

## **GENERAL TERMS AND CONDITIONS**

### **1.0 FORMATION AND CONTENT OF CONTRACT**

1.1 The Contract consists of and the order of precedence is:

The Purchase Order ("Order"), including any provisions in the Order that expressly amend any of these General Terms and Conditions or flow down any conditions from a contract between Rolls-Royce Energy Systems Inc. ("RRESI") and its customer (the "Head Contract") relating to this Order.

These General Terms and Conditions, unless a Framework Agreement or a Long Term Agreement exists between RRESI and Supplier, in which case it will replace these General Terms and Conditions.

The Specifications referred to in the Order.

1.2 Supplier will be deemed to have accepted the Contract upon receipt unless Supplier advises RRESI otherwise in writing within 5 business days from receipt of RRESI's Order.

1.3 Any terms and conditions included with Supplier's acceptance of the Order will have no effect and will NOT supersede these General Terms and Conditions unless RRESI has expressly accepted Supplier's terms and conditions.

### **2.0 INSPECTION AND TESTING**

2.1 Compliance with the Contract. RRESI (or its designee) and its customer will have the right to inspect and participate in or witness tests (on Supplier's premises or elsewhere) on the materials and workmanship and performance of the goods. Supplier will conduct tests on the goods as provided in the Order and by any applicable manufacturers or industry practice, or if none are provided, then as reasonably required by RRESI. Certified copies of all reports or documents prepared in connection with the tests or inspections will be promptly provided to RRESI. If any portion of the goods is manufactured on premises other than Supplier's own, Supplier will obtain permission for RRESI (and RRESI's customer) to inspect, examine and participate in or witness tests as if they were being manufactured on Supplier's premises. RRESI's inspection of or participation in or witnessing of testing does not relieve Supplier of any liability under the Contract (whether before or after Delivery), nor does it imply acceptance of the goods. Supplier will provide RRESI with all facilities reasonably required for inspection and testing. If after inspection or testing RRESI is not satisfied that the goods will comply in all respects with the Contract and so informs Supplier, Supplier must immediately take all steps necessary to ensure compliance. If additional inspection or testing is required, Supplier will bear all costs, including RRESI's costs for the additional inspection or witness testing.

2.2 Dates for Inspection or Test and Delivery Release. Unless the Order provides otherwise, any such inspections or tests will be conducted with at least 10 business days' advance notice to RRESI. If RRESI (or its customer or both) elects to witness any inspections or tests, and Supplier fails to conduct the scheduled inspection or test on the date specified in the notice to RRESI, Supplier will bear all expenses incurred by RRESI and its customer to (i) attend the inspection or test, even if the inspection or test did not occur and (ii) attend the rescheduled inspection or test. In addition, Supplier must give RRESI at least 10 days' prior written notice that the goods or portions of the goods are to be released for Delivery to RRESI.

2.3 No Relief of Liability. Inspection and testing under this Clause 2.0 do not relieve Supplier of any liability or imply RRESI's acceptance of the goods or services.

### **3.0 TITLE AND RISK**

3.1 Transfer of Title and Risk of Loss. Title to and risk of loss of the goods passes to RRESI on delivery to the delivery point specified in the Order and subject to compliance with the Contract.

3.2 Marking of RRESI's Property. Any tools, equipment or materials provided by RRESI to Supplier for any purpose must be clearly marked and recorded by Supplier as belonging to RRESI and will be held and maintained at Supplier's risk and covered by Supplier's insurance.

### **4.0 DELIVERY, DELAYS AND SUSPENSIONS**

4.1 Delivery/Completion Date and Delivery Point. The delivery date or dates, delivery point, date or dates of completion of the services and shipping instructions will be as specified in the Order and timely delivery in accordance with the Contract is a material condition of the Contract. If the Contract includes tests on the

goods after receipt by RRESI, then delivery will not be complete until the tests have been passed to the unconditional satisfaction of RRESI. If RRESI is to collect the goods at the delivery point, delivery will be effected when the goods have been received by RRESI's nominated courier or carrier. When the delivery point is RRESI's premises, delivery will be effected when the goods have been received by RRESI at RRESI's goods receipt area.

- 4.2 Liquidated Damages. Supplier must notify RRESI if any delivery or performance will be or is likely to be delayed beyond the Contract delivery date or dates. If delivery or performance is delayed beyond the Contract delivery date or dates, RRESI may (i) demand that Supplier provide for expedited delivery or expedited performance, at Supplier's cost, and (ii) claim liquidated damages, which will accrue at the rate of 2.0% per week or part thereof to a maximum of 10% of the Contract price, which will then be RRESI's sole remedy for delay (but not for defects), subject to RRESI's right to terminate the Contract under Subclause 11.1.
- 4.3 RRESI Delay in Delivery. RRESI may by written notice to Supplier at any time before delivery of the goods under Subclause 4.1 postpone delivery of all or some of the goods completed for delivery. Supplier must thereafter from the time the goods are due and ready for delivery (a) store the goods or cause them to be stored; (b) give written notice to RRESI stating where the goods are stored and if stored with a third party, on what terms; and (c) take all reasonable steps to safeguard the goods and prevent their deterioration. RRESI will be liable to Supplier for documented, auditable, and reasonable third party costs to store the goods (if not stored on Supplier's premises), including the cost of any special insurance effected on the goods for the benefit of RRESI, and Supplier will hold any insurance monies it receives in respect of the goods in trust for RRESI.
- 4.4 Accelerated Progress. RRESI will notify Supplier if RRESI considers that the rate of progress (either in the manufacture of the goods or performance of services) is too slow to meet the Contract delivery dates. Following receipt of the notice, Supplier must immediately take all necessary steps at Supplier's cost to remedy the likely delay and advise RRESI accordingly.
- 4.5 Suspension of Performance. RRESI may at any time suspend all or part of the Contract for up to six months. If RRESI's suspension exceeds six months (except for Force Majeure or due to the fault of Supplier), Supplier will be entitled to payment for Supplier's (i) third party costs allocable to the suspended goods; and (ii) costs (including salaries and benefits but excluding overhead) of labor directly associated with work on the suspended goods up to the date of suspension. Supplier will provide auditable documentation to RRESI for all claimed costs (not to exceed 90% of the Contract Price for the suspended goods) and any such payments will be deducted from any subsequent payments to Supplier after resumption of performance.

## **5.0 WARRANTY AND QUALITY ASSURANCE**

- 5.1 Warranty. Supplier warrants that goods and services will (a) conform to the requirements of the Contract, including but not limited to these General Terms and Conditions; (b) be free of defects in design, materials, and workmanship; (c) be fit in form and function for any purpose or use for which Supplier is or should reasonably be aware; (d) be made or services performed according to good engineering practice and all applicable standards and laws, including all local codes and standards in the country of final destination of the goods, and (e) in the case of goods, delivered with all instructions, warnings and data necessary for safe and proper operation (collectively, the "Warranty").
- 5.2 Defects Before Dispatch. If for any reason Supplier is uncertain whether the goods or services will conform to the Warranty, it must promptly and before dispatching for delivery inform RRESI in writing with full details of the possible defect. If RRESI determines that the goods or services will be defective, RRESI may either (1) reject the defect and require Supplier to immediately take all necessary action to correct the defect, or (2) accept the defect and recover from Supplier any costs incurred by RRESI by so accepting.
- 5.3 Quality Assurance System. Supplier must maintain throughout the term of the Contract an accredited quality assurance system and will allow RRESI (or its representative) to inspect Supplier's quality assurance documents and procedures, at any of Supplier's premises, upon reasonable notice.
- 5.4 Quality Requirements. Supplier shall comply with (and ensure that its subcontractors comply with) all requirements set out on the Rolls-Royce website at <https://suppliers.rolls-royce.com/> (as updated from time

to time by Rolls-Royce), including the requirements of SABRe, and all specification requirements and any other requirements set out in the applicable Order.

## **6.0 VARIATIONS**

RRESI will have the right at any time and from time to time to request a variation to the Order. The delivery date or dates and the Contract price will be adjusted to reflect the effect of the Variation. Neither party will be bound by any Contract variation until RRESI confirms it by an official amendment to the Order.

## **7.0 PRICE AND PAYMENT**

7.1 Fixed Prices. The prices stated on the Order are fixed and firm and not subject to escalation for the duration of the Contract, subject to any variations under Clause 6.0.

7.2 Price Includes Delivery Cost. Unless otherwise stated in the Order, the Contract Price includes the costs of delivery in accordance with the Incoterm stated in the Order.

7.3 Payment Obligation. RRESI will electronically transfer payment to Supplier on the first Friday 75 days after the date on which the relevant goods have been delivered or services completed, provided that Supplier has supplied the goods or services in accordance with the Contract and, where Supplier is required to submit an invoice, the invoice is accurate and was received by RRESI's Purchase Accounts Department within 7 days after delivery of goods or completion of services. If the Friday payment date is not a normal banking day then electronic transfer of payment will be on the next banking day.

7.4 RRESI Right to Deductions From Invoices. RRESI may adjust or deduct from any payment for (i) any goods that do not conform to the Warranty (as defined in Subclause 5.1); (ii) any amounts claimed by RRESI under Subclause 4.1 for acceptance of defective goods; (iii) any amounts claimed by RRESI under Subclause 7.5; (iv) rejected goods under Subclause 8.1; (v) any disputed amounts; (vi) any taxes or similar charges if Supplier fails to provide RRESI with proper certification of exemption from such deductions; and (vii) any insurance payments that RRESI has made on behalf of Supplier. RRESI may also deduct from any payments otherwise due to Supplier any reasonable and good faith estimate of losses or damages that RRESI is likely to suffer due to any breach of Contract by Supplier. If any later assessment of the loss or damage requires a repayment to Supplier, repayment will bear no interest and its previous deduction will not be a breach of Contract by RRESI.

7.5 Liens and Encumbrances. After the earlier of payment for or delivery of goods to RRESI, Supplier must not permit any of the goods to become subject to any claim, demands, causes of action, liabilities and damages of every kind and character lien, security interest, or similar encumbrance (each, a "Lien"), whether by Supplier or a third party. Supplier shall pay or cause to be paid all valid claims for payment arising out of or in connection with labor, material, supplies or services provided by Supplier in connection with the Contract. Supplier hereby fully releases and indemnifies, and will defend RRESI, its parent and affiliates from and against any and all claims (including attorneys' fees, filing fees, and other related expenses) and Liens asserted, affixed or filed against any property of RRESI or any property of others arising out of or in connection with, labor, material, supplies or services provided by Supplier or its subcontractors in connection with the Contract. If Supplier fails or refuses to pay any such claim or if any Lien is asserted, affixed, or filed in violation of this Subclause 7.5, RRESI has the right to withhold the amount of the claim or Lien from any money due or that becomes due to Supplier, and RRESI may pay the claim or discharge the Lien and demand reimbursement from Supplier. Before any payment is made to Supplier under the Contract, RRESI may require that Supplier furnish evidence satisfactory to RRESI that there are no unsatisfied claims for labor, materials, equipment, and supplies or for injuries to persons or property not covered by insurance in connection with the Contract.

## **8.0 REJECTION AND REMEDY OF DEFECTS**

8.1 RRESI Right to Reject. RRESI may reject (and withhold payment for) any goods delivered that do not comply with the Contract and RRESI will not be deemed to have accepted any goods until it has had a reasonable time to inspect them following delivery. Supplier must, at its cost, promptly collect rejected goods. Upon rejection of any goods or services, RRESI may require Supplier to replace them within a time stipulated by RRESI (and withhold payment for the rejected goods) or terminate the Contract under Subclause 11.1, without prejudice to its other rights and remedies.

- 8.2 Supplier Remedy of Defects Obligation. Without prejudice to any other rights of RRESI, Supplier must at its cost upon request by RRESI promptly repair or replace any goods or re-perform any services that are discovered to be defective within (i) in the case of services, 12 months after completion of the services, or (ii) in the case of goods, the earlier of either 24 months after delivery of the goods or 18 months after first commercial use. Repairs and replacements or re-performance, as applicable, are subject to the foregoing obligations from the date of delivery, re-installation or passing of tests (if any) whichever is appropriate after repair or replacement or re-performance of services, as applicable. Notwithstanding the foregoing, RRESI reserves the right to remedy any defects in the goods itself in order to minimize time and costs to effect the remedy. If RRESI elects to remedy a defect itself, RRESI will be entitled to reimbursement for costs incurred to effect the remedy, with reimbursement to be agreed by RRESI and Supplier. If RRESI and Supplier fail to reach agreement on the amount of reimbursement to RRESI within 60 days after the date of RRESI's claim for reimbursement, the parties will select a disinterested, qualified third party to make a final and binding determination of the amount of reimbursement. The cost of the third party will be borne equally by RRESI and Supplier.
- 8.3 Refund for Failure to Remedy. If Supplier fails within a reasonable time to remedy any defect as above provided, Supplier must return any money paid by RRESI for the defective goods or services and RRESI may terminate the Contract without prejudice to its other rights and remedies.

## **9.0 INTELLECTUAL PROPERTY RIGHTS**

- 9.1 RRESI Ownership of Data. All information and know-how including but not limited to drawings, specifications and other technical information, and other data provided by RRESI in connection with the Contract remain at all times RRESI's property and may be used by Supplier only to perform the Contract. Supplier must keep the information and know-how confidential and return them to RRESI upon the earlier of RRESI's request or completion or termination of the Contract. Any such information retained by Supplier will remain confidential until destroyed or returned to RRESI, and Supplier will be responsible for the disposition of any such confidential information.
- 9.2 Supplier Indemnity for Infringement. Supplier indemnifies and will defend RRESI (except for designs provided by RRESI) against all claims arising from infringement of intellectual property rights in relation to the goods or services that are the subject of the Contract.
- 9.3 Limitation on Use of RRESI's Materials. Supplier may neither quote nor supply parts made with RRESI's tools or materials or made to RRESI's patterns, drawings, specifications or designs, to any third party without RRESI's prior written consent.
- 9.4 Ownership of Inventions. Any inventions, patents, copyrights, design rights and other intellectual property rights arising from the execution of the Order (including those paid for by Supplier) are the property of RRESI, and Supplier must not disclose the same to any third party. Supplier must do all things and execute any documents necessary to assign the property to RRESI.
- 9.5 RRESI Intellectual Property. In the course of performing the Contract, RRESI may disclose to Supplier certain of RRESI's intellectual property, including but not limited to designs, processes, drawings, specifications, reports, data, patents, copyrights, trademarks, and the features of all parts, equipment, tools or fixtures, other technical or business information, and other items furnished or disclosed to Supplier (collectively, the "Intellectual Property"). Supplier may use RRESI's Intellectual Property only to the extent necessary to perform Supplier's obligations under the Order. RRESI's Intellectual Property is and will remain RRESI's exclusive property. Unless authorized by RRESI in writing, Supplier must protect as proprietary and keep confidential all proprietary information and Intellectual Property, and must not disclose any of RRESI's Intellectual Property to a third party. Upon completion or termination of the Order or upon RRESI's request, Supplier shall, at Supplier's expense, either return or destroy all of RRESI's Intellectual Property. The obligations under this Subclause 9.5 will survive the termination of the Contract.

## **10 FORCE MAJEURE**

If a party's performance of its obligations under the Contract is delayed by a Force Majeure event, the time for performance will be amended accordingly to the extent performance is affected by the Force Majeure event, but the delayed party must promptly (in any event within 14 days after the occurrence of the event) (i) inform the other of the event, (ii) submit to the other party written documentation evidencing the event (such as certification of the occurrence of the event issued by the local chamber of commerce or other

recognized official authority), and (iii) take all reasonable steps to reduce the delay. Force Majeure means any event beyond the reasonable control of a party and which it could not have reasonably foreseen and prevented (such as act of God, act or omission of government, war or terrorism, but excluding acts, defaults or omissions of its subcontractors or suppliers, inability to obtain power, materials, labor, equipment, or transportation or a Force Majeure event affecting Supplier's subcontractors). The Contract will not automatically terminate as a result of the Force Majeure event, but RRESI may, at its sole discretion, terminate the Contract in whole or in part without incurring liability by providing prior written notice of termination to Supplier.

## **11 TERMINATION**

- 11.1 RRESI Right to Terminate. RRESI may terminate the Contract without prejudice to any other of its rights and without liability to Supplier if (a) Supplier breaches any material provision of the Contract; or (b) Supplier fails to deliver the goods by the date that the maximum amount of any liquidated damages specified in the Contract has been incurred. Upon termination, RRESI will be relieved of any further obligation to make any further payments to Supplier and will be entitled to either (at RRESI's election): (i) reimbursement of any and all amounts paid to Supplier under the Contract prior to termination, or (ii) delivery of all conforming goods completed and delivered or ready for delivery, and all works-in-progress to the extent paid for by RRESI, whether payment is made before or after the notice of termination. If Supplier fails to deliver the goods or works-in-progress (or both), RRESI will have the right to enter Supplier's premises (or that of its sub-suppliers in possession) during normal business hours to remove the goods or works-in-progress. The term "works-in progress" includes any parts or materials (including raw materials) obtained for production of the goods or performance of the services under the Contract.
- 11.2 Termination for Bankruptcy. A party may terminate the Contract if the other party becomes bankrupt or insolvent, makes an arrangement with its creditors, has a receiver or administrator appointed, commences being wound up, or if the terminating party reasonably considers that any of the foregoing is about to occur. If RRESI terminates a Contract under this Subclause 11.2, RRESI will be entitled to all conforming goods completed and delivered or ready for delivery, and all works-in-progress to the extent paid for by RRESI. If Supplier fails to deliver the goods or works-in-progress (or both), RRESI will have the right to enter Supplier's premises (or that of its sub-suppliers in possession) during normal business hours to remove the goods or works-in-progress. If Supplier terminates a Contract under this Subclause 11.2, Supplier will be entitled to payment in the same manner as provided for in Subclause 11.3.
- 11.3 Termination of Head Contract. RRESI may terminate the Contract if the Head Contract is terminated for whatever reason. In such event RRESI will compensate Supplier for actual third party costs reasonably and properly incurred by Supplier until termination, subject to Supplier taking all steps to minimize the costs and subject to auditable proof of costs being provided. Compensation will not in any event exceed the Contract price and will not be payable if RRESI's Head Contract is terminated due to Supplier default. The remedies in this Subclause 11.3 are Supplier's sole remedies for any termination under this Clause 11.

## **12.0 LIABILITY AND INDEMNIFICATION**

Supplier indemnifies and will defend RRESI and RRESI's customers from and against all losses, liabilities, claims, or demands whatsoever (including without limitation, all costs, expenses and attorneys' fees), arising out of any personal injury (including illness or death) or any damage to or loss or destruction of property, in any manner based upon, occasioned by, or attributable or related to the goods or services, or to any act or omission, negligent or otherwise, in the performance of the Contract whether by Supplier, its subcontractors, any employee of Supplier or its subcontractors (except where the injury to or death of persons or damage to or loss or destruction of property is due solely to the negligence of RRESI, its officers, agents or employees).

## **13.0 ETHICS**

- 13.1 Compliance with Ethical Legislation. Supplier shall comply in full with the '*Rolls-Royce Supplier Code of Conduct*' (the "Rolls-Royce Code") as set out at Rolls-Royce plc's website for suppliers (<https://suppliers.rolls-royce.com>), as amended or replaced from time to time by Rolls-Royce plc, and any other policy specified in the Order as being applicable. Supplier shall not do anything that might violate or cause Rolls-Royce plc or RRESI to violate Ethical Legislation or the Rolls-Royce Code.

13.2 Improper Payments. Supplier has not, and none of its directors, officers, employees or Associated Persons or, to the extent it is aware, its former directors, officers, employees or Associated Persons, have:

- (a) authorized, offered, promised or given any financial or other advantage (including, without limitation any payment, loan, gift or transfer of anything of value), directly or indirectly, to or for the use or benefit of any Government Official (or to another person at the request or with the assent or acquiescence of such Government Official), or any other natural or legal person, in order to assist any member of its group in improperly obtaining or retaining business for or with any person, in improperly directing business to any person, or in securing any improper advantage; or
- (b) engaged in any other conduct which would constitute an offence under the Ethical Legislation;

and Supplier undertakes that for the duration of the Contract it will not, and will, to the extent it is legally able, procure that none of its Associated Persons will, engage in any of the conduct described in subclauses (a) and (b) above.

13.3 Supplier Warranty of Compliance. Supplier warrants and undertakes to RRESI that:

- (a) it has in place, and for the duration of the term of the Contract will maintain, adequate policies, systems, controls and procedures:
  - (i) to prevent it and its Associated Persons from violating the Ethical Legislation, and
  - (ii) for reporting a violation or suspected violation of the Ethical Legislation or generally accepted standards of business ethics and conduct, and for ensuring that all such reports are fully investigated and acted upon appropriately;
- (b) it will promptly report to RRESI any request or demand for any undue financial or other advantage of any kind received by Supplier in connection with the performance of the Contract;
- (c) upon receipt of a written request from RRESI, it will provide RRESI with any reasonable assistance to enable RRESI to perform any activity required by any relevant Governmental Authority for the purpose of compliance with the Ethical Legislation;
- (d) it will keep at its normal place of business detailed, accurate and up to date records and books of account showing all payments made by Supplier in connection with the Contract and the steps taken by Supplier to comply with the Ethical Legislation, and will ensure that the records and books of accounts are sufficient to enable RRESI to verify Supplier's compliance with its obligations under this Clause 13.

13.4 Supplier Warranty re Associated Persons. Supplier warrants to RRESI that each of Supplier's Associated Persons that is a legal person has in place adequate policies, systems, controls and procedures to prevent it from violating the Ethical Legislation, and Supplier undertakes that for the duration of the term of the Contract it will, to the extent it is legally able, procure that its Associated Persons that are legal persons will maintain such policies, systems, controls and procedures and will operate a programme of regular assessments to verify that they are complying with their obligations as set out in Subclause 13.3.

13.5 Records of Compliance. Supplier will keep, and will ensure that each of its Associated Persons will keep, accurate and up to date records and accounts sufficient to demonstrate its full compliance with this Clause 13 and will permit RRESI, or any independent third party nominated by RRESI, to inspect and take copies of such records and accounts and to meet with Supplier's or the Associated Persons' personnel, in order to audit Supplier's and Associated Persons' compliance with this Clause 13. The rights of inspection and audit will continue for three years after the expiry or termination of the Contract. Supplier will fully cooperate and assist in any audit carried out under this Subclause 13.5. Supplier will keep accurate records of its activities under this Contract, including financial records in a form and manner appropriate for a business of its size and resources. RRESI considers any breach of this clause or the violation of any Ethical Legislation to be a material breach of this Contract.

13.6 Supplier Indemnity re Compliance. Supplier indemnifies RRESI, its affiliated companies, subsidiaries, shareholders, parent company, employees, agents, representatives, officers and directors from and against all suits, actions, legal or administrative proceedings, damages, costs, expenses and liabilities, including but not limited to attorneys' fees and court costs, asserted against or incurred by RRESI and which arise out of, or directly or indirectly relate to, Supplier's performance of this Contract or are in any way incident to the activities described in these provisions.

13.7 TRACE Membership. Supplier covenants that if requested by RRESI it will become a commercial intermediary member of TRACE and:

- (a) maintain valid and current membership;
- (b) ensure that a TRACE due diligence questionnaire is completed and kept up to date; and
- (c) notify RRESI (in advance wherever practical) if any key people notified to TRACE as acting on behalf of clients cease to be engaged substantially full time in the employment of Supplier, or if the duties of any such key people change materially,

at all times during the term of the Contract. Provided Supplier complies with this clause RRESI will pay Supplier's TRACE membership fee on its behalf.

13.8 Definition. For the purposes of this Clause 13, the following defined terms apply:

**"Affiliates"** means as to any person, any other person that is in Control of, is Controlled by, or is under common Control with, such person.

**"Associated Person"** means, in relation to a company, a person (including any director, officer, employee, agent or other intermediary) who performs services for or on behalf of that company (in each case when performing such services or acting in such capacity);

**"Control"** means, the power, directly or indirectly, either to: (a) vote 50% or more of the securities having ordinary voting power for the election of directors (or persons performing similar functions) of such person; or (b) direct or cause the direction of the management and policies of such person, whether by contract or otherwise;

**"Ethical Legislation"** means (a) any legislation enacted in RRESI or Supplier's jurisdiction of incorporation, or in any other jurisdiction where goods or services are delivered, to enforce or implement either the United Nations Convention against Corruption (being the subject of General Resolution 58/4 of 31 October 2003 of the General Assembly of the United Nations) or the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions adopted on 21 November 1997; and (b) the United Kingdom Anti-Terrorism, Crime and Security Act 2001, the United Kingdom Proceeds of Crime Act 2002, the United Kingdom Bribery Act 2010 and the United States Foreign Corrupt Practices Act (15 U.S.C. Section 78dd-1, et. seq.).

**"Governmental Authority"** means:

- (a) the government of any jurisdiction (or any political or administrative subdivision thereof) and any department, ministry, agency, instrumentality, court, central bank or other authority thereof, including without limitation any entity directly or indirectly owned or controlled thereby;
- (b) any public international organisation or supranational body (including without limitation the European Union) and its institutions, departments, agencies and instrumentalities; or
- (c) any quasi-governmental or private body or agency lawfully exercising, or entitled to exercise, any administrative, executive, judicial, legislative, regulatory, licensing, competition, tax or other governmental or quasi-governmental authority.

**"Government Official"** means any person who would constitute either:

- (a) a "foreign public official" as defined in the UK Bribery Act 2010; or
- (b) a "foreign official" as defined in the United States Foreign Corrupt Practices Act, including, but not limited to:
  - (i) an individual who holds a legislative, administrative or judicial position, including a government minister, elected representative of a national or regional assembly, official of a political party, civil servant, magistrate or judge; or
  - (ii) an employee, officer, agent or other person acting in an official capacity for a Governmental Authority.

**"TRACE"** means TRACE International Inc., a non-profit membership association that provides anti-bribery due diligence reviews and compliance training for multinational companies and their commercial intermediaries.

## **14.0 SUPPLIER FINANCIAL STATEMENTS**

14.1 Supplier Financial Statements. Upon request, Supplier will provide to RRESI's Purchasing Financial Office the most recent Financial Statements for Supplier and for any related company of Supplier involved in producing, supplying, or financing the goods or services or any component part or element of the goods or services. The term "Financial Statements" includes income statements, balance sheets, cash flow statements and supporting schedules. Additionally, Supplier shall identify any non-compliances under any line of credit or debt agreements, or any other material non-compliance that may impact Supplier's credit rating or available credit. Supplier also shall provide access to information concerning any turnaround or restructuring activities that are planned or implemented by Supplier in order to maintain its status as a going concern. RRESI's Purchasing Financial Office may use Financial Statements provided under this Clause 14 only to assess Supplier's ongoing ability to perform its obligations under the Contract and the Orders, and for no other purpose, unless Supplier agrees otherwise in writing. If Supplier fails to provide the Financial Statement within 30 days after RRESI's request or if the Financial Statement establishes, in RRESI's sole and good faith opinion, that Supplier may not be able to perform its obligations under the Contract, RRESI will have the right to one of the following remedies:

- (a) terminate the Contract for cause pursuant to Subclause 11.1 (RRESI Right to Terminate); or
- (b) demand a bank guarantee under Subclause 14.2 and a parent company guarantee under Subclause 14.3.

14.2 Provision of Bank Guarantee. When required by RRESI, Supplier must provide at its own expense a guarantee from a bank satisfactory to RRESI for the due performance of the Contract. Unless otherwise specified in the Contract or Order, the terms of the bond or guarantee will be in a form reasonably acceptable to RRESI.

14.3 Provision of Parent Company Guarantee. If Supplier is a subsidiary of another company and when required by RRESI, Supplier will provide a guarantee issued by the Supplier's ultimate holding company for the due performance of the Contract. Unless otherwise specified in the Contract or Order, the guarantee will be in a form reasonably acceptable to RRESI.

14.4 Failure to Provide Guarantee. If Supplier fails to provide a bank guarantee under Subclause 14.2, or a parent guarantee under Subclause 14.3 within 30 days after RRESI's request, RRESI may terminate the Contract for cause pursuant to Subclause 11.1.

## **15.0 HAZARDOUS GOODS**

15.1 Notice of Hazardous Substances. If any of the goods contain any hazardous substances or require any special precautions to ensure safety in handling, transport, storage or use, Supplier must before delivery



furnish to RRESI written details of the nature of those substances and the precautions to be taken, and must ensure that before dispatch appropriate instructions and warnings are clearly and prominently marked on the goods or securely attached to them and on any containers into which they are packed. Prior to and with the shipment of the goods purchased under the Contract, Supplier will furnish to RRESI sufficient warning and notice in writing (including appropriate labels on the goods, containers and packing) of any hazardous material contained in the goods, together with any special handling instructions to inform carriers, RRESI, and their respective employees how best to prevent bodily injury or property damage in the handling, transportation, processing, use, or disposal of the goods, containers and packing shipped to RRESI.

15.2 Compliance with Health and Safety Laws. Supplier will comply with all laws, orders and regulations pertaining to the use, storage, and disposal of restricted toxic and hazardous materials. Supplier must provide to RRESI in writing all data, instructions and warnings required to comply with applicable laws relating to health and safety, and Supplier indemnifies and will defend RRESI against any and all liabilities, claims and expenses that arise as a result of Supplier's failure to do so.

15.3 REACH.

(A) Supplier warrants that where it sells, supplies or transfers goods to RRESI in Europe, and Regulation (EC) No. 1907/2006 of the European Parliament concerning the registration, evaluation, authorization and restriction of chemicals ("REACH") applies, Supplier has complied with REACH and that each chemical substance constituting or contained in or used in the manufacture of goods sold, supplied or transferred to RRESI is, where required, registered; registered for RRESI particular use; supplied with a safety data sheet compliant with REACH; is not restricted under Annex XVII of REACH; and if it appears on Annex XIV of REACH is authorized for RRESI use.

(B) Whether or not REACH applies, Supplier must immediately notify RRESI if any goods sold, supplied or transferred to RRESI contain a substance listed on the Candidate List of Substances of Very High Concern for Authorisation ("the Candidate List") published by the European Chemicals Agency. Supplier will give RRESI the name of the chemical substance and any information required by RRESI to allow safe use of the goods or to fulfill its own obligations under REACH. This Subclause 15.3(B) applies whether the sale, supply or transfer of goods to RRESI is inside or outside Europe.

(C) Whether or not REACH applies to any goods sold, supplied or transferred to RRESI, on request by RRESI, Supplier will provide all information required by RRESI that will enable RRESI to comply with its duty to communicate information on substances in articles as required by Article 33 of REACH, including but not limited to chemical composition, test data, hazard information and safety data sheets. This Subclause 15.3(C) applies whether the sale, supply or transfer of goods to RRESI is inside or outside Europe.

(D) Supplier will comply with any other request for information by RRESI that is required to enable RRESI to comply with its obligations under REACH. All information supplied to RRESI under Subclause 15.3(A) through (C) will comply with REACH and any other requirements of RRESI expressly notified to Supplier by RRESI. This Subclause 15.3(D) applies whether the sale, supply or transfer of goods to RRESI is inside or outside Europe.

(E) Clause 5 (Warranty and Quality Assurance) and Clause 8 (Rejection and Remedy of Defects) will apply if goods do not conform to the requirements set out in Subclause 15.3(A) through (D). Supplier indemnifies RRESI against any and all damages, losses, costs, actions, claims, liabilities or expenses suffered or incurred by RRESI whether in contract, tort (including negligence) breach of statutory duty or otherwise, arising out of or in connection with any breach by Supplier relating to Subclause 15.3(A) through (D).

## 16.0 **INSURANCE**

16.1 Required Coverage. Supplier at its sole expense will maintain the following insurance coverage in amounts sufficient to cover its liabilities under the Contract. Such insurance shall be placed with a reputable insurer (which has an A.M Best rating of at least A, Vii (or its equivalent)), including but not limited to:

- (i) Statutory Workers' Compensation insurance;
- (ii) Employers' Liability insurance - not less than US\$2,000,000 per employee;
- (iii) Automobile Liability insurance – Combined single limit for both property damage and bodily injury of US\$2,000,000 each accident;
- (iv) Public and Products Liability insurance – not less than US\$20,000,000. Coverage shall include premises/operations liability, products and completed operations, independent contractors liability, blanket contract liability covering Supplier's indemnity obligations and broad form property damage;
- (v) Transit and Cargo Insurance – if requested by RRESI; and
- (vi) Any other insurance as required by law.

16.2 Prior to the commencement of the Contract and annually thereafter for the duration of the Contract, Supplier will provide RRESI with certificates of insurance acceptable to RRESI within 5 business days after such request has been made and establish that such insurance coverage remains in effect for the duration of the Contract. The Supplier shall (i) ensure that RRESI is notified in writing by its insurer of any threatened cancellation or material modification to the above mentioned policies and that the cancellation or modification will not take effect until at least 30 days' notice of cancelation is provided to RRESI; (ii) ensure that the above mentioned policies contain a waiver of subrogation in favor of RRESI and its respective affiliates; (iii) include RRESI and its affiliates as additional insureds on all liability policies; (iv) be primary and non-contributory with respect to any other insurance carried by RRESI and (v) contain a cross-liability and severability of interest provision.

16.3 If Supplier fails to effect and keep in force the insurances referred to in this Clause 16, RRESI may effect and keep in force any such insurance and pay the premiums necessary for the insurance and from time to time deduct the amount paid by RRESI from any monies due or that become due to Supplier under the Contract or recover the payments as a debt from Supplier. Supplier's insurance coverage will not be RRESI's exclusive remedy; RRESI will be entitled to all remedies available to it under equity or the law. Supplier's failure to carry the required insurance will not relieve Supplier of any of its obligations under the contract.

If Supplier fails to provide the required certificate within the required time, RRESI may (i) suspend Supplier's performance of the Contract for a specified period of time, and any costs incurred by RRESI as a result of the delay will be borne by Supplier, or (ii) terminate the Contract for cause under Subclause 11.1 (Termination for Cause).

16.4 Insurance Not Exclusive Remedy. Supplier's insurance coverage will not be RRESI's exclusive remedy; RRESI will be entitled to all remedies available to it under equity or the law. Supplier's failure to carry the required insurance will not relieve Supplier of any of its obligations under the Contract.

## **17.0 MISCELLANEOUS**

17.1 Assignment and Subcontracting. Supplier may not assign the Contract or any of Supplier's obligations under it, in whole or in part, without RRESI's prior written approval, which will not be unreasonably withheld, and assignment in violation of this Subclause 17.1 will be null and void. Supplier may not subcontract any part of this Contract without RRESI's prior written consent. Supplier is not, however, required to secure RRESI's consent to place contracts with its suppliers for minor and non-critical items or for purchases of raw materials or for any part for which the subcontractor is named in the Contract. Supplier is responsible for all services performed and goods supplied by its subcontractors and Supplier will ensure that its obligations under the Contract in relation to quality, cost, delivery and responsiveness are fully reflected in its subcontracts.

17.2 Choice of Law. The laws of the State of New York, United States of America, govern the Contract, including the construction and enforceability of the Contract and any and all of the rights and duties of the Parties arising from or relating in any way to the subject matter of the Contract including, without limitation, negligence or any other alleged tort or violation of the contract, without giving effect to any conflicts of law principles of the laws of New York that might refer the governance, construction or interpretation of the Contract to the laws of another

jurisdiction. The United Nations Conventions on the International Sale of Goods does not and will not apply to the Contract.

- 17.3 Notices. All notices under the Contract must be in writing and in English. Non-legal notices must be addressed to the party at the address on the Order and may be delivered by hand or sent by fax or recorded delivery post. All legal notices must be sent by registered or certified mail (not by fax) to the Parties at the addresses listed on the Contract for the attention of the Legal Department or its approved or registered agent pursuant to the Secretary of State of qualification or incorporation's records. Any notice or communication in connection with the Contract will be deemed to be delivered if (a) delivered in person, at the time of delivery; and (b) sent by commercial courier service or registered or certified mail, on the date and at the time of signature of the delivery receipt.
- 17.4 Waivers. Any waiver by RRESI (whether with or without knowledge, and whether in whole or in part) of any term of this Contract will not constitute a precedent, nor restrict RRESI's rights in respect of any succeeding breach of the same or any other term of the Contract.
- 17.5 Price Guarantee. Supplier warrants that the Contract price is the lowest price at the date of the Contract for the sale of the goods or services for the term of the Contract. If, during the term of the Contract, the Contract price is greater than those prices determined by the application of pricing models, parametrics, or benchmarking techniques, RRESI will notify Supplier accordingly who will reduce the Contract price to a comparable level. If Supplier is unable or unwilling to so reduce the Contract price, RRESI may after giving due notice to Supplier remove the affected goods or services from the Order.
- 17.6 Certification of Point of Origin. If requested by RRESI, Supplier must provide any Certification of Point of Origin required for compliance with any US export laws or regulations.
- 17.7 Compliance with Laws. Supplier must comply with any and all applicable laws, rules, and regulations, including but not limited to import and export laws or regulations.
- 17.8 C-TPAT Program. Supplier shall adhere to the security criteria of the Customs-Trade Partnership Against Terrorism (C-TPAT) program of the United States Customs & Border Protection including but not limited to business partner selection, container and trailer security, physical access controls, personnel security, procedural security, physical security, information technology security, and security training and threat awareness unless otherwise prohibited by law. Detailed C-TPAT minimum security criteria are available at <https://suppliers.rollsroyce.com>. Supplier will provide a security questionnaire, access to facilities, and other written verification of adherence to these criteria upon request, including those of sub-tier suppliers or service providers chosen by Supplier in provision of the goods. Supplier shall notify RRESI immediately of any breach of security in the supply chain. Failure to respond to requests in this Subclause 17.8 or subsequent corrective actions will be reasonable grounds for termination of the Contract in accordance with Subclause 11.1.
- 17.9 Importer Security Filing. To comply with Importer Security Filing (ISF) Requirements for ocean shipments to the United States, the following data elements must be sent via electronic mail to the Rolls-Royce Customs Compliance Office-US at least 3 business days before cargo lading: Automated Manifest System (AMS) bill of lading number (lowest level), vessel name, voyage number, cargo lading date, Supplier name and address, RRESI's name and address, Importer of Record Number, Consignee number, Manufacturer (Supplier) name and address, Ship-to name and address, Container Stuffing location name and address, Consolidator (Stuffer) name and address, and country of origin, Harmonized Tariff Number, and Rolls-Royce part number of each invoice line item. The ISF pre-alert must include invoices for the shipment.
- 17.10 Publicity. Neither party will use the other party's name or trademarks in any publicity without the other party's prior written permission.
- 17.11 RRESI Right to Audit. RRESI reserves the right to audit and inspect Supplier's books and records relating to the Contract. RRESI will provide at least 3 business days' prior written notice of the audit. Supplier will provide a suitable work area from which RRESI (or its representatives) may work, access to copying facilities, and will cooperate with RRESI or its representatives during the course of the audit.
- 17.12 Right of Set-Off. In addition to any right of setoff provided by law, all amounts due to Supplier will be considered net of all amounts due from Supplier to RRESI and its subsidiaries. RRESI may deduct any

amounts due or to become due from Supplier to RRESI and its subsidiaries from any amounts due or to become due from RRESI to Supplier.

- 17.13 Entire Contract. Each party agrees that it has not placed any reliance whatsoever on any representations, statements, or understandings made by the other party, whether orally or in writing, prior to the signature of the Contract, relating to the subject of the Contract other than those expressly incorporated in the Contract. The Contract, including its Annexures, represents the entire agreement of the parties and supersedes all prior representations, contracts, statements, and understandings (whether oral or written).
- 17.14 Conflict Minerals. Supplier's goods must not contain any conflict minerals, tantalum, tungsten, tin, or gold that originated in the Democratic Republic of the Congo or any adjoining countries (the "Covered Countries"). This requirement must be flowed down to all of Supplier's subtier suppliers. If at any stage of manufacture or production, Supplier or any of its subtier suppliers determine that any goods being delivered to RRESI under the Contract contains any conflict minerals that originated in a Covered Country, Supplier must provide a listing of the conflict minerals and the original Covered Country.