. Section 305b of the German Civil Code (BGB) (Priority of Individual Agreements) remains unaffected.

### 16.2 Applicable Law and Jurisdiction

Unless specifically provided otherwise in the Contract Documents, the Contract shall be governed by, and any dispute, controversy or claim arising out of or in connection with this Contract shall be resolved in accordance with the law of the state in which the contracting ROSEN entity has its registered office. Any suit, action

or proceeding with respect to the Contract shall be brought to a court where the respective ROSEN entity has its place of business, which shall have exclusive jurisdiction and venue.

The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is explicitly excluded.

If Contracts (Rights of Third Parties) Act 1999 is applicable in the state in which the contracting ROSEN entity has its registered office, then applicability of Contracts (Rights of Third Parties) Act 1999 shall be excluded.

### 16.3 Entire Agreement

With the exception of non-disclosure agreement and data processing agreement, there are no understandings, agreements or representations, express or implied, not specified in the Contract and the Contract Documents containing the entire agreement between Company and ROSEN and set forth their respective rights, duties and obligations. Unless specifically enumerated in the Proposal or unless specifically executed as an Amendment, the Contract Documents do not include and will not be deemed to include any other documents or correspondence between Company and ROSEN, such as proposals, quotations, sample forms, bids, etc.

### 16.4 Notices, Consents, Approvals or Determinations

Wherever in the Contract Documents provision is made for the giving of any notice, consent, approval or determination by any person, unless otherwise specified, such notice, consent, approval or determination will be in writing and words "notice", "notification", "notify", "consent", "determination", or "determine" will be construed accordingly. All notices and other communications provided for herein (including, without limitation, any modifications of, or waivers or consents under this Contract) shall be given in writing, including an electronic writing and shall be faxed (and confirmed by copy delivered by personal delivery or mail), mailed or delivered to the intended recipient at the address specified by the recipient in writing. Except as otherwise provided in this Contract Documents, all such communications shall be deemed to have been duly given when transmitted by email, facsimile or personally delivered or, in the case of a mailed or electronically mailed notice, upon receipt, in each case given or addressed as stated in the Contract Documents.

### 16.5 Waiver

Any failure by ROSEN to enforce or require strict compliance with any of the terms, covenants or conditions required by the Contract Documents will not constitute a waiver of any of such Terms and Conditions or of ROSEN's right to seek such remedies as it may have for any breach or breaches of such terms, covenants and conditions. Stenographical and clerical errors are subject to correction. If either Party discovers a clerical error it shall promptly notify the other Party of the same.

### 16.6 Severability Clause

If any provision or part of a provision of these Terms and Conditions is found to be illegal, invalid or unenforceable under any applicable law, such provision or part of a provision shall, insofar as it is severable from the remaining terms, be deemed omitted from these terms and shall in no way affect the legality, validity or enforceability of the remaining terms.