

TERMS AND CONDITIONS
ROTOMETRICS (SE ASIA) CO. LTD. ("RotoMetrics")

1. Formation of Contract and Cancellation

- 1.1 Any quotation by RotoMetrics is not an offer to sell, and an order by the customer shall only bind RotoMetrics when it is accepted by RotoMetrics in writing. Any such acceptance shall be subject to these terms and conditions. No modified or other terms and conditions will be recognised by RotoMetrics unless RotoMetrics has specifically agreed in writing. Failure by RotoMetrics to object to provisions contained in a purchase order or other communications by the customer shall not be construed as a waiver of these terms and conditions or an acceptance of the customer's terms and conditions.
- 1.2 These terms and conditions shall apply to the manufacture or sale of any goods by RotoMetrics to the customer except by variation evidenced by written agreement of the party to be bound by the variation. These terms and conditions shall apply to and prevail over any terms and conditions implied by trade, custom, practice or a course of dealing. For the avoidance of doubt any correspondence purporting to vary the terms and conditions of the manufacture sale or supply of goods shall not be effective unless such variation is evidenced by written agreement of the party to be bound.
- 1.3 If the customer wishes to alter or cancel any order after it has been placed and accepted, the customer acknowledges that the original order remains binding on both RotoMetrics and the customer unless RotoMetrics, in its absolute discretion, chooses to accept the variation or cancellation requested by the customer.

2. Goods Supply Arrangements

- 2.1 All orders placed by the customer shall be transmitted by facsimile to RotoMetrics setting out the preferred delivery schedule. Upon receipt of an order RotoMetrics shall confirm the order, goods price, estimated delivery cost and estimated delivery date.
- 2.2 RotoMetrics agrees to supply to the customer the goods and the customer agrees to purchase the goods on these terms and conditions.
- 2.3 RotoMetrics shall not be liable for any delay or failure to meet the estimated delivery dates. Inordinate delay in an estimated delivery date shall enable the customer to cancel the order by written notice to RotoMetrics provided that such delay is solely within the direct control of RotoMetrics.
- 2.4 The goods price shall be as set out in the current price list. Prices are in Thai Baht (or United States Dollars) and exclusive of delivery costs, insurance and duties and taxes. RotoMetrics reserves the right to vary the price of the goods at its absolute discretion by giving 30 days written notice. Interest at the rate of 1.5% higher than the rate fixed for the time being calculated in daily rests shall apply on any unpaid monies together with all costs incurred in recovering monies outstanding including legal costs on a solicitor/own client basis. The customer acknowledges that it has no right to deduct or set off any amount disputed or otherwise against monies otherwise due by the customer to RotoMetrics.

3. Retention of Title

- 3.1 Title to the goods delivered by RotoMetrics shall only pass to the customer upon payment in full by the customer for all of the goods (provided that in the case of tender of a cheque, payment shall not be deemed to be made until the cheque has been honoured).
- 3.2 Further to and notwithstanding clause 3.1, title to the goods delivered by RotoMetrics shall only pass to the customer upon payment in full by the customer for all of the goods and for all other goods delivered by the RotoMetrics to the customer.
- 3.3 Notwithstanding that title remains with RotoMetrics until payment in full is received, the risk in the goods passes to the customer upon delivery. The customer must insure the goods from the date the goods leave RotoMetrics's warehouse to the date title in the goods passes to the customer.
- 3.4 Until title to the goods passes to the customer the following apply:
- (a) The customer shall hold the goods solely as fiduciary bailee for RotoMetrics.
 - (b) The customer shall store the goods separately from its own goods and those of other persons and in such manner as will clearly identify the goods as the property of RotoMetrics.
 - (c) The customer is hereby authorised to sell the goods but only as agent and fiduciary bailee for RotoMetrics and the entire proceeds of the sale or any other proceeds arising from the goods or an insurance claim regarding the goods must be held in a separate account in trust for RotoMetrics (SE Asia) Co. Ltd. Amata Nakorn Industrial Estate 700/714 Moo 1, Tambon Panthong, Amphur Panthong, Chonburi 20160 Thailand, Phone : (66) 38 447 487, Fax : (66) 38 447 489
 - (d) In the event that the customer fails to pay for the goods within the normal terms of trade or RotoMetrics enters into liquidation, or any form of composition with its creditors, has a receiver, receiver and manager or mortgagee in possession appointed or becomes insolvent or the supply contract is terminated, then any credit terms which the customer has with RotoMetrics will cease immediately and all amounts owing by the customer to RotoMetrics will become immediately due and payable and RotoMetrics without prejudice to its other rights in contract or general law may repossess the goods and the customer hereby licenses RotoMetrics, its servants and agents to enter the customer's premises at any time without notice in order to search for, inspect and/or repossess the goods. RotoMetrics shall have the right to sell or dispose of such goods removed or otherwise in its sole discretion and shall not be responsible for any loss occasioned thereby.
- 3.5 In the event that an Administrator is appointed to the customer, the customer's right to sell the goods will be immediately terminated.
- 3.6 If any provision herein is void, voidable, or unenforceable it shall be read down so as to be valid and enforceable or, if unable read down the offending words shall be severed.

4. Loss Damage Risk and Insurance

- 4.1 The risk of any goods supplied by RotoMetrics and liability for any loss or damage shall pass to the customer immediately they leave the warehouse of the supplier for delivery to the customer. Any claim for damage or short delivery must be made in writing and addressed to RotoMetrics and received by RotoMetrics within seven (7) working days of delivery of the goods.
- 4.2 The goods are at the risk of the customer immediately they leave the warehouse of the supplier of those goods and it shall be the responsibility of the customer to effect insurance for the loss or damage to such goods for their full replacement value against all risks prudently insured against including, without limitation, against loss or damage whilst the goods are in transit.

5. Limitation and Exclusion

- 5.1 SUBJECT TO CLAUSES 5.2 AND 5.3, RotoMetrics WILL NOT BE LIABLE FOR ANY COST, EXPENSE, LOSS OR DAMAGE, THAT IS DIRECTLY, INDIRECTLY OR CONSEQUENTIALLY INCURRED OR SUFFERED BY THE CUSTOMER IN RELATION TO THE GOODS SUPPLIED BY RotoMetrics.
- 5.2 RotoMetrics warrants that the goods will be free from defects in material and workmanship under normal use and service for a period of RotoMetrics one month after supply ("the Warranty Period"), provided that RotoMetrics shall only be liable within the Warranty Period to repair the goods, replace the goods or supply equivalent goods at its option.
- 5.3 RotoMetrics may vary the Warranty Period in relation to any future orders of the goods by giving the Purchaser 30 days notice in writing.
- 5.4 Certain legislation local to either RotoMetrics or the customer may imply conditions or warranties which by law cannot be negated or excluded. Liability for a breach of any implied condition or warranty on the part of RotoMetrics which is not capable of exclusion shall be limited at the option of RotoMetrics (but only to the extent permitted by law) to any one or more of the replacement of the goods, the supply of equivalent product, the repair of the goods, the payment of the cost of replacing the goods or the payment of the cost of having goods repaired.
- 5.5 In the event of any of these terms or conditions or part thereof being void or unenforceable such provisions shall be read down as far as is required by law to render them enforceable or if unable to be read down, severed and the balance shall remain in full force and effect and shall not be tainted by the severance of the offending provision.

6. Governing Law

These terms and conditions and every contract connected therewith shall be governed by the laws of Thailand and the parties hereby submit to the exclusive jurisdiction of the Thai Courts in connection thereto.