

Rotem Industries Ltd. Terms and Conditions for Suppliers

August 2017

1. Definitions

- A. In this document and any order, and all its facets:
“**Order**” – the documents which detail the terms of engagement with the Supplier, including any procurement agreement, specifications, bill of quantities and any other appendix to the order,
The “**General Terms**” – the terms specified in this document (general terms of the procurement order).
The “**Supplier**” – A person or corporation whose details are included in the Order, from whom Rotem will purchase the goods.
“**Rotem**” – Rotem Industries Ltd.

2. Order and Receipt of General Terms

- B. An Order will bind Rotem only after the receipt of the Supplier's approval in writing for an Order and its terms which were provided no later than 10 business days from the date Rotem sent the Order to the Supplier.
- C. Upon providing the written approval of the Order, the Supplier will accept the General Terms. In the absence of the aforementioned written approval, any supply of products set forth in the Order shall be deemed the Supplier's acceptance of the General Terms.
- D. The General Terms shall prevail over the Supplier's General Terms of the acquisition, should there be any, unless otherwise agreed in writing. If the parties engage in a definitive agreement, in the event that there will be conflict between the General Terms and the definitive agreement, the terms set forth in the definitive agreement will prevail. For the removal of doubt, in the event of any conflict between the terms of the Order and the appendices and the General Terms, the terms of the Order and its appendices shall prevail.

3. The Quality of the Products and Warranty

- A. The products will be supplied in full compliance with the terms of the Order, its appendices and the General Terms. The products will be supplied in accordance with the provisions of any law or regulation applicable thereto. The products will be compatible with any customary standards in the field.
- B. In the event that Rotem shall approve the manufacturing facility in advance, any transfer of any other manufacturing facility shall require the receipt of Rotem's re- authorization for the other manufacturing facility.
- C. In the event that the product subject of this Order shall be designed to be manufactured according to any sketches, diagrams or other specifications, the Supplier shall not commence with the manufacturing of the products before receiving the sketches in an e-mail or mail (however, not by fax) from Rotem. If the sketches or diagrams were not received within 5 business days from the date the Rotem sent the Order to the Supplier, the Supplier must contact Rotem in writing and request that the aforementioned documents within 3 business days from the aforementioned date.
- D. The Supplier undertakes that the products supplied according to the relevant Order and the General Terms (should it be appropriate with nature of the product): a) shall be supplied in accordance with Rotem's provisions, requirements and specifications; b) shall be supplied in accordance with the proficient and proper safety standards which are compatible with the highest practices, procedures and techniques in the field; c) shall be supplied to Rotem free of any design and working defaults; d) shall be manufactured while using new materials and equipment without any flaws and defects; and e) the ownership of the products will be transferred in entirety on the date when the products will be delivered to it and when they are free and clear of any pledge or similar right. Without derogating from the generality of the foregoing, a product with limited shelf life shall be supplied when at least 70% of the shelf life did not yet pass.
- E. The term of warranty for the products shall commence upon the supply of the product to Rotem, and shall continue to be in effect for the shelf life of the product, and no less than the period of warranty which is customary in the field (the “Term of Warranty”). In the event that a product is flawed during the Term of Warranty, the Supplier will repair the damage by replacing the product when the Supplier shall bear the costs and expenses, including delivery costs.
- F. In the event that a product is replaced with an alternate product during the Term of Warranty, the Term of Warranty shall commence anew with the replacement of the product, when it will be ready to operate and continue throughout the entire Term of Warranty for the alternate product.
- G. The Supplier undertakes to supply to Rotem replacement parts for products even after the Term of Warranty expired and in any event for a period which shall not be less than 5 years from the supply date of the product to Rotem.

4. Use of Materials

- A. The Supplier will use a quality control system to prevent the supply and use of products which are not compatible with the requirements of the Order.
- A. The control procedures for receiving raw materials with the Supplier will require the examination of the COC documents in order to ensure that the purchased materials were acquired from an original manufacturer or authorized source by the original manufacturer, and will permit the review of this certificate according to Rotem's request.
- B. The Supplier shall purchase only original raw materials of the manufacturer and authorized distributor.

5. Quality Assurance

- B. Before commencing the manufacture of any products, the Supplier will present to Rotem the GMP, ISO certificates and additional certificates in accordance with the requirements of the Order and the nature of the purchased material/ product.
- C. For any delivery to the customer, the Supplier will provide to Rotem certificates of compatibility (COC) and examination certificates (COA/COT) which are compatible with the product specifications and the terms of the Order which include the batch number, serial number, name of the material, manufacturing date, expiration date and storage terms (if relevant).
- D. In the event that the terms of the Order do not specify the product specifications, the Supplier undertakes to inform Rotem of any change that is applicable or will apply in the future for the specifications of the products designated for supply. A product whose specifications are different, shall not be supplied to Rotem before receiving Rotem's approval.

6. Prototypes and Mass Production

- A. Should there be mass production, the Supplier will permit Rotem to examine the first batch (FAI) from the batch numbers before approving it for mass production and continuous supply to Rotem.
- B. Quality assurance procedures will be in accordance with the articulated in the quality assurance chapter above.
- C. The Supplier will mark the products through batch numbers, serial numbers, catalogue numbers, labels, etc.
- D. When ordering chemical materials, the Supplier undertakes to maintain samples of the batches supplied to Rotem for the periods which are customary in the field.

7. Supervision and Control of the Original

- A. Rotem shall be permitted, at any time to visit any place where work is being executed in connection with the subject of the Order and conduct examinations in order to ensure that the control processes comply with Rotem's requirements, that the Order is being executed in accordance with the provisions set forth therein, including examining manufacturing processes, the level of design and manufacturing, the nature of the products and the pace of the work being executed, to be present during all experiments and test. The Supplier will provide complete assistance to the customer in order to execute the examinations on his behalf, including producing specifications and any information concerning the processes. Nothing contained in the aforementioned shall derogate from the Supplier's obligations contained in the Order and its appendices and these General Terms.

8. Handling, Packaging, Labelling and Identification

- A. The Supplier will package the products being supplied in a manner which is consistent with the nature of the product, the customary shipment rules, the method and the length of time of delivery and storage, the provisions of storage of the product, and if relevant the statements for the figures of the assurance of the materials (MSDS). For products which contain hazardous materials or materials which require special attention, a label will be attached regarding the potential risk of the aforementioned items and with respect to the appropriate manner of treatment thereof.
- B. On the general packaging of the delivery and the delivery certificate, the Supplier will note the Order number, a list of the items included in the shipment and the name of the contact person.
- C. The Supplier shall attach to every product an identification label which will include the following details: the name of the product, supplier serial number, the batch number, amount of packages, manufacturing date and expiration date.

9. **Delivery**
- A. If the Order did not indicate the terms of shipment, the Supplier will provide the products according to the terms of DAP Rotem's premises Mishor Yamin Dimona (Intercoms 2010).
- B. Every shipment will be supplied along with the shipping certificate and tax invoice.
- C. If not otherwise agreed in writing, the Supplier will provide products simultaneously and not in separate orders.
- D. Delivery time is of decisive importance. The Supplier undertakes to inform Rotem in writing immediately (hereinafter: "Delay Notice") if any circumstances shall arise which with respect thereto or if the Supplier reasonably estimates that it will not be possible to execute the delivery on the authorized delivery date of a certain Order (hereinafter: the "Delay"). In the Delay Notice, the Supplier will specify the reasons for any anticipated Delay. The Supplier will ensure to update Rotem in writing, insofar as to the extent that the need will arise, regarding any change in the scope of the Delay. Nothing contained in the aforementioned can exempt the Supplier from his obligations to supply the products on the agreed date and/or to affect any relief or remedy available to Rotem according to any law and/or agreement.
- E. In the event that a Delay in the supply which will exceed 10 business day from the agreed date, Rotem shall be permitted, *inter alia*, to cancel the Order and not pay for the aforementioned product. In this case, the Supplier shall refund Rotem with any amount paid by Rotem on account for the products whose Order was cancelled, and compensation with respect to any damages sustained by Rotem due to the aforementioned Delay, in addition to any relief or remedy available to Rotem according to any law and/or agreement.
- F. Products will be supplied only between Sundays through Thursdays between 8:00 AM until 4:00 PM, unless otherwise agreed in advance in writing.
10. **Modifications and Delays**
- A. Rotem will be entitled, at any time, to implement any modification, amendment, replacement, reduction, or supplement of the products, including instructions, requirements and specifications specified in the Order and these General Terms (the "Modifications"), insofar as to the extent that it does not cause the Supplier additional costs. In the event that a Modification of an Order or any of its terms shall cause additional costs for the Supplier, the Supplier undertakes to discuss with Rotem in good faith with respect to adjusting the price for the new Order for the change of the specifications of the product or terms of the Order.
- B. The Supplier undertakes that in any event in which he believes that he cannot comply with or he anticipates that he cannot comply with any term of the Order, he will immediately notify the customer and report to the customer with regard to his deeds in order to prevent the anticipated breach.
11. **Consideration and Payments**
- A. The price of the products is fixed and final and shall not be adjusted with respect to any changes for the costs of work, materials, transportation, law, state of emergency or any other change. The price is the only consideration which the Supplier, or anyone on his behalf, will be entitled to receive with respect to supplying the products according to the Order and the General Terms. For the avoidance of doubt, the price of the product includes, and without derogating from the generality of the foregoing, shipping, insurance, packaging, taxes, adjustment tests, certificates and any other expense applicable to the product until it is supplied to Rotem.
- B. Any consideration payable according to any Order and the General Terms include all of the applicable taxes. In the event that Rotem shall be required to withhold withholdings tax, according to the applicable law, Rotem will deduct the required tax and it shall be deemed as though this amount was paid to the Supplier for the purposes of the Order.
- C. In the event that the price of the agreement will be set in foreign currency but paid in Shekels, the payment will be made according to the exchange rate published for the same currency by the Bank of Israel on the day preceding the payment date.
- D. The consideration owed to the Supplier for the products will be calculated and paid according to the quantities actually provided by the Supplier, but no more than the quantities specified in the Order, as will be measured and approved by Rotem's representatives for the receipt of storage, when they have signed the shipping certificates which the Supplier attached to the shipment.
- E. The terms of payment are specified from the date Rotem received the products.
12. **Ownership and Licensing**
- A. Rotem is the exclusive and owner of all of the rights in and to: a) any information which Rotem provided or shall provide to the Supplier or any other information belonging to Rotem which the Supplier obtained or shall obtain within the framework of the relationship with Rotem in any other manner; b) all design documents and intellectual property of any kind or nature whether protected by

a patent or not ("Intellectual Property Rights") required for the use of the products; c) any Intellectual Property Rights and information, processes, materials and documents which: (1) the Supplier and/or anyone on his behalf made develop or manufacture during the manufacture or supply of the products, or which may in any other manner be the result of any production and/or supply of products and/or any other work by the Supplier for Rotem, or according to its request; or (2) are the results and/or related to any modification made to the products by Rotem, or anyone on his behalf; or (3) is a result of the use or method of the Supplier for the Confidential Information (according to its definition below); or (4) were created while breaching the provisions of the Confidentiality Agreement (as this term is defined below) (all of these shall be referred to as the "Intellectual Property and Materials").

B. The Supplier shall not acquire any right in and to the Intellectual Property and Materials and the General Terms shall not be interpreted in any manner which grants the Supplier any right or license regarding the Intellectual Property and Materials, save for the right to use the Intellectual Property and Materials for the purposes of manufacturing and supplying the products in accordance with the terms of the Confidentiality Agreement and the confidentiality provisions in the General Terms or any other confidentiality agreement which shall be signed by the parties for this purpose.

13. **Ownership and Risk of Loss**

The ownership of the products, or any part thereof, shall transfer to Rotem with the payment for any part respectively.

The Supplier will be liable for all the risks and damages which shall be caused to the product until it shall be provided to the Supplier.

14. **Compensation and Indemnification**

The Supplier shall compensate, indemnify and protect from and against any claim, loss, cost, fine, damage, liability or expenses (including legal expenses) which Rotem may be required to pay in connection with: a) any injury or death of any person; or b) damage to products or other property of Rotem or any other person; or c) any deviation by the Supplier (or anyone on his behalf) from: (1) the terms of the Order; (2) these General Terms; (3) any law; and which was caused due to the Supplier's act or omission in connection with manufacturing or supplying the products.

15. **Setoff**

Rotem shall be entitled to set off any amount owed to the Supplier according to any Order against any amount owed or which will be owed to Rotem.

16. **Insurance**

The Supplier undertakes to prepare and maintain, throughout the entire term of engagement and insofar that the Supplier and/or Rotem will have any legal liability with respect to any damage whatsoever which may be caused in connection with the products, sufficient insurance coverage as is customary in the industry it operates in which is sufficient to cover the damages to its property and/or Rotem's property and obligations to third parties, including Rotem's employees in connections with the products supplied, services and activities that were prepared by the Supplier or anyone on his behalf. The Supplier waives any claim or demand against Rotem in connection with any damage that is indemnifiable according to the insurance policies prepared by the Supplier.

17. **Confidentiality**

A. The parties will be obligated to maintain confidentiality in accordance with the provisions of any confidentiality agreement to be signed between the parties ("Confidentiality Agreement") and the confidentiality provisions below. Any breach or anticipated breach of the Confidentiality Agreement and the confidentiality provisions below shall constitute a material breach of these General Terms and the Order.

B. Publications concerning any Order or manufacturing or supply of products shall be made only after a written approval from Rotem.

C. Without derogating from the Confidentiality Agreement signed between the Parties (if it was signed), any Confidential Information (as will be defined in sub – clause D below) which the Supplier will obtain or receive in connection with the research or development activities which were executed by Rotem, or which were obtained or received during the execution of an Order by the Supplier shall be deemed as confidential and the Supplier shall maintain its confidentiality and not reveal, provide, transfer or broadcast it or bring it to the attention of any third party and he hereby undertakes to maintain with respect thereto the confidentiality requirements set forth in these General Terms.

- D. For the purposes of this section, "Confidential Information" shall include any information of any confidential or proprietary information, whether it is patentable or not, which shall be obtained or received by the Supplier or anyone on its behalf or Rotem or anyone on its behalf, including and without limitation, any technical, commercial (including customer lists), or economic information, ideas, developments, concepts, discoveries, improvements, innovations, professional knowledge, inventions, technology, commercial secrets, professional secrets, copyrights and other intellectual property right, whether provided or received orally or in writing or any disc or electronic media or any other media or any other manner or method (including documents, charts, reports, surveys, correspondence, formulas, information, specifications, materials, processes, models, prototypes, sketches, plans, guidelines, schedules, source or log code, media for storage information, paperwork, notebooks and any other or similar means or measures).
- E. The Supplier and his employees will not reveal any detail related to supplying the products to Rotem, the manufacture of products or any other service provided to Rotem, including any business engagement between the Parties.

18. **Termination/ Cancellation/ Incompatibility**

- A. Rotem shall be permitted to terminate the Order, or any part thereof, for its own reasons at any time, and without derogating from any other right or remedy, by a written notice to the Supplier ("Termination for Convenience"). Termination for Convenience will be in effect in accordance with what has been specified in the aforementioned written notice. In the event of receiving Rotem's aforementioned written notice for the termination of the Order, the Supplier will immediately cease any activity under the Order and/or these General Terms, and will immediately cause anyone on his behalf, including suppliers and sub-contractors, to immediately cease their aforementioned activities, subject to any other provision by Rotem.
- B. In the event of Termination for Convenience, Rotem shall pay the Supplier, an absolute and final compensation with respect to the termination of the Order, the following amounts: a) the balance that was not yet paid with respect to a product supplied according to the Order and b) direct expenses, the feasibility and documentation which were caused to the Supplier with respect to his activities according to the Order until the date the written termination notice was provided.
- C. Rotem shall be entitled to terminate the entire Order immediately, upon the occurrence of one or more of the following events:
- I. The Supplier materially breached the Order or the General Terms (including an assignment or transfer of the Order, or any part thereof, to a sub-contractor).
 - II. A delay in supplying the products which exceed 7 business days.
 - III. The Supplier did not successfully complete any and all necessary examinations or did not meet the required level of performance on the date set forth in the Order.
 - IV. The Supplier became insolvent, is in the middle of bankruptcy proceedings or liquidation or an official receiver has been appointed, or any other event has transpired which according to the law has similar implications to the implications of the aforementioned events.
 - V. With regard to sub-clause 18.C.1 above, a "material breach" includes an immaterial breach which was not cured by the Supplier within 14 days after the termination notice was sent by Rotem to the Supplier with respect to the breach.
- D. If Rotem shall complete the Order as specified in section 18C above, the following terms shall apply:

The Supplier will immediately return to Rotem any advance payment which it paid under the Order which concluded for any product not supplied to Rotem due to the aforementioned breach.

In any event due to a breach of the Supplier's obligations, wholly or partially (including in the event of that the Order was cancelled as a result thereof), the Supplier did not supply the products, in whole or in part, including in the event that the Order was cancelled with respect to any incompatibility of the products, the Supplier will pay Rotem liquidated damages in the amount of 5% of the agreed price in the Order.

The damages as aforementioned in this sub-clause will be in addition to any amount owed to Rotem and shall not derogate from any relief or remedy available to Rotem according to the Order, the General Terms or any law. Without derogating from any other right afforded to Rotem according to the Order and its appendices, the General Terms or any law, the Supplier hereby undertakes that with Rotem's first demand it will repair any defect, inconsistency or other flaw, solely at the expense of the Supplier, and it shall compensate and indemnify Rotem with respect to the full amount of damages or loss caused to Rotem as a result of the aforementioned flaw. If the Supplier will not complete the aforementioned repairs within a reasonable time, Rotem

shall be permitted to repair the flaw while using another supplier, and the Supplier shall repay Rotem any expense which Rotem shall bear with respect thereto.

19. **Miscellaneous**

- A. Save for what has been expressly stated in these General Terms, the Supplier shall not be permitted to assign or transfer to any other agent, including a representative or sub-contractor, any of his rights and obligations under the Order and the General Terms, without receiving Rotem's prior written consent.
- B. Any notice from one party to the other party, which is required or warranted according to the Order or the General Terms, will be in writing and shall be deemed to have been duly received: if hand delivered, on the same day and if sent by registered mail, 10 days after the mailing date. A notice by fax shall not be deemed delivery. Notice by electronic mail shall be deemed to have been delivered with a written approval indicating that the notice was received by mail.
- C. The relationship between Rotem and the Supplier shall be that of an independent contractor and customer. Nothing in the Order or General Terms shall create an employer - employee relationship, agency, partnership, joint venture or any other relationship between the parties. No party shall be a right holder, have the power or authority to bind the other party, to undertake any agreement, make any promise, provide any guarantee, liability and undertaking, execute any transaction in its name or on its behalf for the other party, or impose any liability on the other party. The Supplier will be solely responsible for all the debts according to the law or any agreement in connection with its employees or anyone on his behalf.
- D. In the event that any term whatsoever of the Order or of these General Terms shall not be valid or will become invalid according to any law, it shall not affect the remaining provisions of the Order or General Terms. The Parties agree that to replace any invalid provision with a new and valid provision which will be materially close, insofar as to the extent possible, to the essence of the replaced provision.
- E. Any modification or amendment of the Order or the General Terms shall not be in effect unless it was executed in writing, and it expressly states that it is amending the Order or General Terms, and duly signed by the authorized representatives of the Parties.
- F. Any provision of the Order or General Terms, which by its nature should continue to be in effect after the expiration or conclusion of the Order or General Terms, shall continue to be in effect after the expiration or conclusion of the Order of the General Terms.
- G. Any delay, refrainment or omission on Rotem's part to enforce, execute or promote any lawsuit, claim or other remedy available to it, according to an Order or the General Terms shall not be deemed a waiver of the same lawsuit, claim or remedy and Rotem will be entitled to exhaust all the rights available to it according to the Order and its appendices, the General Terms and any law, as it shall deem appropriate.
- H. Delaying the execution of any payment whatsoever by Rotem due to any disputes in good faith which does not exceed 60 days from the original payment date, shall not be used as a cause of action for the Supplier to delay the delivery date of the products and/or services subject of the Order or delay or fulfill any other provision and/or term of the Order and/or not to execute any activity required according to the Order.
- I. The headings of the sections are for convenience purposes only and shall not be used to interpret the Order or the General Terms.

20. **Compliance with Rules for Supervision of Export**

- A. The Supplier undertakes to comply will all supervising rules for export which are applicable to the transaction and undertakes to notify Rotem concerning these rule and the compliance thereto.
- B. The Supplier undertakes to fully cooperate with Rotem regarding any demand by Rotem to receive the relevant information in this matter.
- C. In any event, the Supplier will not sign any format for a declaration concerning the use or final user in order to execute this Order, unless it receives Rotem's prior consent for such.

21. **Applicable Law and Jurisdiction**

In any event of any disagreement and/or dispute with regard to any matter arising from the Order and the General Terms, the Israeli law shall apply, and the exclusive local jurisdiction to adjudicate any conflict and/or dispute will be in the competent courts in the southern district, for any matter relating to this Order, its execution or its interpretation.