1. DEFINITIONS AND INTERPRETATION

In these Conditions:

1.1 the following terms have the following meanings:

"Affiliate" any persons that Control, are Controlled by or are under common Control with us from time to time;

"Change" any mechanical, software or other change in design, manufacturing process, supply chain, specifications, materials or product standards (including part substitutions or internal relocation of parts) which affects or potentially affects performance, reliability, function, safety, appearance, quality of service, results or any other Specifications of Deliverables;

"Claims" claims or proceedings made, brought or threatened against us by any person;

"Confidential Information" any Contract and any information that relates to a party (or any of its Affiliates) disclosed in confidence in connection with the Contract, but excluding information received by the other party that: (i) is publicly available (other than through a breach of Condition 11); (ii) was received from a third party who did not acquire it in confidence, or (iii) is developed without any breach of the Contract;

"Contract" a contract for the supply of Deliverables by you to us incorporating these Conditions, including pursuant to a Framework Agreement, as formed under Condition 2.1; "Control" in relation to a person, the power to direct or cause the direction of its affairs, whether by means of holding shares, possessing voting power, exercising contractual powers or otherwise and "Controlled" is construed accordingly;

"Deliverables" means Goods, Work Product and/or Services;

"Delivery" delivery of the Goods in accordance with Condition 4;

"Framework Agreement" a framework agreement in place between you and us for the supply of Deliverables incorporating these Conditions;

"Goods" the goods set out in the Order or any Specification or referred to in the Framework Agreement;

"IPR" all intellectual and industrial property rights of any kind including patents, trade secrets, supplementary protection certificates, rights in know-how, registered and unregistered trade marks and designations, and any know-how made available or delivered to us; "invention" includes database rights, topography rights, any rights in any invention, discovery or process, and applications for and rights to apply for any of the foregoing, in all countries in the world and together with all renewals, extensions, continuations, divisions, reissues, re-examinations and substitutions;

"IPR Claim" a Claim that the possession, use and/or sale of Deliverables by us, our Affiliate or our or their Customers infringes the IPR of any person;

"Liability" liability arising out of or in connection with a Contract, whether in contract, tort, misrepresentation, restitution, under statute or otherwise including any liability under an indemnity contained in a Contract and/or arising from a breach of failure, to perform or delay in performing any of a party’s obligations under a Contract, howsoever caused including if by negligence;

"Losses" all losses, liabilities, costs, demands, damages and expenses that are or will be incurred by us or our Affiliates in respect of any Claims, including IPR Claims;

"Order" our written acceptance of your quotation for the supply of Deliverables to us and/or any purchase order submitted to us by you for Deliverables;

"Price" the lower of the price for the Deliverables set out in the Order and your price for the Deliverables in force at the time of Delivery of Goods or completion of Services; or (ii) where there is a Framework Agreement in place, the price for the Deliverables as set out in the Framework Agreement;

"Services" the services set out in the Order or any Specification or referred to in the Framework Agreement;

"Specification" the specifications and requirements for the Deliverables set out or referred to in the Order or as defined in the Framework Agreement;

"we" or "us" or "our" means the person named as the supplier in the Order and/or referred to as the "Supplier" in a Framework Agreement;

"Work Product" any reports, documents, work product or other materials created for us by you or on your behalf arising from the Services;

"you" the person named as the supplier in the Order and/or referred to as the "Supplier" in a Framework Agreement;

1.2 headings are for ease of reference and do not affect the interpretation of these Conditions;

1.3 references to a "person" include any individual, body corporate, partnership, government authority, agency or department, state or any other entity (in each case whether or not having separate legal personality);

1.4 any words following the words "include", "in particular" or any similar expressions will be construed without limitation and accordingly will not limit the meaning of the words preceding them;

1.5 an obligation on a party to procure or make sure the performance or standing of another person will be construed as a primary obligation of that party;

1.6 a reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision; and

1.7 the English language version of these Conditions is the binding version as between you and us. Any translation or interpretation of any part of this document is intended to assist in understanding the Conditions and any差异 or inconsistency between the English language version of these Conditions and any translated version, the English language version shall prevail. In the event of any conflict, ambiguity or inconsistence between the English language version of these Conditions and any translated version, the English language version shall prevail.

2. CONTRACT FORMATION

2.1 A Contract is formed when we accept any quotation issued by you (verbal or written) by issuing an Order (whether or not there is a Framework Agreement in place) OR where you accept any act or omission, warranties, representations or instructions by us or any one of us or any person that we have engaged to act on our behalf; we are not obliged to accept any quotation issued by you.

2.2 These Conditions are the only terms and conditions on which we will purchase Deliverables. They apply in place of any terms and conditions that you may seek to apply or which may otherwise be implied, including any which are endorsed on, delivered with or contained in your quotation. Order acknowledgement, on your website or other sales materials or media or on any delivery note ("Seller T&Cs") and we waive any rights to rely on any such
5.1.2 You will make sure that the Goods are marked in accordance with our instructions and that they are correctly packed and secured; marked with the address; and that all Customs documents (if applicable) are furnished.

5.1.3 You will make sure that the Goods are of satisfactory quality, comprise genuine, new materials (which are not conditioned, remanufactured, counterfeit or of such age as to impair usefulness or safety) and be fit for any purpose notified by us; are of such age as not to impair usefulness or safety; are new (except where specifically specified as used, refurbished, recoi

5.1.4 You must make sure that the Goods do not contain any special equipment, components or materials which are subject to any export licence requirements or any other restriction.

5.2.1 You will arrange for us to carry out any reasonable Change that we request to any Deliverable without any hidden costs.

5.2.2 Where Goods are not manufactured specifically for us to our Specification, our sole Liability will be limited to providing a reasonable restocking charge.

3. QUALITY CONTROL & TESTING

3.1 The quantity, description and Specification of Deliverables will be as set out in the Order. You must not make any changes to Deliverables without our written consent.

3.2 You will maintain detailed quality control and manufacturing records for the shorter of any maximum period permitted by law and ten (10) years from the date of Delivery (or such other period of time as set out in a Framework Agreement or Order), which we or a third party on our behalf may call for in order to inspect, test or otherwise in respect of the Deliverables.

3.3 We may inspect and test Goods at any time prior to Delivery. You will allow us and our representatives to enter your premises to carry out such inspection and testing and will provide us with all facilities reasonably required. If, following such inspection or testing, we are not satisfied that the Goods will comply with Condition 5.1, you will take all steps necessary to ensure compliance.

3.4 You will maintain a quality control system that meets any international standard as required by us, or which is otherwise approved by us and such test and inspection system as we may require.

3.5 You may not deliver the Goods by separate instalments without our prior written consent. Installation and testing must be in accordance by 5.1.2.4. DELIVERY OF GOODS / SUPPLY OF SERVICES

4.1 Unless otherwise specified in an Order, you will deliver the Goods (incoterm 2010) during our normal business hours on the date specified in the Order. You will be responsible for off-loading the Goods from the delivery vehicle. Delivery of the Goods will occur when they have been off-loaded at the delivery address.

4.2 You will perform Services in accordance with the applicable timetable communicated to you or as set out in the Order to meet all Specifications.

4.3 Time of the essence for performance of your obligations under the Contract. If you are late performing an Obligation under the Contract, we will pay to our a sum equal to 1.5% of the Price for each week of delay up to a maximum of 15% of the Price. You and we agree that this amount is reasonable and proportionate AND the most effective way of compensating us for any loss of rents arising from late performance. However, you and we intend that we should be able to recover general damages as well as such sums in circumstances where we have suffered loss in excess of such sums as a result of your late performance. Therefore, our rights to any sums under this Condition shall be in addition to, and not in substitution for, any other right we have.

4.6 If you fail to deliver the Goods on time we may terminate the Contract immediately by giving you notice. In which case you will refund any moneys already paid by us in relation to the Goods that have not been delivered and indemnify us and our Affiliates against all expenses as a result of your failure to supply Goods, including obtaining substitute goods from another supplier.

4.7.1 You will have a reasonable period of time following Delivery to inspect Goods. We may reject Goods which do not meet Specifications. We can also reject Goods which are more or less than the quantity or type Ordered or delivered prior to the date specified on the Order. Rejected Goods will be returned at your cost and expense. If we accept Goods delivered prior to the date specified on the Order we may charge you the cost of storing them until the actual specified Delivery date.

4.8.1 In the event that Goods are kept in store by us, you will pay all expenses associated with the Goods.

4.9.1 In the event of any dispute as to whether Goods are defective or not, the dispute will be resolved in accordance with the Specifications or based on the date of Delivery of the Goods to us.

5.1.5 You will make sure that the delivery to us of the Goods is without risk to health.

5.1.6 You will make sure that the Goods do not contain any special equipment, components or materials which are subject to any export licence requirements or any other restriction.

5.2.1.2 You will perform Services with the best care, skill and diligence in accordance with best practice; use personnel (and sufficient number of personnel) who are suitably skilled and experienced to perform the Services; use reasonable skill and care in performing the Services; and use equipment of a standard suitable for performing the Services.

5.2.2.2 In respect of Services, You will:

5.2.2.1.1 perform Services with the best care, skill and diligence in accordance with best practice;

5.2.2.1.2 use personnel (and sufficient number of personnel) who are suitably skilled and experienced to perform the Services;
5.23 si accontenti che i Servizi siano conformi alle nostre ragionevoli istruzioni, rispettivamente le Specifiche tecniche, siano eseguiti con le finalità finite dopo la conclusione delle Forniture e non violino alcun DPI di terze parti.

5.24 fornirà tutte le attrezzature, gli strumenti, i veicoli e altri elementi richiesti da prestare ai Servizi; e

5.25 interverrà e manterrà validi in ogni momento tutte le licenze e i permessi richiesti per l'erogazione dei Servizi;

6.5 la società che Smith Group plc possa, in caso di necessità, provvedere a organizzare tale campagna e il Fornitore custodirà tutta la Strumentazione al sicuro e in buone condizioni mentre è sotto la sua custodia e/o sotto il suo controllo. La Strumentazione sarà custodita separatamente rispetto alla propria giacenza e al proprio inventario.

6.3 Smith Group plc si impegna ad osservare tutti i regolamenti e le normative in materia di sicurezza e incolumità individuali e garantirà che qualsiasi altra requisito di sicurezza applicabile a tutte le nostre strutture e garantirà che il suo personale sia adeguatamente aliniato e formato in base alle migliori prassi imposte dall’ambiente, Smith Group plc dovrebbe stabilire la necessità e determinare l’adempimento di una campagna di rimozione o correzione (nel caso, la “campagna”), Smith Group plc potrebbe provvedere a organizzare tale campagna e il Fornitore manterrà la “Strumentazione” e le sue Affiliati contro tutte le Perdite sorte in virtù della suddetta campagna.

7.6.5 il Fornitore si impegna a fornire la descrizione completa e accurata di qualsiasi Strumentazione, materiali, o altre assegnazioni di proprietà di Smith Group plc per uso proprio.

7.6.5 il Fornitore si impegna a fornire le descrizioni complete e accurate di qualsiasi Strumentazione, materiali, o altre assegnazioni di proprietà di Smith Group plc per uso proprio.

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You will send invoices to the address specified in the Order.

8.6 No payment made by us will constitute acceptance by us of any Deliverables or otherwise affect the rights of either party which we may have against you including the right to recover any amount overpaid or wrongly paid to you.

8.7 We may withhold payment of any disputed sum until the dispute is settled.

8.8 If any undisputed sum payable under the Contract is not paid when due you may charge interest daily on that sum at 3% per year subject to any maximum or minimum rate of interest on overdue invoices specified by applicable law, from the due date until the date of payment (whether before or after judgment).

8.9 We may deduct or withhold any liability which you have to us against any liability which we have to you.

9. TERMINATION

9.1 Without limiting any other right we may have to terminate a Contract, if you commit a material breach of these Conditions we may terminate the Contract and any other existing Contracts immediately with written notice. Any breach of Conditions 11, 12 or 15.9 will be deemed to be a material breach.

9.2 Without limiting any other right we may have to terminate a Contract, we may terminate the Contract immediately by giving you written notice if you (a) have a receiver, administrator or liquidator (provisional or otherwise) appointed; (b) are subject to a notice of intention to appoint an administrator or any other resolution on insolvent liquidation; (c) pass a resolution for your winding-up; (d) have a winding up order made by a court in respect of you; (e) enter into any composition or arrangement with creditors; (f) cease to carry on business; (g) are the subject of anything similar or equivalent to that set out in (a) to (f) under any applicable laws; or (h) you are subject to any change of Control and you will notify us immediately upon the occurrence of any such event or circumstance.

9.3 Following expiry or termination of the Contract:

9.3.1 any Conditions which expressly or implicitly continue to have effect after expiry or termination of the Contract will continue in force;

9.3.2 all other rights and obligations will immediately stop but will not affect any of your or our rights, obligations, claims and liabilities which may exist prior to the date of expiry or termination;

9.3.3 each party will immediately stop using the other party’s Confidential Information and will as soon as practicable return to the other party all of the other party’s Confidential Information (including all copies and extracts) in its possession or control or confirm its secure destruction; and

9.3.4 each party may keep any of the other party’s Confidential Information which it has to keep confidential under the terms of Condition 9.3.3 not to apply to such Confidential Information. Condition 11 will continue to apply to retained Confidential Information.

9.4 If we terminate a Contract, we may require you to deliver to us any supplies, materials or drawings produced or acquired by you for the terminated part of the Contract and we will agree, in good faith, on the amount payable for the same.

10. LIABILITY AND INSURANCE

10.1 You will indemnify us and our Affiliates against all our and their Losses arising from your breach or of negligent performance of or your failure to perform or delay in performing any part of these Conditions. We may, at our discretion, control the defence of any action or proceeding brought against one of us claiming damages against you.

10.2 Subject to Condition 10.3, we will not have any Liability to you for any (i) loss of profit, goodwill or revenue; or (ii) indirect, consequential or special loss.

10.3 Nothing in these Conditions or any Contract will operate to exclude or restrict one party’s Liability (if any) to the other (including for a person for whom it vicariously laces):

10.3.1 for death or personal injury resulting from its negligence;

10.3.2 for fraud or fraudulent misrepresentation;

10.3.3 for any matter for which it is not permitted by law to exclude or limit its liability.

10.4 The exclusions from and limitations of liability contained in these Conditions will apply as well as being independent of any other exclusions.

10.5 The exclusions from, and limitations of, liability set out in this Condition 10 will be considered severally. The invalidity or unenforceability of any one sub-clause or clause will not affect the validity or enforceability of any other sub-clause or clause and will be considered severable from each other.

10.6 You will have satisfactory insurance cover with a reputable insurer to cover your obligations to us, including liability insurance cover, cover for any potential liabilities arising from a Contract and any insurances required by law. You will provide evidence of your insurance coverage at our request.

11. CONFIDENTIALITY

11.1 Except as set out in Condition 11.2, each party will:

11.1.1 only use the other party’s Confidential Information for the purpose of performing its obligations and exercising its rights under the Contract;

11.1.2 keep the other party’s Confidential Information secret, safe and secure; and

11.1.3 not disclose the other party’s Confidential Information to any other person.

11.2 Each party may disclose the other party’s Confidential Information:

11.2.1 to the extent required by law, any court of competent jurisdiction or the rules of any government, public or regulatory body or any stock exchange, and

11.2.2 to your employees and professional advisers and, in our case, our Affiliates, agents and sub-contractors, who need the Confidential Information in order for that party to perform its obligations and exercise its rights under the Contract. A party disclosing the other party’s Confidential Information under Condition 11.2.2 will make sure that each person to whom it discloses that Confidential Information is bound by obligations of confidentiality no less onerous than those set out in this Condition 11.2.

11.3 Each party acknowledges and agrees that damages alone would not be an adequate remedy for breach of this condition and that an injunction or similar remedy will be the remedy without having to prove special damages, to injunctive relief, equitable relief and/or specific performance for any breach or threatened breach of Condition 11 by the first party.

12. ETHICAL CONDUCT

12.1 You will conduct your business ethically and lawfully and in accordance with our Supplier Code of Business Ethics (http://www.smiths.com/responsibility-supplier-code-of-business-ethics.aspx) or an equivalent code of ethics.

12.2 You represent and warrant that you or your sub-contractors and suppliers do not use or permit unacceptably labour practices, such as child or forced labour, or unsafe working conditions.
conditions and comply with all applicable labour and employment laws, regulations, standards and conventions, including the UN’s Guiding Principles on Business & Human Rights and the International Labor Organization’s Conventions and any similar or equivalent laws applying in the jurisdiction in which we are registered.

12.3 You hereby acknowledge that you are aware of, and agree to comply with all applicable anti-bribery and anti-corruption laws, including but not limited to the Foreign Corrupt Practices Act (FCPA) (and related regulation and guidance) and any similar or equivalent laws applying in the jurisdiction in which we are registered.

12.4 You represent and warrant that you only supply minerals to us and our Affiliates from sources that do not (i) contribute to conflict; and/or (ii) finance armed groups in the Democratic Republic of Congo or any adjoining country. You have adopted, and require your suppliers of minerals to adopt, conflict mineral policies and management systems.

12.5 You will permit us, and any person nominated by us, to have such access to your premises, personnel, systems, books and records as we may require to verify your compliance with this Condition 12. We also reserve the right to inquire and investigate your conduct to satisfy ourselves of your compliance with this Condition 12 and to discontinue a business relationship with you if you or any of your officers, directors or employees is found to have breached any part of this Condition 12.

13. NOTICE

13.1 Notices and other communications provided for the purposes of a Contract will be in writing, and delivered by courier or by hand to the relevant party’s address as specified on the Order (or such other address which is notified to the other party in writing from time to time), in the case of a notice to us, marked for the attention of such person as we specify.

14. EXPORT / IMPORT / ECONOMIC SANCTIONS CONTROLS

14.1 You agree to comply with all applicable export controls and import and economic sanctions laws and regulations, including those of your country of incorporation, from where the Goods will be supplied, where the Goods will be received and any other relevant jurisdiction. You will also obtain, as required, and comply with all applicable government authorizations and their provisos in supplying the Goods. Without limiting the foregoing, you will not transfer any export controlled item, data or services provided by us in relation to the Contract, to include transfer to any persons, including those persons employed by or associated with, or under contract to you or your lower-tier suppliers, without the authority of an applicable licence, exemption or exception.

14.2 You will provide to us all information necessary to support any regulatory or government authorization requirements we have regarding the Goods.

14.3 You will indemnify us and our Affiliates for all Losses arising out of any breach by you of this Clause 14.

15. GENERAL

15.1 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter and, subject to Condition 10.3, neither party has entered into the Contract in reliance upon, and it will have no remedy in respect of, any misrepresentation, representation or statement (whether made by the other party or any other person and whether made by the first party or any other person) which is not expressly set out in the Contract.

15.2 A party’s delay in exercising, partial exercising or failure to exercise a right or remedy under the Contract will not constitute a waiver of, or prevent or restrict future exercise of, that or any other right or remedy. A waiver of any right, remedy, breach or default will only be valid if it is in writing and signed by the party giving it.

15.3 If any term of the Contract is found by any court or body of authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, such term will be deemed to be severed from the Contract and this will not affect the remainder of the Contract which will continue in full force and effect.

15.4 Except to the extent otherwise specified in these Conditions, variations to the Contract must be agreed in writing and signed by both parties.

15.5 No partnership, agency or joint venture between the parties will be created by the Contract.

15.6 Each party agrees that it is an independent contractor and is entering into the Contract as principal and not as agent for or for the benefit of any other person.

15.7 Each of our Affiliates will be entitled to enforce in their own capacity the terms of any Contract under which Affiliate receives a benefit and we shall also be entitled to enforce such terms on their behalf.

15.8 Save as provided in Condition 15.7, the parties do not intend that any term of a Contract will be enforceable by any person who is not a party to it.

15.9 You may not assign, transfer, charge, hold on trust for any person or deal in any other manner with any of your rights under the Contract or sub-contract any of your obligations under the Contract. We may assign a Contract to our Affiliates.

16. GOVERNING LAW AND JURISDICTION

16.1 The Contract and any non-contractual obligations arising in connection with it are governed by the law of the jurisdiction in which we are registered or incorporated. The courts of such jurisdiction (and if applicable to the relevant jurisdiction any district in which we are registered) have exclusive jurisdiction to determine any dispute arising in connection with the Contract.