Master Terms and Conditions

These Terms and Conditions (**Terms**) apply to the provision by Rom-Control Pty Ltd ABN 35 124 628 137 (**Rom-Control**, **us**, **we**, **our**) of repair and refurbishment services to the customer (**Customer**) who is named in the quotation issued by Rom-Control, whether verbally or in writing (**Quotation**).

1. Application of these Terms

(a) These Terms and the Quotation set out the entire agreement between Rom-Control and the Customer in relation to:

(i) Rom-Control providing any repair and refurbishment services (**Repair and Refurbishing Services**) for electronic, process control equipment including entire control systems such as variable speed drivers, power suppliers, micro-processor-based computers and the like (**Equipment**) as agreed by Rom-Control from time to time; or

(ii) Rom-Control providing hardware or software (**Products**) supplied by third party manufacturers and suppliers (**Manufacturer/Distributor**) on a resale basis.

(b) Any terms or conditions that are contained in any purchase order or in any other document that is issued by the Customer or in correspondence or documents passing between Rom- Control and the Customer have no effect and will not affect any agreement between Rom-Control and the Customer pursuant to these Terms and the Quotation.

(c) By ordering Repair and Refurbishing Services or the Products (an **Order**), or by signing an Application for Credit or other financial accommodation with Rom-Control or accepting a Quotation and instructing Rom-Control to proceed with the Quotation, the Customer is taken to have accepted the terms and conditions set out in these Terms and the Quotation, and to have agreed that they apply to the exclusion of all others.

2. Quotation and Ordering

(a) If requested to do so by the Customer, Rom-Control may issue a Quotation in respect of any Repair and Refurnishing Services or Products proposed to be provided under these Terms. To avoid doubt, Rom-Control is not obliged to issue any Quotation and may refuse any request for Repair and Refurbishing Services or Products at any time in its absolute discretion.

(b) Any Quotation will remain open for acceptance for a maximum of thirty (30) days from the date of issue. Rom-Control may withdraw a Quotation at any time.

(c) A Quotation for Repair and Refurbishing Services will set out the following details:

(i) the Customer's name, address, and contact details, as well as the name, position, address and contact details for the Customer's contact person;

(ii) the nature of the Repair and Refurbishing Services to be provided pursuant to that Quotation;

(iii) the price payable for the Repair and Refurbishing Services (**Fees**), including any amount payable in advance (**Deposit**).

(d) A Quotation for Products will set out the following details:

(i) the Customer's name, address, and contact details, as well as the name, position, address and contact details for the Customer's contact person;

(ii) the Products to be provided pursuant to that Quotation, including the identity of the Manufacturer/Distributor; and

(iii) the price payable for the Products (**Fees**), including any amount payable in advance (**Deposit**).

(e) We may (but are not obliged to) accept Orders requiring Equipment or Products to be shipped outside of Australia from time to time, however customs clearance payments and/or procedures, and/or Manufacturer/Distributor delays or procedures may cause delays beyond our delivery estimates. We are not responsible for any delays resulting from those matters, or any other matters outside our control.

(f) To the extent of an inconsistency between these Terms and a Quotation, the Quotation prevails.

3. Fees

(a) The Customer acknowledges and agrees that there is a $375.00 minimum order fee required for any Order (**Minimum Order Fee**).

(b) The Fees and the Minimum Order Fee exclude:

(i) any GST within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or duty or impost levied in respect of the Repair and Refurbishing Services (other than any tax assessable on Rom-Control's own income);

(ii) any freight, delivery and handling charges (**Freight Charges**), and any costs and charges relating to insurance for the Equipment (**Insurance Charges**); and

(iii) any import taxes, customs duties and fees levied by the destination country (**Import Taxes**).

4. Invoicing and Payment

(a) The Fees and Deposit as well as the following (as applicable):

(i) any Expedited Services Surcharge under clause **Error! Reference source not found.**;

(ii) Freight Charges and Insurance Charges associated with the shipping of Products to the Customer,

shall be as specified by Rom-Control in the Quotation and will be invoiced by Rom-Control at the times stated in the Quotation (or if no times are stated in the Quotation, progressively as the Repair and Refurbishing Services are being performed or Products are being delivered).

(b) Payment is due in cleared funds within thirty (30) days of invoice unless Rom-Control otherwise specifies in writing in a Quotation. If Rom-Control does not receive payment by the due date, then without prejudice to its rights under these Terms or generally, Rom-Control may:

(i) charge the Customer interest on the amount outstanding at the rate for the time being fixed under section 2 of th2e *Penalty Interest Rates Act 1983* (Vic) (compounding daily); and/or

(ii) suspend or cease the provision of any Repair and Refurbishing Services and delivery of Products and defer the dates for performance of any Repair and Refurbishing Services or delivery of Products, whether under a particular Quotation or generally, until after the Customer has paid to Rom-Control the outstanding amount and interest and recovery costs, and if Rom-

Control requires it, advance payment for those or any future Repair and Refurbishing Services or Products.

(c) The Customer is liable for all expenses (including contingent expenses such as debt collection commission) and legal costs on a solicitor/own client basis incurred by Rom-Control in the enforcement of the Customer's obligations and the recovery of monies due from the Customer to Rom-Control.

(d) Rom-Control is entitled to set-off against any money owing to the Customer amounts owed to Rom-Control by the Customer on any account whatsoever.

5. Cancellations

(a) The Customer must not cancel any Order without obtaining Rom-Control's prior written consent, and then only on such terms as Rom-Control may determine.

(b) In the event that the Customer has requested and Rom-Control has agreed to the cancellation of any Order, the Customer will pay Rom-Control:

(i) the Minimum Order Fee;

(ii) any Expedited Services Surcharge under clause **Error! Reference source not found.**;

(iii) Fees for the time spent and costs accrued by Rom-Control preparatory to and in the course of fulfilling the Order up to and including the effective date of cancellation; and

(iv) the Freight Charges and Insurance Charges associated with the return of the Equipment to the Customer.

Terms applicable to Refurbishing and Repair Services only

6. Provision of Repair and Refurbishing Services

(a) By engaging Rom-Control to provide the Repair and Refurbishing Services, the Customer acknowledges and agrees that:

(i) any existing warranty for the Equipment may be made void as a result of the Repair and Refurbishing Services; and

(ii) the Customer will be liable if the Repair and Refurbishing Services breaches any agreement that the Customer may have with the manufacturer, designer, supplier or licensor of the Equipment or related technologies, or any other person. The Customer indemnifies and must keep indemnified Rom-Control from and against any loss, damage or liability suffered or incurred by Rom-Control arising from or in connection with any claim by any person alleging that the provision of the Repair and Refurbishing Services by Rom-Control in respect of the Equipment, the Equipment or their use, or Rom-Control's performance of its obligations under this Agreement, breaches any agreement that the Customer may have with the manufacturer, designer, supplier or licensor of the Equipment or related technologies, or any other person.

(iii) Rom-Control is not, and does not claim to be a registered distributor or reseller of the brands/products it repairs. All product names, trademarks, brands and logos used on this site are the property of their respective owners.

(b) The Customer may request the urgent provision of Repair and Refurbishing Services (**Expedited Services**). In that event, Rom-Control will be entitled to charge the Customer, or retain a surcharge for the Expedited Services (**Expedited Services Surcharge**) for the administrative and management work undertaken by Rom-Control to prioritise the Expedited Services, in addition to the standard Fees for the Repair and Refurbishing Services

(c) Any timeframes for the Repair and Refurbishing Services (including any Expedited Services) provided by Rom-Control to the Customer are estimates only, and Rom-Control is not liable for any delays or failure to achieve such estimated timeframes. Any estimated timeframes are also subject to the availability of any discrete electronic components that will be required for the Repair and Refurbishing Services (**Component**).

(d) Rom-Control will use commercially reasonable endeavours to provide the Equipment in working order on completion of the Repair and Refurbishing Services (or Expedited Services, as the case may be) within the estimated timeframe provided by Rom-Control to the Customer, however it cannot and does not guarantee that the Repair and Refurbishing Services (or Expedited Services, as the case may be) will be successful.

(e) The Customer acknowledges and agrees that:

(i) Rom-Control cannot and does not fully test the Equipment at the completion of the Repair and Refurbishing Services (or Expedited Services, as the case may be); and

(ii) If the equipment contains a programming/firmware or parameter component, Rom-Control will take all reasonable precautions to avoid loss of data. Nevertheless, it is the Customer's responsibility to re-instate the software/firmware, parameters or to calibrate the equipment on site after receiving the equipment from Rom-Control when such care cannot be achieved; and

(iii) the Customer is solely responsible for the removal and reinstallation of the Equipment and to test its functionality onsite.

(f) If the Repair or Refurbishing Services (or Expedited Services, as the case may be) are not successful, or Rom-Control concludes that the Equipment is unrepairable or unserviceable, or if the estimated timeframes for completion of the Repair or Refurbishing Services (or Expedited Services, as the case may be) are exceeded, the Customer will remain liable for:

(i) the Fees, Freight Charges, and Insurance Charges for the Equipment;

(ii) any applicable Expedited Services Surcharge

If Rom-Control is unable to complete the Repair and Refurbishing Services (or Expedited Services, as the case may be) due to its negligence, Rom-Control will not charge the Customer for the Fees.

7. Delivery of Equipment to Rom-Control

(a) All Equipment that requires Repair and Refurbishing Services (or Expedited Services, as the case may be) must be delivered to the premises of Rom-Control as specified in the Quotation, at the Customer's cost and expense.

(b) At the time of delivering the Equipment to Rom-Control, the Customer will also provide Rom-Control with:

(i) full details of the Customer, including the sender's name and at least two methods of contact (e.g. phone and email), and the Customer's telephone number and delivery address;

(ii) accurate, complete, and up-to-date information and documentation about the Equipment and any other
matters within the Customer's knowledge or control that may assist Rom-Control in performing its obligations under these Terms, including details of any hazards or other safety concerns about the Equipment; and

(iii) any further or other information requested by Rom- Control.

8. Delays and Variations

(a) If the completion of the Repair and Refurbishing Services (or Expedited Services, as the case may be) is delayed for any reason (including due to the Customer's acts or omissions), Rom-Control may charge the Customer for any reasonable costs and expenses Rom-Control incurs as a result of the delay.

(b) Rom-Control may vary the scope of the Repair and Refurbishing Services (or Expedited Services, as the case may be) without consultation with the Customer if, in Rom-Control's opinion, the variation is reasonably necessary to complete the Repair and Refurbishing Services (or Expedited Services, as the case may be). The Customer may request, and Rom- Control may agree, to a variation to the Repair and Refurbishing Services (or Expedited Services, as the case may be) in writing.

9. Delivery to the Customer

(a) Any times for delivery set out in a Quotation are estimates only and Rom-Control shall not be liable for failure to deliver, or for any delay in delivery. The Customer is not relieved of any obligation to accept or pay the Fees by reason of any delay, or any failure to deliver, any Equipment.

(b) The Customer will accept delivery of the Equipment in its present condition and location Ex Works (Incoterms 2000) from Rom-Control's premises. Without limiting the foregoing, the Customer will be responsible for the Freight Charges and Insurance Charges for the Equipment. Any assistance or cooperation provided by Rom-Control in connection with any such activities shall not have the effect of shifting any cost, liability or responsibility from the Customer to Rom-Control.

(c) If the Customer is unable or fails to accept delivery of any Deliverable, Rom-Control may send that Deliverable to a place of storage nominated by the Customer or failing nomination, to a place determined by Rom-Control. Such action shall be deemed to be delivery to the Customer. The Customer shall be liable for all costs, charges and expense incurred by Rom- Control as a consequence of the delay to accept delivery (including cancellation, demurrage, storage and standby charges).

10. Repairer's Lien

(a) Until full payment has been made for all Repair and Refurbishing Services (or Expedited Services, as the case may be), and any other sums in any way outstanding from the Customer to Rom-Control from time to time:

(i) Rom-Control may exercise a repairer's lien over the Equipment by retaining possession of the Equipment until all amounts owing to Rom-Control by the Customer have been paid in full;

(ii) the Customer has no claim against Rom-Control for any loss or damage arising from the exercise of the lien over the Equipment by Rom-Control; and

(iii) if the Equipment is in the possession of a third party to whom Rom-Control has subcontracted any part of the Repair and Refurbishing Services, Rom-Control's subcontractor may exercise that lien as if Rom-Control was exercising its rights of lien directly against the Customer.

11. Limited Warranty for Repair and Refurbishing Services

(a) Subject to the Customer's payment of the Fees in accordance with clause 4, Rom-Control grants the Customer a limited warranty over the Equipment for a period of 24 months from the date the Equipment is made available in accordance with clause 9(b) that the Equipment will be free from defects in materials and workmanship (under normal installation, use, storage, handling, and other normal conditions), provided that the Customer will install and test the Equipment onsite in a timely manner after delivery and in no event later than the warranty period. To avoid doubt, if the Equipment is returned to Rom-Control without payment of its invoice in accordance with its payment terms, then any work will be outside the scope of the warranty under this clause and will be subject to additional Fees and charges.

(b) Rom-Control will consider the Customer's warranty claim and may, in its sole discretion, deem that:

(i) the Equipment or Component is unserviceable, in which case Rom-Control will provide (at its option) a replacement for the Equipment or relevant Component or a credit for the amount equal to the Fees paid for the Equipment or Component; or

(ii) the Equipment or Component is serviceable, in which case Rom-Control will rectify the defective or non-compliant Repair and Refurbishing Services (or Expedited Services, as the case may be).

(c) The Customer agrees to cooperate with Rom-Control to minimise any costs associated with the activities set out in clause 11(b). To avoid doubt, the warranty in this clause is a "back to base" warranty, and the Customer is responsible for delivery of the Equipment to Rom-Control for assessment, and collection from Rom-Control.

(d) Any warranty claim must be by written notice to Rom-Control and received before the end of the 24-month warranty period, together with the return of the claimed defective Equipment or Component within this same period.

(e) This warranty is given in lieu of any other warranties, either express or implied, including that we disclaim any warranty of merchantability fitness for a particular purpose, quality, and/or non-infringement.

(f) The Warranty is void if items is damaged due to negligence, abuse, misuse, accident, modification, tampering, alteration, faulty installation and/or any event or circumstance beyond a party's reasonable control, such as any natural disaster, acts of war, riots, malicious damage, strikes, pandemics or epidemics (whether declared or undeclared), or any Federal or State or Territory-government restrictions on the movement of individuals and goods (**Force Majeure Event**).

Terms applicable to the supply of Products only (where Rom-Control is an approved reseller)

12. Supply of Products

(a) Rom-Control agrees to supply Products to the Customer that comply with the Quotation on these Terms. The supply is on a non-exclusive basis.

(b) The Customer acknowledges and agrees that the supply of Products does not include any right to access or use the Repair and Refurbishing Services on the Products, with such Repair and Refurbishing Services (if required by the Customer) to be ordered and paid for separately by the Customer.

13. Delivery of Products

(a) Rom-Control will ship the Products to the Customer's nominated delivery location as set out in the Quotation (**Delivery Location**) from Rom-Control's premises.

(b) Expected delivery dates quoted by Rom-Control for the delivery of the Products are estimates only. Rom-Control will use its best endeavours to meet expected delivery times, and Rom- Control is not liable for any delays or failure to achieve such estimated timeframes. Any estimated timeframes are also subject to the availability of the Products and

Manufacturer/Distributors' capacity to meet demand for the Products.

(c) On signing for the receipt of delivered Products at the Delivery Location, the Customer acknowledges and confirms to Rom- Control that the Products have been delivered in good order and condition.

14. Limited Warranty for Products

(a) The Products are subject to the terms of the relevant Manufacturer/Distributor's warranty (**Manufacturer/Distributor Warranty**), a copy of which will be provided to the Customer at the same time as the delivery of the Products to the Delivery Location.

(b) On signing for the receipt of delivered Products at the Delivery Location, the Customer acknowledges and confirms to Rom-Control that it has received a copy of the terms of the Manufacturer/Distributor Warranty.

(c) To the extent permitted by law, Rom-Control provides no warranties for the Products, including any warranty of merchantability, fitness for a particular purpose, quality, and/or non-infringement. Any warranty claims relating to the Products should be directed to the Manufacturer/Distributor in accordance with the Manufacturer/Distributor Warranty.

15. Recall of Products

(a) The Manufacturer/Distributor (or a government entity) may initiate a product recall or market withdrawal in respect of a Product (**Recall**). IN that case, the Customer acknowledges and agrees that:

(i) the Manufacturer/Distributor will notify the Customer and the Manufacturer/Distributor will be responsible for managing such Recall and for all costs associated with the Recall, including issuing the Customer with a credit for recalled Product and the Customer's reasonable costs associated with required corrective actions in connection with the Recall; and

(ii) Rom-Control is not liable for the Recall or any costs associated with the Recall.

Terms applicable generally to Services and to Products

16. Personal Property Securities Act

(a) The Customer acknowledges and agrees that:

(i) the property in any goods, materials, equipment or parts provided in the course of performing the Repair and Refurbishing Services or Products (**Goods**) are inventory for the purposes of the *Personal Property Securities Act 2009* (Cth) (**PPSA**) and will not pass to the Customer (but the risk to the Goods will pass to the Customer on the date of delivery); and

(ii) Rom-Control retains a security interest in all Goods previously supplied by Rom-Control to the Customer (if any) and all Goods that will be supplied in the future by Rom-Control to the Customer during the continuance of the parties' relationship.

(b) The Customer undertakes to:

(i) promptly and at its own cost, sign any further documents and provide any information that Rom-Control may reasonably require to register a required document on the Personal Property Securities Register;

(ii) indemnify, and upon demand reimburse, Rom-Control for all expenses incurred in registering a required document on the Personal Property Securities Register or releasing any Goods charged thereby;

(iii) not register, or permit to be registered, a financing change statement or a financing change statement in respect of a security interest without the prior written consent of Rom-Control; and give Rom-Control at least 14 days prior written notice of any proposed change in the Customer's name or any other change in the Customer's details.

(c) Rom-Control and the Customer agree that nothing in sections 130(1)(a) and 143 of the PPSA will apply to these Terms.

(d) The Customer waives its rights under sections 92, 93, 94, 95, 97, 118, 121, 132, 135, 137, 140, 142, and 157 of the PPSA.

(e) The Customer further agrees that where Rom-Control has rights in addition to those under Chapter 4 of the PPSA, those rights will continue to apply.

(f) The Customer unconditionally ratifies any actions taken by Rom-Control under clauses 10(a) to 16(e), and agrees that this clause 10 will survive termination of these Terms.

17. Confidentiality

Neither party may, without the other party's prior written consent, disclose to any third party or use other than for the purposes of providing or receiving Repair and Refurbishing Services, any information that is treated or designated by the other party as confidential or which would be reasonably regarded as confidential (**Confidential Information**). This obligation of confidence will cease to apply in relation to Confidential Information that the party is required to disclose by any law, or which becomes part of the public domain other than as the result of a breach of an obligation of confidence by any party.

18. Intellectual Property Rights

(a) All intellectual property rights (including any design drawings, plans, software or any documentation) (**Intellectual Property Rights**) relating to the Repair and Refurbishing Services remains the property of Rom-Control or where applicable its licensors. The Customer will promptly notify Rom-Control of any infringement or threatened infringement of any of Rom-Control's Intellectual Property Rights.

(b) The Customer acknowledges and agrees that it will be liable for any claim by any person alleging that the provision of the Repair and Refurbishing Services by Rom-Control in respect of the Equipment infringes the Intellectual Property Rights of any person. The Customer indemnifies and must keep Rom- Control indemnified from and against any loss, damage or liability suffered or incurred by Rom-Control arising from or in connection with any claim by any person alleging that the provision of the Repair and Refurbishing Services by Rom- Control in respect of the Equipment, the Equipment or their use, or Rom-Control's performance of its obligations under this Agreement, infringes the Intellectual Property Rights of any person.

19. Warranties

(a) The Customer warrants that any information supplied to Rom-Control is true, correct, and accurate; all charges made against any credit card or other financial information supplied to Rom-Control will be honoured by the relevant credit card provider; and it is and shall remain in full compliance with any applicable Australian, State and/or local regulations.

(b) Rom-Control warrants that it will perform the Repair and Refurbishing Services with due care and skill using appropriately trained and qualified personnel.

(c) Except for the express warranties set out in these Terms, to the extent permitted by the law, Rom-Control expressly excludes all conditions and warranties. Where legislation implies any condition or warranty (**non-excludable term**), and that legislation avoids or prohibits provisions in a contract excluding, or modifying the

application or exercise of or liability under such a non-excludable term, that non-excludable term is deemed to be included in these Terms. However, Rom-Control's liability for any breach of that non-excludable term is limited, at Rom-Control's option, to the supply of equivalent goods or services, or paying the cost of supplying equivalent goods or services.

20. General Terms

(a) Rom-Control will not be liable to the customer or to any third party for any non-performance or delay in the performance of its obligations under these Terms or a Quotation, if a Force Majeure Event causes the non-performance or delay. In no event will this provision affect the Customer's obligation to make any payments to Rom-Control.

(b) Rom-Control may engage third parties on a sub-contract or consultancy basis, to provide or to assist in the provision of Works.

(c) These Terms and any Quotation are governed by and will be interpreted according to the laws of Victoria, and Rom-Control and the Customer consent and submit to the jurisdiction of the courts of Victoria.

(d) Nothing under these Terms or a Quotation constitutes a relationship of employer or employee, principal and agent, joint venture or partnership between Rom-Control and the customer.

(e) If any provision of these Terms or a Quotation proves to be illegal or unenforceable, that provision is deemed omitted without affecting the remaining provisions.

(f) Any notice required or contemplated these Terms or a Quotation is deemed to have been properly given if it is in writing, properly addressed and delivered personally, mailed, faxed or emailed to the Customer or Rom-Control at their addresses set out in the quotation, or such other address nominated by a party in writing.