RENK Test System GmbH – Terms and Conditions of Sale (International)

1. General, Definitions

1.1. These Terms and Conditions of Sale (International) ("General Conditions") apply to all Product sales of RENK to Purchasers which have their registered office outside the Federal Republic of Germany to the exclusion of any other terms, except as otherwise agreed by the parties in writing by a document signed by both parties. For Purchasers with registered office in the Federal Republic of Germany, the "Terms and Conditions of Sale (Germany)" shall apply.

1.2. In these General Conditions, the following terms shall have the meanings hereunder assigned to them:

1.2.1. "Contract": the agreement on the supply/purchase of the Products concluded by RENK's acknowledgement in writing of Purchaser's purchase order, which shall be deemed to incorporate these General Conditions and all appendices, including agreed amendments and additions in writing to the said documents.

1.2.2. "in writing": a physically or electronically embodied form of text communicated by one party to the other by letter, fax or electronic means (including email).

1.2.3. "Products": the object(s) to be supplied by RENK to the Purchaser as per the Contract.

1.2.4. "RENK": RENK Test System GmbH as supplier.

1.2.5. "Purchaser": the customer ordering Products from RENK.

2. Contract Formation

2.1. Purchaser's payment or acceptance of delivery shall be deemed acceptance of these General Conditions.

2.2. Unless expressly stated otherwise, all quotations are non-binding.

2.3. All information contained in general Product documentation and price lists shall be binding only to the extent that they are incorporated in the Contract in writing.

3. [Not is Use.]

4. Price and Payment

4.1. Unless otherwise agreed, all prices are quoted Free Carrier (FCA) INCOTERMS® 2020 including loading and standard packing for truck transport at the place of manufacture.

4.2. Payment shall be made within thirty (30) days after the date of invoice. Unless otherwise agreed, the Contract price shall be paid in Euro (EUR).

4.3. Payment shall not be deemed to have been made before RENK has received payment.

4.4. If the Purchaser fails to pay by the due date, it will be liable to pay interest from the due date, as well as any recovery costs (including legal fees). The rate of interest shall be 9 percentage points above the rate of the main refinancing facility of the European Central Bank. In case of late payment RENK may, after having notified the Purchaser in writing, suspend its performance of the Contract until it receives payment.
If the Purchaser has not paid the amount due within three (3) months, RENK shall be entitled to terminate the Contract by notice in writing to the Purchaser and, in addition to the interest and recovery costs according to this Clause, to claim compensation for the loss it incurs.

5. Taxes

5.1. Except as agreed otherwise, prices are stated net of statutory turnover tax, sales tax, value-added tax or other similar taxes (hereinafter referred to as "turnover tax or similar taxes"). Any payable turnover tax or similar taxes shall be added to the prices. This shall not apply if the Purchaser is legally liable to pay the turnover tax or similar taxes and/or the reverse charge process is applicable. If the Purchaser's national legislation demands the application of the reverse charge procedure or any other simplified procedure which obliges the recipient of a supply or service to self-assessment or the withholding of turnover tax or similar taxes, the Purchaser shall be obliged to make such self-assessment and/or withholding and to pay the respective amount over to the competent fiscal authorities within the periods allowed. If the application of the reverse charge procedure or any other procedure is optional, RENK will inform the Purchaser whether or not such a procedure is to be applied.
The Purchaser shall support RENK to the best of the Purchaser's ability in obtaining a tax exemption and/or satisfying the conditions of zero-rating. Upon RENK's request, the Purchaser shall transmit to RENK all documents requested by RENK in this context within 14 calendar days (for instance, exemption certificates for supplies, evidence of intra-EU delivery or export certificates).
If RENK is obliged to pay turnover tax or similar taxes under this item due to the Purchaser's failure to comply with its duties, the Purchaser shall reimburse RENK for such turnover tax or similar taxes, unless the Purchaser is not responsible for the violation of this duty.

5.2. The Purchaser and RENK shall each be responsible for the payment of their own taxes on income.

5.3. Payments subject to tax withheld at source shall be governed by the following provisions:

5.3.1. If the Purchaser is legally obliged to withhold taxes from the payment to be made to RENK in the name and on behalf of RENK and to pay the same over to the local fiscal authority, the Purchaser shall be responsible for complying with this obligation. If the Purchaser fails to comply with this obligation and fails to withhold and pay such tax over to the fiscal authorities in whole or in part, the Purchaser shall compensate RENK for any loss resulting from a subsequent tax claim, unless the Purchaser is not responsible for the violation of this duty. RENK shall be responsible for satisfying the formal conditions of a possible reduction of the withholding tax rate (if applicable down to zero-rating). Any required applications and residence certificates shall be provided by RENK. The Purchaser shall support RENK to the best of its ability in obtaining a reduction of the withholding tax (if applicable down to zero-rating).

5.3.2. If (a) a double taxation agreement ("DTA") exists between Germany and the country of residence of the Purchaser or the country in which the activities are carried out by RENK, and (b) the conditions for a reduction of the withholding tax (if applicable down to zero-rating) are satisfied under the applicable DTA, the Purchaser may only retain the maximum withholding tax amount specified by the applicable DTA from the payments to RENK. If the conditions under (a) and (b) are not satisfied, the Purchaser may only withhold the withholding tax at the rate applicable under the national law of the country of residence of the Purchaser or the country in which the activities by RENK are carried out and shall pay the same over to the local fiscal authorities in the name of RENK and in a timely manner.

5.4. The Purchaser shall promptly send RENK a proper tax certificate on the transfer of the tax withheld at source in RENK's name. If the proper tax certificate is not sent or is not sent in due time, the Purchaser shall bear any and all tax disadvantages resulting for RENK from the omitted or delayed provision of the official tax certificate, unless the Purchaser is not responsible for the violation of this duty.

6. Confidential Information and Use of Software

6.1. All non-public, confidential or proprietary information ("Confidential Information") disclosed by one party to the other (whether before or after the formation of the Contract) relating to the Products, the Contract or the business of the disclosing party, shall remain the property of the disclosing party and the disclosing party reserves all proprietary, copyright, patent and other intellectual property rights therein.

6.2. Confidential Information received by one party shall not, without the prior written consent of the other party, be (a) used for any other purpose than the one for which it is provided, or (b) communicated to any third party. The Purchaser shall refrain from acquiring Confidential Information by observing, studying, disassembling, testing or reverse engineering of any Products software or other tangible objects provided by RENK under the Contract. The receiving party shall inform the disclosing party without undue delay of any unauthorized disclosure or use of Confidential Information (e.g. as a result of an information security incident) and shall reasonably assist the disclosing party in the recovery and prevention of any further disclosure or distribution of such Confidential Information.

6.3. RENK shall, not later than at the date of delivery, provide the agreed information necessary for the Purchaser to install, commission, operate and maintain the Products. RENK shall not be obliged to provide manufacturing drawings for the Products or spare parts.

6.4. The Purchaser acquires the non-exclusive right to use RENK's software and/or sublicensed software incorporated in the Products solely for the purpose of using the Products. The Purchaser may transfer such right of use to subsequent owners of the Products. RENK retains the intellectual property rights to RENK's software even when such software has been produced specifically for the Purchaser. RENK shall not be obliged to provide the source code for RENK's software.

7. Acceptance Tests

7.1. Acceptance tests provided for in the Contract shall, unless otherwise agreed, be carried out at the place of manufacture of the Products during RENK's normal working hours. If the Contract does not specify the technical requirements, the tests

shall be carried out in accordance with general practice in the propulsion technology/power transmission industry.

7.2. If the participation of the Purchaser in such tests is agreed in the Contract, RENK shall notify the Purchaser in writing in sufficient time to permit the Purchaser to be represented at the acceptance tests. If the Purchaser does not attend, the test report shall be sent to the Purchaser and shall be deemed to have been accepted as accurate.

7.3. If the acceptance tests show the Products are not in accordance with the Contract, RENK shall remedy any deficiencies without delay. New tests shall then be carried out at the Purchaser's request, unless the deficiency was not material.

7.4. RENK shall bear all costs for acceptance tests carried out at the place of manufacture. The Purchaser shall however bear all travel and accommodation expenses for its representatives in connection with such tests.

8. Delivery; Risk transfer

8.1. Any agreed trade term shall be construed in accordance with the INCOTERMS® 2020.
If no trade term has been specifically agreed, the delivery shall be Free Carrier (FCA) at the place named by RENK.

8.2. If shipping is delayed or does not take place for reasons beyond RENK's control, the risk shall pass to the Purchaser on the date of the notice that the Products are ready for shipment. RENK shall take out any insurance policies requested by the Purchaser for the Purchaser's account.

9. Time for delivery; Delay

9.1. RENK will deliver the Products by the delivery date agreed in the Contract. If the parties, instead of specifying the date for delivery, have specified a period of time within which delivery shall take place, such period shall commence as soon as the Contract is formed and all agreed preconditions have been satisfied, such as official formalities, payments due at the formation of the Contract and security of payment.

9.2. If RENK anticipates that it will not be able to deliver the Products at the time for delivery, it shall promptly notify the Purchaser thereof in writing, stating the reason and, if possible, the time when delivery can be expected. If RENK fails to give such notice, the Purchaser shall be entitled to compensation for any reasonable additional costs it incurs and could have avoided had it received such notice.

9.3. If delay in delivery is caused by any circumstances attributable to the Purchaser, RENK shall be entitled to extend the time for delivery by a period which is reasonable having regard to all the circumstances (regardless of whether the reason for the delay occurs before or after the agreed time for delivery).

9.4. If the Products are not delivered at the time for delivery for reasons attributable to RENK, the Purchaser shall be entitled to liquidated damages from the date on which delivery should have taken place. The liquidated damages shall be payable at a rate of 0.5 per cent of the Contract price for each full week of delay. The liquidated damages shall not exceed 5 per cent of the Contract price.
If only part of the Products is delayed, the liquidated damages shall be calculated on that part of the Contract price which is attributable to the Products which cannot in consequence of the delay be used as intended by the parties.
The liquidated damages shall become due when delivery has been completed or the Contract is terminated under Clause 9.5.
The Purchaser's claim for liquidated damages shall be time-barred if it has not notified such claim in writing within six (6) months after the original delivery date.

9.5. If the Purchaser becomes entitled to the maximum liquidated damages under Clause 9.4. and if the Products are still not delivered, the Purchaser may demand in writing delivery within a final reasonable period.
If RENK does not deliver within such final period for reasons attributable to RENK, then the Purchaser may by notice in writing to RENK terminate the Contract in respect of such part of the Products as cannot be used as intended by the parties.

9.6. Liquidated damages under Clause 9.4 and termination of the Contract under Clause 9.5 shall be the only remedies available to the Purchaser in case of RENK's delay.

9.7. If the Purchaser anticipates that it will be unable to accept delivery of the Products at the time for delivery, it shall promptly notify RENK in writing thereof, stating the reason and, if possible, the time when it will be able to accept delivery. If the Purchaser fails to accept delivery at the time for delivery, it shall nevertheless pay any part of the Contract price which becomes due at the time for delivery, as if delivery had taken place at the time for delivery. RENK shall arrange for storage of the Products at the risk and expense of the Purchaser.

9.8. Unless the Purchaser's failure to accept delivery is due to an event of Force Majeure, RENK may by notice in writing require the Purchaser to accept delivery within a final reasonable period. If, for any reason which is attributable to the Purchaser, the Purchaser fails to accept delivery within such period, RENK may by notice in writing terminate the Contract in whole or in part. RENK shall then be entitled to compensation for the loss it suffers by reason of the Purchaser's default. The compensation shall not exceed that part of the Contract price which is attributable to that part of the Products in respect of which the Contract is terminated.

10. Retention of title

10.1. The Products shall remain the property of RENK until paid for in full to the extent that such retention of title is valid under the relevant law.

10.2. The Purchaser shall at the request of RENK assist it in taking any measures necessary to protect RENK 's title to the Products.

10.3. The retention of title shall not affect the transfer of risk under Clause 8.

11. Liability for defects

11.1. Pursuant to the provisions of Clauses 11.2-11.17, RENK shall remedy any defect or nonconformity in the Products resulting from faulty design, materials or workmanship ("Defect(s)").

11.2. RENK shall not be liable for Defects arising out of materials provided or a design specified by the Purchaser.

11.3. RENK shall only be liable for Defects, which appear under the conditions of operation provided for in the Contract and proper use of the Products.

11.4. RENK shall not be liable for Defects caused by inadequate maintenance, incorrect installation, unauthorized repairs or alterations, or for normal wear and tear or deterioration.

11.5. RENK 's liability shall be limited to Defects, which appear within a warranty period of twelve (12) months from delivery.

11.6. When RENK has remedied a Defect in a part of a Product, RENK shall be liable for Defects in the repaired or replaced part on the same terms as the original Products for a period of twelve (12) months. For the remaining parts of the Products the original warranty period mentioned in Clause 11.5 shall be extended only by a period equal to the period during which and to the extent that the Products could not be used as a result of the Defect. Any such extended warranty mentioned in this Clause 11.6 shall, however, be limited to a maximum of twenty-four (24) months from the date of delivery of the original Product.

11.7. The Purchaser shall promptly notify RENK in writing of any Defect, which appears including a description of such defect.
If the Purchaser fails to notify RENK in writing of a Defect promptly, RENK shall not be liable for the Defect.
Where the Defect may cause damage, the Purchaser shall immediately inform RENK in writing. The Purchaser shall bear the risk of damage to the Products resulting from its failure so to notify. The Purchaser shall take reasonable measures to minimize damage and shall comply with any related RENK instructions.

11.8. On receipt of the notice under Clause 11.7., RENK shall at its own cost remedy the Defect without undue delay in accordance with Clauses 11.1-11.17. The time for remedial work shall be chosen in order not to interfere unnecessarily with the Purchaser's activities.
Repairs shall be carried out at the place where the Products are located unless RENK deems it more appropriate that the Products are sent to a destination specified by it.
If the Defect can be remedied by replacement or repair of a defective part and if dismantling and re-installation of the part do not require special knowledge, RENK may require that the defective part is sent to a destination specified by it. In such case RENK shall have fulfilled its obligations in respect of the Defect when it delivers a duly repaired part or a replacement part to the Purchaser.

11.9. The Purchaser shall at its own expense provide access to the Products and arrange for any intervention in equipment other than the Products to the extent necessary to remedy the Defect.

11.10. Unless otherwise agreed, necessary transport of the Products or parts thereof to and from RENK in connection with the remedying of Defects for which RENK is liable shall be at the risk and expense of RENK. The Purchaser shall follow the RENK's instructions regarding such transport.

11.11. Unless otherwise agreed, the Purchaser shall bear any additional costs, which RENK incurs for remedying the Defect caused by the Products being located in a place other than the place of delivery.

11.12. Defective parts, which have been replaced, shall be made available to RENK and shall be its property.

11.13. If the Purchaser has given such notice as mentioned in Clause 11.7. and no Defect is found for which RENK is liable, the Purchaser shall reimburse RENK for its costs resulting from the notice.

11.14. If RENK does not fulfil its obligations under Clause 11.8., the Purchaser may by notice in writing fix a final reasonable period

for completion of RENK's obligations, which shall not be less than one week.
If RENK fails to fulfil its obligations within such final period, the Purchaser may itself carry out or employ a third party to carry out necessary repair work at the risk and expense of RENK.

11.15. Where successful repair work has been undertaken by the Purchaser or a third party as stipulated under Clause 11.14., RENK shall reimburse the reasonable costs incurred therefor by the Purchaser in full settlement of RENK's liabilities for the said Defect.

11.16. Where the Products have not been successfully repaired, as stipulated under Clause 11.14.:

11.16.1. the Purchaser shall be entitled to a reduction of the Contract price in proportion to the reduced value of the Products, provided that under no circumstances shall such reduction exceed 15 per cent of the Contract price, or

11.16.2. where the Defect is so substantial as to deprive the Purchaser of the benefit of the Contract as regards the Products or a substantial part of it, the Purchaser may terminate the Contract by notice in writing by a document signed by Purchaser to RENK in respect of such part of the Products as cannot in consequence of the Defect be used as intended by the parties. The Purchaser shall then be entitled to compensation for its loss, costs and damages up to a maximum of 15 per cent of that part of the Contract price which is attributable to the part of the Products in respect of which the Contract is terminated.

11.17. Except as provided in Clauses 11.1.-11.16., RENK shall not be liable for Defects.

12. Anticipated non-performance

Notwithstanding other provisions in these General Conditions regarding suspension, each party shall be entitled to suspend the performance of its obligations under the Contract, where it is clear from the circumstances that the other party is not going to perform its obligations. A party suspending its performance of the Contract shall forthwith notify the other party thereof in writing.

13. Force Majeure

13.1. Either party shall be entitled to suspend performance of its obligations under the Contract to the extent that such performance is impeded or made unreasonably onerous by Force Majeure, meaning any of the following circumstances: industrial disputes and any circumstance beyond the control of the parties including, without limitation, fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power, currency and export restrictions, epidemics, natural disasters, extreme natural events, terrorist acts and defects or delays in deliveries by sub-contractors caused by any such circumstance referred to in this Clause.
A circumstance referred to in this Clause whether occurring prior to or after the formation of the Contract shall give a right to suspension only if its effect on the performance of the Contract could not be foreseen at the time of the formation of the Contract.

13.2. The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance. If a party fails to give such notice, the other party shall be entitled to compensation for any additional costs which it incurs and which it could have avoided had it received such notice.
If Force Majeure prevents the Purchaser from fulfilling its obligations, it shall compensate RENK for expenses incurred in securing and protecting the Products.

13.3. Either party shall be entitled to terminate the Contract by notice in writing by a signed document to the other party if performance of the Contract is suspended under Clause 13.1. for more than six (6) months.

14. Limitation of Liability

14.1. Notwithstanding any other provision in these General Conditions or the Contract, whether by way of indemnity or by breach of contract, statutory duty, tort, negligence, or otherwise, and whatever the cause thereof: a) RENK shall not be liable for loss of production, loss of profit, loss of use, loss of contracts, loss of data or for any special, consequential or indirect loss or damage of any nature whatsoever in connection with the Contract, and (b) the total overall liability of RENK including but not limited to liquidated damages, shall not exceed 100% of the Contract price.

14.2. The limitations or exclusions of liability provided in Clause 14.1. shall however only apply to the extent permitted by applicable mandatory laws and shall not apply in case of gross negligence or willful misconduct.

15. Export control

15.1. Sanctions and Export control

15.1.1. The Purchaser shall comply with applicable UN- EU, US, German, UK and other national export control, sanctions and embargo laws and regulations ("Sanctions and Export Control Laws"), and where applicable adhere to the anti-boycott statutes of § 7 German Foreign Trade and Payments Ordinance and/or Council Regulation (EC) No. 2271/1996.

15.1.2. Prior to exchanging any hardware, software, technical data, technology or services subject to Sanctions and Export Control Laws, the Purchaser shall notify RENK in advance and provide applicable export control classifications and jurisdictions. The Purchaser shall comply with all applicable import restrictions and any Sanctions and Export Control Laws, related to any further export, reexport or transfer including but not limited to provisos in relevant authorisations.

15.1.3. For each delivery of tangible items of the Purchaser to RENK, the Purchaser shall provide export control classifications, jurisdictions and authorisation numbers in shipping documents. For intangible items, such information shall be referenced in related documents. Unmarked deliveries shall be considered not export control classified.

15.1.4. If the Purchaser becomes subject to Sanctions and Export Control Laws or is owned/controlled by a targeted person, or performance would breach Sanctions and Export Control Laws (a "Sanctions Event"), the Purchaser shall promptly notify RENK. The Parties shall consult to mitigate the effects, and RENK may, to the extent permitted by law without liability, suspend performance or terminate the contract with immediate effect, upon written notice.

15.1.5. RENK shall be entitled, to the extent permitted by law without liability and upon written notice, to suspend performance of its obligations or terminate the contract with immediate effect if, following conclusion of the contract, it becomes apparent that the performance of the contract is prevented or restricted by applicable Sanctions or Export Control Laws, or if any required governmental authorization, approval, export license or other clearance is denied, revoked or not granted.

15.2. Information about end Purchaser
Due to national and international export control requirements, RENK is required to conduct export controls. For some countries, export control restrictions may apply if goods can be used for sensitive purposes, e.g., military, chemical plants, or nuclear technology. Therefore, prior to placing an order, the Purchaser must provide the following information: the name and address of the end Purchaser, a description of the intended use of the subject matter of the contract with RENK, and a description of the end Purchaser's business areas. Based on request of RENK, the Purchaser shall provide RENK with an end use certificate and, if applicable, the Purchaser shall oblige the relevant end user to provide the end use certificate to RENK.

15.3. Russia / Belarus Re-Export Prohibition

15.3.1. The Purchaser (Importer/Buyer) shall not sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied under or in connection with this Agreement that fall within the scope of Article 12g of Council Regulation (EU) No 833/2014. Furthermore, the re-export to Belarus, as well as the re-export for use in Belarus, of goods supplied under or in connection with this Agreement and falling within the scope of Article 8g of Council Regulation (EU) No 765/2006 and listed in its Annexes, is also prohibited by contract.

15.3.2. RENK (the exporter/seller) hereby prohibits the sale, export or re-export of RENK products pursuant to sections 15.3.1.

15.3.3. The Purchaser (importer/buyer) shall use its best endeavours to ensure that the purpose of paragraphs 15.3.1. and 15.3.2. is not frustrated by third parties in the further chain of commerce, including potential resellers.

15.3.4. The Purchaser (importer/buyer) shall establish and maintain an appropriate monitoring mechanism to detect behaviour by third parties in the wider chain of commerce, including potential resellers, that would frustrate the purpose of paragraph 15.3.1.

15.3.5. Any breach of paragraphs 15.3.1., 15.3.2. or 15.3.3. shall constitute a material breach of a material term of the contract and RENK (the exporter/seller) shall be entitled to seek appropriate remedies, including but not limited to:
a) termination of the contract and
b) a penalty equal to 0.5% of the total value of the contract or 100% of the price of the exported goods, whichever is higher.

15.3.6. The Purchaser (importer/buyer) shall promptly inform RENK (the exporter/seller) of any problems in the application of paragraphs 15.3.1., 15.3.2. or 15.3.3.,

including any relevant third party activities that may frustrate the purpose of paragraph 15.3.1. The Purchaser (importer/buyer) shall provide RENK (exporter/seller) with information on compliance with the obligations under paragraphs 15.3.1., 15.3.2. or 15.3.3. within two weeks of the simple request for such information.

15.3.7. If RENK (the exporter/seller) becomes aware of a prohibited (re-) export, RENK (the exporter/seller) shall make the necessary notifications to the competent export control authorities in accordance with the requirements of Regulation (EU) No. 833/2014 and Council Regulation (EU) No. 765/2006.

16. Disputes and applicable law

16.1. All disputes arising out of or in connection with the Contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules. The arbitral proceedings shall be held in English.

16.2. The Contract shall be governed by the substantive law of Switzerland.