

**ERIKS (Shanghai) Fluid Technology Co., Ltd –
Terms & Conditions for the Purchase of Goods and Services
Revision: September 2017**

The following terms and conditions shall apply to all contracts between ERIKS (Shanghai) Fluid Technology Co., Ltd. ("ERIKS") and the Supplier in relation to the purchase by ERIKS of any and all Goods and Services. Definitions used in these Conditions are set out in clause 10.

1. Supply of Goods

1.1 The Supplier shall ensure that the Goods shall:

1.1.1 correspond with their description and any applicable Goods Specification;

1.1.2 be of satisfactory quality and be fit for any purpose held out by the Supplier or made known to the Supplier by ERIKS, expressly or by implication, and in this respect ERIKS relies on the Supplier's skill and judgment;

1.1.3 where samples have been approved or provided by ERIKS, at least equal in all respects to such samples;

1.1.4 where applicable, be free from defects in design, materials and workmanship for a minimum of 12 months after delivery;

1.1.5 be transferrable by the Supplier without restrictions; and

1.1.6 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

1.2 Where the Supplier is not the manufacturer of the Goods, the Supplier shall transfer to ERIKS the benefit of any warranty or guarantee given to the Supplier.

1.3 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

1.4 The Supplier shall ensure that at all times it shall comply with ERIKS;

1.4.1 Supplier Code of Conduct; and

1.4.2 Anti-Bribery Policy;

copies of which are available or described on ERIKS website and/or on request.

1.5 ERIKS shall have the right to inspect and test the Goods at any time before delivery.

1.6 If following such inspection or testing ERIKS considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 1.1, ERIKS shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

1.7 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and ERIKS shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

2. Delivery of Goods

2.1 The Supplier shall ensure that:

2.1.1 the Goods are properly and safely packed and secured in such manner as to enable them to reach their destination in good condition;

2.1.2 each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

2.1.3 if the Supplier requires ERIKS to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.

- 2.2 The Supplier shall deliver the Goods:
- 2.2.1 on the date specified in the Order or, if no such date is specified, then within five days of the date of the Order;
- 2.2.2 to ERIKS's premises at or such other location as is set out in the Order or as instructed by ERIKS before delivery ("**Delivery Location**");
- 2.2.3 during ERIKS's normal hours of business , or as instructed by ERIKS.
- 2.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location, subject to ERIKS's confirmation of receipt of such Goods in writing. The Supplier shall ensure that Goods are unloaded safely and so as not to cause a hazard.
- 2.4 If circumstances arise that make it impossible for the Supplier to adhere to the delivery dates, the Supplier shall notify ERIKS immediately in writing and state the reasons, solutions and estimated duration of such delay.
- 2.5 If the Supplier:
- 2.5.1 delivers less than 95 per cent of the quantity of Goods ordered, ERIKS may reject the Goods; or
- 2.5.2 delivers more than 105 per cent of the quantity of Goods ordered, ERIKS may at its sole discretion reject the Goods or the excess Goods ,
- and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and ERIKS accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 2.6 The Supplier shall not deliver the Goods in instalments without ERIKS's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle ERIKS to the remedies set out in clause 4.1.
- 2.7 Title and risk in the Goods shall pass to ERIKS on completion of delivery.
3. **Supply of Services**
- 3.1 The Supplier shall from the date set out in the Order and for the duration of this Contract provide the Services to ERIKS in accordance with the terms of the Contract.
- 3.2 The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by ERIKS.
- 3.3 In providing the Services, the Supplier shall:
- 3.3.1 co-operate with ERIKS in all matters relating to the Services, and comply with all instructions of ERIKS;
- 3.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 3.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;
- 3.3.4 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by ERIKS;
- 3.3.5 provide ERIKS with such reports as required by ERIKS on the Services and at such intervals and in such form as ERIKS may from time to time require;
- 3.3.6 provide all equipment, tools and vehicles and such other items as are required to provide the Services;
- 3.3.7 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to ERIKS, will be free from defects in workmanship, installation and design;
- 3.3.8 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

- 3.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of ERIKS's premises or the sites of ERIKS' customers where the Supplier may be required to work;
- 3.3.10 hold all materials, equipment and tools, drawings, specifications and data supplied by ERIKS to the Supplier ("**ERIKS Materials**") in safe custody at its own risk, maintain ERIKS Materials in good condition until returned to ERIKS, and not dispose or use ERIKS Materials other than in accordance with ERIKS's written instructions or authorisation;
- 3.3.11 not do or omit to do anything which may cause ERIKS to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that ERIKS may rely or act on the Services;
- 3.3.12 take such steps as reasonably required by ERIKS to prevent unauthorised persons being admitted to ERIKS' premises. If ERIKS gives the Supplier notice that any person is not to be admitted to or is to be removed from ERIKS' premises or is not to become involved in or is to be removed from involvement in the Services, the Supplier shall take all reasonable steps to comply with such notice. The decision of ERIKS shall be final; and
- 3.3.13 not act in a manner which will bring or is likely to bring ERIKS into disrepute or is adverse to the interests of ERIKS.
- 4. Remedies**
- 4.1 If the Supplier fails to deliver the Goods and/or perform the Services by the applicable date, ERIKS shall, without limiting its other rights or remedies, have one or more of the following rights:
- 4.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 4.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
- 4.1.3 to recover from the Supplier any costs incurred by ERIKS in obtaining substitute goods and/or services from a third party;
- 4.1.4 where ERIKS has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and
- 4.1.5 to claim damages for any additional costs, loss or expenses incurred by ERIKS which are in any way attributable to the Supplier's failure to meet such dates.
- 4.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 1.1, then, without limiting its other rights or remedies, ERIKS shall have one or more of the following rights, whether or not it has accepted the Goods:
- 4.2.1 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
- 4.2.2 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 4.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
- 4.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- 4.2.5 to recover from the Supplier any expenditure incurred by ERIKS in obtaining substitute goods from a third party; and
- 4.2.6 to claim damages for any additional costs, loss or expenses incurred by ERIKS arising from the Supplier's failure to supply Goods in accordance with clause 1.1.
- 4.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 4.4 ERIKS's rights under this Contract are in addition to its rights and remedies implied by law.

5. **ERIKS's Obligations**

ERIKS shall provide such information as the Supplier may reasonably request for the provision of the Services and ERIKS considers reasonably necessary for the purpose of providing the Services.

6. **Charges and Payment**

6.1 The price for the Goods:

6.1.1 shall be the price set out in the Order, or if no price is quoted, the price per unit for the Goods in ERIKS' most recent Order for identical Goods; and

6.1.2 shall be inclusive of the costs of packaging, insurance and carriage of the Goods as well as customs duty (if any), applicable taxes, government charges, unless otherwise agreed in writing by ERIKS. No extra charges shall be effective unless agreed in writing and signed by ERIKS.

6.2 The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by ERIKS, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

6.3 In respect of Goods, the Supplier shall invoice ERIKS on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice ERIKS on completion of the Services. Each invoice shall include such supporting information required by ERIKS to verify the accuracy of the invoice, including but not limited to the relevant purchase order number.

6.4 In consideration of the supply of Goods and/or Services by the Supplier, ERIKS shall pay the invoiced amounts within 60 days of the end of the month in which a correctly rendered invoice is received, to a bank account nominated in writing by the Supplier.

6.5 All amounts payable by ERIKS under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time ("VAT"). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to ERIKS, ERIKS shall, on receipt of a valid

VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.

6.6 If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue amount at the rate of 4% per annum above the People's Bank of China's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount.

6.7 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow ERIKS to inspect such records at all reasonable times on request.

ERIKS may at any time, without limiting any of its other rights or remedies, set off any liability of the Supplier to ERIKS against any liability of ERIKS to the Supplier, whether either liability is liquidated or unliquidated, and whether or not either liability arises under the Contract, provided the liability of the Supplier and the liability of ERIKS are both due.

7. **Intellectual Property Rights**

7.1 In respect of the Goods and any goods that are transferred to ERIKS as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to ERIKS, it will have full and unrestricted rights to sell and transfer all such items to ERIKS.

7.2 The Supplier assigns to ERIKS, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including for the avoidance of doubt the Deliverables.

7.3 The Supplier shall obtain waivers of all moral rights in the products, including for the avoidance of doubt the Deliverables,

of the Services to which any individual is now or may be at any future time entitled or any similar provisions of law in any jurisdiction.

7.4 The Supplier shall, promptly at ERIKS's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as ERIKS may from time to time require for the purpose of securing for ERIKS the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned to ERIKS in accordance with clause 7.2.

7.5 All ERIKS Materials are the exclusive property of ERIKS.

8. Indemnity

8.1 The Supplier shall keep ERIKS indemnified against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered incurred by ERIKS as a result of or in connection with:

8.1.1 any claim made against ERIKS for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services, to the extent that the claim is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;

8.1.2 any claim made against ERIKS by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defects in the Goods are attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors; and

8.1.3 any claim made against ERIKS by a third party arising out of or in connection with the supply of the Goods or the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors.

8.2 This clause 8 shall survive termination of the Contract.

9. Insurance

During the term of the Contract and for a period of six years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to a minimum value of Chinese yuan [=] per event to cover the liabilities that may arise under or in connection with the Contract, and shall, on ERIKS's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. Interpretation

10.1 Definitions. In these Conditions, the following definitions apply:

Business Day: a day other than a Saturday, Sunday or public holiday in PRC when banks in PRC are open for business.

Commencement Date: has the meaning set out in clause 11.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 17.7.

Contract: the contract between ERIKS and the Supplier for the supply of Goods and/or Services in accordance with these Conditions.

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

ERIKS: ERIKS (Shanghai) Fluid Technology Co., Ltd., whose registered office is at [=].

ERIKS Materials: has the meaning set out in clause 3.3.10.

Free Issue Materials: materials including data, tools, patterns and other

equipment issued by ERIKS to the Supplier solely for use in relation to the Contract and where ownership is retained by ERIKS. **Goods:** the goods (or any part of them) set out in the Order.

Goods Specification: any specification for the Goods, including any related plans and drawings, that is agreed in writing by ERIKS and the Supplier.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), 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 which subsist or will subsist now or in the future in any part of the world.

Order: ERIKS's order for the supply of Goods and/or Services, as set out in ERIKS's purchase order form enclosing these terms and conditions.

PRC: The People's Republic of China, excluding the Hong Kong, Macau, and Taiwan regions.

SAC: has the meaning set out in clause 17.9.

Services: the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.

Service Specification: the description or specification for Services agreed in writing by ERIKS and the Supplier.

Supplier: the person or firm from whom ERIKS purchases the Goods and/or Services.

10.2 **Construction.** In these Conditions, the following rules apply:

10.2.1 a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

10.2.2 a reference to a party includes its successors or permitted assigns;

10.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

10.2.4 any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

10.2.5 a reference to **writing** or **written** includes faxes and e-mails.

11. **Basis of Contract**

11.1 The Order constitutes an offer by ERIKS to purchase Goods and/or Services from the Supplier in accordance with these Conditions.

11.2 The Order shall be deemed to be accepted on the earlier of:

11.2.1 the Supplier issuing written acceptance of the Order; or

11.2.2 any act by the Supplier consistent with fulfilling the Order,

at which point and on which date the Contract shall come into existence ("**Commencement Date**").

11.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

11.4 The Contract constitutes the entire agreement between the parties relating to the purchase by ERIKS and sale by the Supplier of the Goods and Services unless specifically agreed otherwise in writing by ERIKS. The Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of ERIKS which is not set out in the Contract. These Conditions shall prevail over any other terms and conditions including any terms and conditions which the Supplier may purport to apply under any quotation, purchase order,

confirmation or order or any other document. Any terms and conditions set forth on any document or documents issued by the Customer either before or after issuance of any document by ERIKS setting forth or referring to these Conditions are hereby explicitly rejected and disregarded by ERIKS, and any such terms and conditions shall be wholly inapplicable to any purchase made by ERIKS and shall not be binding in any way on ERIKS.

11.5 All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.

11.6 The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

12. Free Issue Material

12.1 The Supplier shall keep all Free Issue Materials in good order and condition and shall use Free Issue Materials solely in connection with the Contract. Any surplus Free Issue Materials shall be returned to ERIKS and/or be disposed of at ERIKS' discretion and the proceeds of any such disposal must be immediately credited to ERIKS.

12.2 All Free Issue Materials shall be at the risk of the Supplier and insured by the Supplier at its own expense. Any Free Issue Materials damaged due to bad workmanship or the fault of the Supplier, shall be repaired at the Supplier's expense.

13. Confidentiality

13.1 A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain. The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the

receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

13.2 This clause 13 shall survive termination of the Contract.

14. Compliance with Laws and Corporate Social Responsibility

14.1 The Supplier warrants and represents that in providing the Goods and/or Services it will comply with, and will require its subcontractors and any person under its control to comply with, all statutory requirements, implied terms, regulations and codes of practice relating to the Goods and/or Services, including but not limited to the Contract Law of PRC (as amended and superseded from time to time).

14.2 In furtherance of its performance and obligations under the Contract, the Supplier may disclose information that constitutes personal data as defined under the applicable PRC laws to ERIKS. The Supplier undertakes and warrants that it will obtain all necessary consents for ERIKS to collect, use and disclose such personal data for the purposes contemplated in the purchase order.

14.3 When dealing with personal data received from ERIKS, the Supplier shall only use and/or disclose personal data (i) in accordance with the purposes for which ERIKS disclosed the personal data; (ii) in accordance with the instructions of ERIKS; and (iii) in such manner that ensures ERIKS's compliance with the applicable PRC laws. The Supplier shall also comply with the applicable PRC laws, the relevant regulations and guidelines and any reasonable request of ERIKS with respect to the protection of personal data received from ERIKS. In the event of any known unauthorized, unlawful, and/or unintended use, access, disclosure, alteration, loss, or destruction of personal data received from ERIKS, the Supplier shall immediately notify ERIKS and cooperate with ERIKS's requests to investigate and remediate

such incidents and provide appropriate response and redress.

14.4 The Supplier further warrants and represents that:

14.4.1 conflict minerals as per section 1502 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (as amended and superseded from time to time) will not be used during the production of the Goods or any product to be delivered to ERIKS; and

14.4.2 it is in compliance with, and requires its subcontractors and any person under its control to comply with, all applicable state, national, and international laws, rules and regulations relating to conflict mineral sources and has adopted and implemented appropriate and effective policies to ensure compliance with the same.

15. Termination

15.1 Without limiting its other rights or remedies, ERIKS may terminate the Contract:

15.1.1 in respect of the supply of Services in whole or in part at any time prior to completion of performance with immediate effect by giving written notice to the Supplier to the extent that this is permissible by the laws of the PRC; and

15.1.2 in respect of the supply of Goods, in whole or in part at any time before delivery with immediate effect by giving written notice to the Supplier to the extent that this is permissible by the laws of the PRC.

whereupon the Supplier shall discontinue all work on the Contract. ERIKS shall pay the Supplier fair and reasonable compensation for any work in progress on the Goods and in respect of any Services performed up to the time of termination, but such compensation shall not include loss of anticipated profits or any consequential loss and shall only be payable in respect of any sub-contracts necessarily terminated where those sub-contracts contain a termination for convenience clause substantially in the same terms as this clause 15.1.

15.2 In any of the circumstances in these Conditions in which a party may terminate the Contract, where both Goods and Services are supplied, that party may terminate the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.

15.3 Without limiting its other rights or remedies, ERIKS may terminate the Contract with immediate effect by giving written notice to the Supplier if:

15.3.1 the Supplier commits a material breach of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of receipt of notice in writing to do so;

15.3.2 the Supplier repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract;

15.3.3 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts;

15.3.4 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

15.3.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company);

15.3.6 the Supplier (being an individual) is the subject of a bankruptcy petition or order;

15.3.7 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or

- process is not discharged within 14 days;
- 15.3.8 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- 15.3.9 the holder of a floating charge over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 15.3.10 a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- 15.3.11 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.3.3 to clause 15.3.10 (inclusive);
- 15.3.12 the Supplier suspends or ceases, or threatens to suspend, or cease, to carry on all or a substantial part of its business; or
- 15.3.13 the Supplier's financial position deteriorates to such an extent that in the opinion of ERIKS's its capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 15.4 Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination.
- 15.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.
16. **Consequences of Termination**
- On termination of the Contract for any reason, the Supplier shall immediately deliver to ERIKS all Deliverables whether or not then complete, and return all Free Issue Materials and ERIKS Materials. If the Supplier fails to do so, then the Supplier agrees that ERIKS may enter the Supplier's premises and take possession of them. Until they have been returned or

delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

17. **General**

17.1 **Assignment and other dealings.**

17.1.1 ERIKS may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

17.1.2 The Supplier may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of ERIKS.

17.2 **Notices.**

17.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, or sent by registered post or other next working day delivery service, commercial courier, fax or e-mail.

17.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 17.2.1; if sent by registered post or other next working day delivery service, at 1.00 pm on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

17.2.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

17.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be

- deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.
- 17.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 17.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, nor constitute either party the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.
- 17.6 **Third parties.** A person who is not a party to the Contract shall not have any rights to enforce its terms.
- 17.7 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by ERIKS.
- 17.8 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of PRC.
- 17.9 **Jurisdiction.** Any dispute arising from or in connection with this Contract between the parties shall be submitted to Shanghai Arbitration Commission (**SAC**) for arbitration in Shanghai. The arbitration shall be conducted in accordance with SAC's arbitration rules in effect at the time of applying for arbitration. The arbitration shall be conducted by 1 arbitrator to be appointed by the Chairman of the SAC. The arbitral award is final and binding upon both parties.