

TERMS AND CONDITIONS OF SUPPLY

The Purchaser's attention is particularly drawn to the provisions of Condition 9 (Limitation of Liability).

1. DEFINITIONS

In these Conditions:

- (a) **"Affiliate"** means any entity that controls, is controlled by, or is under common control with a party, and **"control"** means the ability, directly or indirectly, to direct the affairs of another by means of ownership, contract, or otherwise.
- (b) **"Commencement Date"** has the meaning set out in Condition 2(b).
- (c) **"Company"** means the Smiths Detection company identified in the Quotation.
- (d) **"Contract"** means the contract between the Company and the Purchaser for the supply of Goods, Services and/or Software in accordance with these Conditions.
- (e) **"Conditions"** means these terms and conditions of supply.
- (f) **"Data Protection Legislation"** means all applicable laws, statutes, regulations, rules, guidelines and codes from time to time in force relating to the processing of personal data and data privacy including, but not limited to, the General Data Protection Regulation ((EU) 2016/679), the Data Protection Act 2018 (**"UK DPA 2018"**), the UK GDPR (as defined in section 3(10) of the UK DPA 2018) and any successor legislation that replaces, extends, re-enacts, consolidates or amends any of the foregoing.
- (g) **"controller", "processor", data subject, "Personal Data", "Personal Data Breach", "processing"** (and similar terms) and **"appropriate technical and organisational measures"** are as defined in the applicable Data Protection Legislation.
- (h) **"e-Learning"** means Training Services made available digitally for independent learner access to the Company's digital learning platform.
- (i) **"Force Majeure Event"** means any cause beyond the Company's reasonable control including, without limitation, any of the following: act of God, exceptional adverse weather conditions, flood, storm, lightning or fire, strike or lockout, terrorist activity, the act or omission of Government or administrative or other competent authority, war, military operations or riot, national emergencies, outbreak of infectious disease, epidemic or pandemic (including, without limitation, Covid-19 restrictions).
- (j) **"Goods"** means any item of goods, hardware or equipment of whatsoever nature which is sold by the Company to the Purchaser.
- (k) **"ICC Incoterms"** means the latest International Chamber of Commerce's Incoterms as published from time to time.
- (l) **"Initial Licence Period"** has the meaning given in Condition 24(a).
- (m) **"Initial Software Maintenance Period"** has the meaning given in Condition 25(c).
- (n) **"Intellectual Property Rights"** means patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), 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.
- (o) **"Instructor Led Training"** means Training Services delivered by a Company trainer at the Company's or Purchaser's premises, or other location agreed between the Parties.
- (p) **"Location"** means, if applicable, the physical location at which Software is to be installed.
- (q) **"Losses"** means losses, claims, causes of action, suits, damages, liabilities and expenses (including, without limitation, fees and disbursements of legal counsel and expenses of litigation).
- (r) **"Operator"** means the operator or user of Goods or Software.
- (s) **"Order"** shall mean the Purchaser's order for the sale and purchase of Goods, Services and/or the licensing of Software, as set out in the Purchaser's purchase order form or other written document between the Company and the Purchaser (individually **"Party"** and collectively **"the Parties"**).
- (t) **Order Acceptance** shall mean an acceptance by the Company in writing of the Order by issue of an order confirmation, order acknowledgement or other written means.
- (u) **"Purchaser"** means the company, firm or individual who has bought, or agreed to buy, the Goods and/or Services and/or a licence to use the Software, as the case may be.
- (v) **"Purchaser Delays"** means any delay by Purchaser in performing any contractual obligations or any other circumstances for which the Purchaser is responsible, including, without limitation, failure or delays in providing any necessary access to the Purchaser's location, failures or delays in preparing the site, failures or delays to attend testing (if required), provide adequate delivery instructions, take delivery, arrange shipment or import licences, or be available for installation and/or training.
- (w) **"Quotation"** means the quotation provided to the Purchaser by the Company.
- (x) **"Renewal Licence Period"** means, unless otherwise specified in the Order Acceptance, a period of 12 months commencing on an anniversary of the commencement of the Initial Licence Period.
- (y) **"Renewal Software Maintenance Period"** has the meaning given in Condition 25(c).
- (z) **"RMA"** means Return Material Authorization.

- (aa) **"Software"** means any software programs to be licensed by the Company to the Purchaser, including any upgrades and updates to be licensed by the Company, in each case as specified in the Order.
- (bb) **"Services"** means all services, including without limitation maintenance and installation services and Training Services provided under the Contract.
- (cc) **"Software Licence Fees"** means the annual fees payable by the Purchaser to the Company in return for the grant of a licence to use the Software during the Initial Licence Period or Renewal Licence Period (as applicable), as set out in Order Acceptance.
- (dd) **"Software Maintenance Fees"** means the annual fees payable by the Purchaser to the Company in return for the provision of the Software Maintenance Services during the Initial Software Maintenance Period or Renewal Software Maintenance Period (as applicable), as set out in the Order.
- (ee) **"Software Maintenance Services"** means the software maintenance services (if any) to be provided by the Company to the Purchaser, as described in the Order Acceptance.
- (ff) **"Software Warranty Period"** means a period of 90 days from the date of delivery or deemed delivery of the Software.
- (gg) **"Specification"** means, in relation to any Software, a description of the key features and functionality of that Software, as published or otherwise made available by the Company from time to time.
- (hh) **"Training Services"** means the instruction or other training provided by the Company in respect of the operation and/or maintenance of Goods sold or Software supplied by the Company (which can be delivered in the form of e-Learning, Virtual Training or Instructor Led Training).
- (ii) **"Virtual Training"** means Training Services delivered live by a trainer through digital means.
- (jj) **"Working Day"** means a day other than a Saturday, Sunday or public holiday in the Netherlands.

2. GENERAL

- (a) The Quotation does not constitute an offer to supply any Goods, Services or Software and is only valid for a period of 30 days from the date of issue, unless otherwise stated to the contrary on the face of the Quotation or otherwise in writing by the Company. Notwithstanding the validity period of the Quotation, the Company reserves the right to withdraw the Quotation at any time prior to the Order Acceptance.
- (b) Each Order or acceptance of a Quotation by the Purchaser shall be deemed to be an offer by the Purchaser subject to these Conditions. The Purchaser shall ensure that each Order is complete and accurate. No contract exists unless and until there has been an Order acceptance at which point and on which date the Contract shall come into existence (the **"Commencement Date"**).
- (c) The Order Acceptance whether or not based on a Quotation from the Company shall, unless otherwise specifically agreed by the Company in writing, be subject to these Conditions which shall apply to the exclusion of any other provisions contained in any document issued by the Purchaser at any time before or after the Contract and, in particular, but without prejudice to the generality of the foregoing, contained in any Order or implied by law, custom, practice or course of dealing.
- (d) Unless otherwise stated in writing all descriptions, specifications, advertising, brochures, drawings and particulars of weights and dimensions submitted or made available by the Company or otherwise contained in the Company's handbooks, manuals, catalogues, brochures, price lists and other published matter, or on the Company's website, are approximate only and none of these form part of the Contract (or any other contract) or give rise to any liability on the part of the Company, being intended merely to present a general idea of the Goods, Software or Services as described therein.
- (e) The performance figures in respect of the Goods, Software or Services included in the Company's specifications, product brochures, on the Company's website, and other published matter are based on results obtained by the Company in tests and the Company accordingly gives no warranty that the Goods, Software or Services will be suitable for any particular use to which the Purchaser may put them or how they will perform in such use or application.
- (f) The Purchaser shall ensure that any of its employees, agents, contractors or representatives or other person to whom the Purchaser shall provide the Goods, Software or Services shall receive a copy of any operator manual in respect of the Goods, Software or Services which is available from the Company.

3. PRICE

- (a) Except as otherwise stated in these Conditions, the price of the Goods, Services and/or licences to use the Software is that current at the date of the Order Acceptance.
- (b) The Company reserves the right to increase the price of the Goods, the Services and/or the Software Licence Fees by giving notice to the Purchaser at any time before delivery to reflect any increase in the cost of the Goods, Services and/or licences to use the Software to the Company that is due to: (i) any request by the Purchaser to change the mode or place of delivery, delivery date(s), quantities or types of Goods, Services and/or Software licences ordered or the Purchaser requesting any other alteration to the Contract; (ii) a request by the Purchaser to make any modification to the Goods, Services and/or Software; (iii) increases in the cost of raw materials or other input costs; or (iv) any factor beyond the reasonable control of the Company (including but not limited to foreign

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exchange fluctuations, increases in taxes and duties and price increases in labour, materials and other manufacturing or development costs).

- (c) The Company reserves the right to increase charges for Goods, Services (including the Software Maintenance Services, the Software Licence Fees and/or the Software Maintenance Fees) on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase over the preceding 12-month period in an appropriate index chosen by the Company, and the first such increase shall take effect on the first anniversary of the Commencement Date.
- (d) The price of the Goods includes the cost of basic packaging. The cost of any special packaging shall be determined at the date of invoice and shall be payable by the Purchaser.
- (e) Where the Company bears the cost of carriage of the Goods in accordance with the ICC Incoterm applicable to the Contract, the price for freight/carriage assumes that Goods will be transported by land or sea freight. Any cost for airfreight will be charged separately to the Purchaser.
- (f) The price of the Goods and Services, and the Software Licence Fees and Software Maintenance Fees exclude Value-Added Tax (VAT) which shall be charged at the prevailing rate at the time of invoice, if applicable.

4. PAYMENT

- (a) In respect of Goods, the Company shall invoice the Purchaser 25% of the price of the Goods on or at any time after the Commencement Date. The Company shall invoice the balance of the price of the Goods on or at any time after completion of each delivery in accordance with Condition 6(a), unless otherwise agreed in writing with the Purchaser.
- (b) In respect of Services other than the Software Maintenance Services and the Training Services, the Company shall invoice the Purchaser 25% of the price of the Services on or at any time after the Commencement Date. The Company shall invoice the balance of the price of the Services on or at any time after completion of the Services, unless otherwise agreed in writing with the Purchaser.
- (c) The Software Licence Fees are payable annually in advance. The Company shall invoice the Purchaser for the first year's Software Licence Fees on or at any time after the Commencement Date, and for each subsequent year's Software Licence Fees, on or before each anniversary of the Commencement Date.
- (d) The Software Maintenance Fees are payable annually in advance. The Company shall invoice the Purchaser for the first year's Software Maintenance Fees on or at any time after the Commencement Date, and for each subsequent year's Software Maintenance Fees, on or before each anniversary of the Commencement Date.
- (e) In respect of Training Services, the Company shall invoice the Purchaser:
 - (i) on acceptance of an Order for e-Learning and payment must be made before access to the e-Learning will be granted by the Company;
 - (ii) upon, or at any time after, completion of the Training Services for Instructor Led Training and Virtual Training, unless otherwise agreed in writing with the Purchaser.
- (f) The Purchaser shall, except where other payment arrangements are specifically agreed in writing or are identified in the Order, make full payment for the Goods, Services, and full payment of the Software Licence Fees and Software Maintenance Fees not later than 30 days after the date of the invoice relating thereto or, where permitted by applicable law, if earlier, on the day which a receiver of the Purchaser's undertaking is appointed or upon which any act is done, or event occurs which is related to the insolvency of the Purchaser.
- (g) If payment for the Goods or Services, or payment of the Software Licence Fees or Software Maintenance Fees is not made when due, then without limiting the Company's other rights and remedies, the Company may charge interest thereon until payment at the rate in force from time to time pursuant to article 6:119a of the Dutch Civil Code. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Purchaser shall pay interest together with the overdue amount.
- (h) Time for payment shall be of the essence of the Contract and constitutes a strict deadline. If payment is not made when due, the Purchaser shall automatically be in default without a notice of default being required.
- (i) Any failure to pay the price or any part thereof and other moneys payable by the Purchaser hereunder when due will also entitle the Company, at its option, to terminate the Contract, or to refuse to make delivery of any further consignment of Goods or Services under the Contract or goods or services under any other contract with the Purchaser and without incurring any liability whatsoever to the Purchaser for any delay.
- (j) In addition to any lien to which the Company may otherwise be entitled, the Company shall, where permitted by applicable law, in the event of the Purchaser being insolvent or failing to pay the fees due under the Contract or any other contract with the Company, be entitled to a general lien on all goods of the Purchaser in the Company's possession for the unpaid price of the Goods or Services sold and delivered by the Company under the Contract or any other contract and any Software Licence Fees or Software Maintenance Fees payable by the Purchaser.
- (k) No defect in the Goods, Services or Software shall operate to interfere with the terms of payment.
- (l) The Company reserves the right, where permitted by applicable law, to change the terms of payment whenever it reasonably appears that the Purchaser's financial condition requires such change and may demand assurance of the Purchaser's ability to pay whenever it reasonably appears that such ability is in doubt. Such demand shall be in writing and the Company may, upon making such demand, stop production and/or suspend shipments hereunder without any liability whatsoever to the Purchaser.

- (m) All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- (n) Where any taxable supply for VAT purposes is made under the Contract by the Company to the Purchaser, the Purchaser shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the Goods, Services, the Software Licence Fees and/or the Software Maintenance Fees at the same time as payment is due for the supply of the Goods, Services, Software Licence Fees and/or the Software Maintenance Fees.

5. TRANSFER OF RISK AND TITLE IN GOODS

- (a) All risk and title in and to the Goods shall transfer to the Purchaser when delivery is completed in accordance with the ICC INCOTERM stated on the Order Acceptance.
- (b) Any Purchaser Delays shall result in immediate transfer of the risk of loss or damage to the Purchaser and the Purchaser shall be responsible for the procurement of insurance, if so desired, on the Goods.
- (c) The Company shall have no liability for damage to the Goods unless notice of a claim is received by the Company in writing within 3 days of the Goods being received by the Purchaser.

6. DELIVERY

- (a) Unless otherwise specified on the Order Acceptance, or otherwise agreed by the parties in writing, all shipments of Goods made by the Company shall be Ex-Works Company's Designated Facility (ICC INCOTERMS). Notwithstanding the foregoing, all shipments to be exported outside of the country in which the Company is located shall be FCA Company's Designated Facility (ICC INCOTERMS).
- (b) Unless otherwise stated in writing, any time or date for the delivery of Goods, Services or Software shall run from the date on which the Order Acceptance is communicated to the Purchaser.
- (c) Any dates quoted for delivery and/or installation of the Goods, Services or Software are approximate only, and the time of delivery is not of the essence and never a strict deadline.
- (d) Where the Goods are delivered EXW (ICC INCOTERMS), the Purchaser shall collect the Goods from the Company's premises, or such other premises as the Company may designate from time to time, within 3 Working Days of the Company notifying the Purchaser that the Goods are ready for collection. Where the Goods are not collected from the Company's premises within 3 Working Days, this shall be a Purchaser Delay.
- (e) Delivery and the Purchaser's acceptance of the Goods, and any Software that has been pre-installed on the Goods shall be deemed to have taken place at the earliest point in time at which risk in the relevant Goods passes to the Purchaser under the applicable ICC Incoterm. Signature of any delivery note by any agent, contractor, employee or representative of the Purchaser or by any independent carrier shall be conclusive proof of the delivery and the Purchaser's acceptance of the Goods and any pre-installed Software.
- (f) Without prejudice to any rights of the Company hereunder, if the Purchaser shall fail to give on or before the agreed date of delivery all instructions reasonably required by the Company and all necessary site access, documents, licences, consents and authorities (which the Purchaser is obliged under these terms and conditions or by law to obtain) for delivery of the Goods or if there is any other Purchaser Delay, the Purchaser shall pay to the Company all storage and insurance costs and any other out of pocket expenses incurred arising from such delay.
- (g) The Purchaser shall be obliged to take delivery of the Goods, Services and Software when they are delivered or tendered for delivery in accordance with the Order Acceptance. Where the Purchaser refuses or is unable (for any reason) to take or accept delivery of the Goods, Services or Software or if there is any other Purchaser Delay, the Company shall have the right (without prejudice to its other rights) to invoice the Purchaser in respect thereof (payment to be made within 30 days of the invoice date) and the Goods, Services and Software shall be deemed delivered. The Company shall be entitled to invoice the Purchaser for the reasonable costs of re-delivery, storage and all other handling costs arising directly or indirectly therefrom and the Purchaser shall make payment to the Company within 30 days of the invoice date.
- (h) Purchaser Delays shall be considered excusable delays for the Company and result in a corresponding automatic extension of any agreed upon time for the performance of the Company's obligations under the Contract. The Company shall not be liable to the Purchaser under any circumstances whatsoever for any penalty, damage or loss resulting directly or indirectly from any Purchaser Delays.
- (i) The Company shall be entitled to make partial deliveries by instalments and (where the Company has agreed to be responsible for delivery of the Goods to the Purchaser) to determine the route and manner of delivery of the Goods and shall be deemed to have the Purchaser's authority to make such contract with any carrier as the Company may deem reasonable. If the route involves sea transit the Company shall not be obliged to give the Purchaser any notice.
- (j) The Company may deliver the Goods by instalments, which shall be invoiced and paid for separately. Where delivery of the Goods is made in instalments, each instalment shall be construed as constituting a separate agreement to which all the provisions of these Conditions shall (with any necessary alterations) apply. Any delay in or defect in an instalment shall not entitle the Purchaser to cancel or defer any other instalment.

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7. GOODS WARRANTY

- (a) The Company warrants the Goods supplied by it against defective materials and defective workmanship for a period of twelve months from the date of delivery or deemed delivery (see Condition 6(g) above) provided the Purchaser notifies the Company in writing of any alleged defect within 30 days of its discovery.
- (b) All Goods being returned under warranty must be returned to the Company in accordance with the Company's RMA procedures in effect from time to time and confirmed by the Company to be subject to a manufacturer's defect in materials or workmanship.
- (c) Returned Goods which are confirmed by the Company to be subject to a manufacturer's defect in materials or workmanship will be repaired or replaced at the Company's discretion, which shall be the Purchaser's exclusive remedy. The Purchaser shall not have the right to engage a third party to complete repairs or provide replacement parts.
- (d) The use of refurbished parts by the Company is expressly permitted.
- (e) Repaired or replaced Goods or parts will carry a warranty for the balance (if any) of the original warranty period only. The warranty will not be extended by any period of time that the Goods are unavailable for use.
- (f) No claim will be met by the Company under this Goods warranty arising out of fair wear and tear, if the Goods have been incorrectly fitted, misused, kept in storage or immobilised for one year or more, subjected to neglect or abnormal conditions or involved in any accident or any attempt to repair, replace or modify has been made without the prior written authorization of the Company or if they have been in any way dealt with contrary to any oral or written instructions issued by the Company. For the avoidance of doubt, this Goods warranty is subject to and conditional upon all corrective and preventative maintenance services being performed exclusively by the Company or by personnel who have been authorised by the Company in writing and who perform maintenance in accordance with the Company's prior written instructions.
- (g) Goods and parts that are consumed in normal operation are not covered by this Goods warranty.
- (h) The Company shall not be liable for any defect arising from any drawing, design, specification, plan or other information supplied by or on behalf of the Purchaser.
- (i) Repaired or replaced Goods or parts will be invoiced at the Company's then current list price if in the Company's opinion the defect is not subject to this warranty, if the Goods or relevant part are found by the Company not to be defective or if the defect is determined by the Company to be due to Purchaser Delay, or failure of the Purchaser or its agents, contractors or employees to perform scheduled periodic maintenance or corrective maintenance assigned to the Purchaser, as the case may be. In addition, the Company reserves the right to charge a fee calculated at the Company's then-current rates for out-of-warranty repair services and testing carried out on Goods or parts found to be non-defective or not covered by the warranty in Condition 7(a) as well as all shipping costs from the Purchaser's facility to the Company's facility.
- (j) The Company does not represent or warrant that all problems will be corrected or if corrected, corrected to the full satisfaction of the Purchaser.
- (k) The Goods warranty as provided for in this Condition 7 is meant to exclude and replace Title 1 of Book 7 of the Dutch Civil Code.

8. SUPPLY OF SERVICES

- (a) Any dates quoted for delivery of Services are approximate only, and the time shall not be of the essence for performance of Services and is never a strict deadline.
- (b) The Purchaser shall provide the Company, its employees, agents, consultants and subcontractors with access to the Purchaser's premises and other facilities as reasonably required by the Company for the performance of the Services.
- (c) The Purchaser shall obtain and maintain all necessary licences, permissions and consents which may be required for the performance of the Services at the Purchaser's premises.
- (d) The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement or if the amendment will not materially affect the nature or quality of the Services.
- (e) The Company warrants that it shall use reasonable skill and care in the performance of the Services. The Company does not represent or warrant that all problems will be corrected or, if corrected, corrected to the full satisfaction of the Purchaser. The express warranty set forth in the first sentence of this provision shall be the only warranty given by the Company with respect to the Services provided. The Purchaser's exclusive remedy for breach of the express warranty set forth in this Condition 8(e) shall be re-performance of the deficient Services within a reasonable period of time. Notice of a breach of this warranty must (i) specify in reasonable detail the nature of the claim, and (ii) be received within thirty (30) days from the last day of performance of the applicable Services.
- (f) The Purchaser shall provide the Company, its employees, agents, consultants and contractors ("Company Personnel") with safe access to the Purchaser's premises and other facilities as reasonably required by the Company for the performance of the Services. Purchaser acknowledges and agrees that the Company Personnel shall not be required to access any premises or equipment for the performance of Services where at the reasonable discretion of the Company Personnel, such access is deemed unsafe. The Company shall not be liable for any Losses, damages, penalties,

rebates, service credits or other costs resulting from any delay in, or non-performance of Services due to unsafe access conditions.

9. EXCLUSION OF LIABILITY (THE PURCHASER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CONDITION)

- (a) The Purchaser is relying on its own skill and judgement in relation to the selection of the Goods, Services and Software supplied under the Contract and the Company accepts no liability whatsoever for any knowledge it or its employees, agents, contractors or representatives may possess as to the purpose for which the Goods, Services and Software are supplied.
- (b) The Purchaser acknowledges and agrees that:
 - (i) the Goods are intended to be used as security screening equipment, and the Software is intended to be used as security screening software, in each case in order to assist in the detection of illegal and/or hazardous materials;
 - (ii) the degree of success with which the Goods and Software will fulfil their intended use is dependent on numerous factors, including without limitation the sophistication of efforts to conceal illegal and/or hazardous materials, the chemical identity and quantity of such materials, the skill, diligence and qualifications of the Operator (where applicable) and environmental conditions; and
 - (iii) no security screening equipment or software is capable of detecting every threat, and neither the Purchaser nor the Operator has any expectation that the Goods or the Software are capable of detecting, or that they will detect, all illegal and/or hazardous materials (this being the case whether the Goods and/or the Software are operated with or without Operator supervision, and regardless of the degree of diligence with which services of the Company, if any, are or have been performed).
- (c) The Company makes no guarantee or warranty as to the results that will be achieved through the use of the Goods and/or the Software and it is agreed that the sole responsibility for such results shall be borne by the Purchaser.
- (d) The remedies provided in Conditions 7, 8 and 23 shall be the Purchaser's sole remedy in respect of the Goods, Services and the Software and all further remedies are hereby expressly excluded, to the extent permitted by the applicable law.
- (e) **Nothing in these Conditions shall exclude or limit the Company's liability for: (i) death or personal injury resulting from the Company's negligence; (ii) fraud or fraudulent misrepresentation; (iii) Company's intent or deliberate recklessness; or (iv) any matter in respect of which it would be unlawful for the Company to exclude or restrict liability.**
- (f) **Subject to Condition 9(e), neither the Company nor any of its Affiliates shall be under any liability whatsoever to the Purchaser whether in contract, tort (including, without limitation, negligence), breach of statutory duty, product liability or otherwise, and (whether direct or indirect) : (i) loss of profit; (ii) loss of revenue, sales or business; (iii) loss or damage to goodwill; (iv) loss of anticipated savings; (v) any indirect or consequential loss; (vi) loss resulting from substitute procurement; (vii) loss of user corruption of data, software or information; or (viii) loss relating to failure or delay in performance; in each case even if the Company or its Affiliates have been advised of the possibility of any such losses or damages arising, and whether or not arising out of any liability of the Purchaser to any other person.**
- (g) **Except for the express terms, conditions and warranties of these Conditions, and to the extent permitted by the applicable law, all conditions, warranties and other terms whether express or implied, statutory or otherwise are hereby expressly excluded.**
- (h) **Subject to Conditions 9(e) and 9(f), the total aggregate liability of the Company and its Affiliates arising out of or in connection with a Contract, whether arising in contract, tort (including, without limitation, negligence), breach of statutory duty, product liability or otherwise shall be limited to the lower of: (i) the fees paid or payable under the Contract to which the Goods, Software and/or Services relate or (ii) €500,000.**
- (i) **All, if any, statements, recommendations and advice given by the Company or the Company's servants, contractors or agents to the Purchaser or its servants, contractors or agents as to any matter relating to the Goods, Services or Software are given without responsibility and shall not give rise to any liability whatsoever on the part of the Company and the Purchaser hereby represents and warrants to the Company that no representation has been made to it by or on behalf of the Company that has in any way induced the Purchaser to enter into the contract with the Company, provided that nothing in these Conditions limits or excludes either party's liability for fraudulent misrepresentation.**

10. INDEMNITY

To the fullest extent permitted by applicable law, the Purchaser shall indemnify the Company and its Affiliates from and against any and all Losses suffered or incurred by the Company or its Affiliates arising out of or in connection with: (i) any claim made against the Company or any of its Affiliates by a third party arising out of or in connection with the provision of Services, the supply of the Goods or the Software, to the extent that such a claim arises out of the breach of contract, breach of statutory duty, tort (including without limitation negligence), or failure or

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employees, agents, successors, and assigns harmless from all Losses and threatened Losses arising out of or in connection with the exposure of the Products to hazardous materials, regardless of whether or not: (i) the exposure to hazardous materials was caused by or within the control of the Purchaser; (ii) the Company was aware of such exposure; and (iii) any negligence or other fault of the Company contributed to, or is alleged to have contributed to, the Loss, except and only to the extent such Loss was caused by the negligence of the Company.

19. GOVERNING LAW AND JURISDICTION

These Terms and Conditions of Supply (and any non-contractual obligations arising in respect of them) shall be governed by and construed in accordance with the laws of the Netherlands. The competent Courts of the Netherlands shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, these Conditions (including non-contractual disputes and claims).

20. CHANGES AND TERMINATION

- (a) The Company shall have the right, in its sole discretion, to terminate the Contract if the Purchaser:
 - (i) is unable to pay its debts generally as and when they become due;
 - (ii) is the subject of a legal process declaring it insolvent, or a petition is filed, a notice is given, a resolution is passed or an order is made in connection with the winding up of the Purchaser, or an application is made to court, or an order is made for the appointment of an administrator, or a notice of intention to appoint an administrator is given;
 - (iii) suspends, ceases or threatens to cease carrying on all or substantially the whole of its business;
 - (iv) commits any breach of the Contract which is (a) incapable of remedy (as reasonably determined by the Company); or (b) not remedied within 14 days of the date of the breach.
- (b) On termination of the Contract for any reason, the Purchaser shall immediately pay to the Company all of the Company's outstanding unpaid invoices, and in respect of Goods, Services and Software supplied for which no invoice has been submitted, the Company shall submit an invoice which shall be payable by the Purchaser immediately on receipt. The accrued rights and remedies of the Company at termination shall not be affected, including without limitation the right to claim damages in respect of any breach which existed at or before the date of termination.
- (c) The Purchaser may make a written request for amendment or modification of the Contract. If a request for amendment or modification is accepted by the Company, and any changes cause an increase or decrease in the cost of, or the time required for, the performance of any work under the Contract an equitable adjustment shall be made in the price or delivery schedule, or both, and the Contract shall be modified in writing accordingly.
- (d) The Purchaser is not entitled to cancel or terminate the Contract without the Company's prior written approval, which shall be entirely at the Company's sole discretion. If the Purchaser's written request for cancellation or termination is accepted by the Company, equitable provision shall be made to the Company for a recoupment of all costs incurred or committed to under the Contract and for reasonable overhead and profit based on time and costs expended. The Contract shall continue in effect until such time as payment is received. If the Company accepts the Purchaser's request to cancel or terminate the Contract at the Company's discretion, the Company shall not be obligated to refund any amounts paid in advance of delivery for Goods, Software or Services.
- (e) If the Purchaser fails to take delivery of the Goods and such failure continues for a period of more than one month beyond the agreed delivery date, the Company may, at its option, treat such failure as a request for termination of the Contract and may dispose of the Goods as it sees fit. In such event, the Company shall be entitled to recover all costs incurred or committed to under the Contract and for reasonable overhead and profit based on time and costs expended.
- (f) If the Contract refers to or contains separately priced line items for certain, specified Services, other than Training Services, in relation to which Condition 15 shall apply, the Purchaser shall forfeit any related payment(s) made in advance of delivery or completion of the relevant Services.
- (g) Where no advance payment has been made for Goods, Services and/or Software, the Company shall be entitled to charge a cancellation fee of not less than 30% of the relevant line-item price in the event that the Company accepts the Purchaser's cancellation of such Goods, Services and/or Software, payable by the Purchaser within 30 days net of invoice date.

21. FORCE MAJEURE

The Company shall not be liable to the Purchaser for any loss or damage arising due to delay or non-performance of its obligations under the Contract arising from Force Majeure. The Company shall be permitted to suspend its obligations under the Contract without any liability to the Purchaser for the duration of any Force Majeure Event.

22. INSTALLATION OF THE GOODS AND THE SOFTWARE

- (a) Where the Company has agreed to install the Goods and/or Software, the Purchaser shall at its own cost prepare the site at which the Goods and/or Software are to be installed in accordance with the specifications furnished by the Company for this purpose and, in accordance with such specifications, shall provide such equipment (including without limitation, any equipment necessary to unload the Goods) and carry out such works at the

site as may be necessary to enable the Company to install the Goods and/or Software and if it shall fail so to prepare the site and provide such equipment and carry out such works before the agreed delivery date the Purchaser shall indemnify the Company for all costs and charges incurred by the Company (including storage and transportation costs) as a result of such failure.

- (b) When the Goods or Software (as applicable) have been installed at the site, tested by the Company and shown to be operating to the satisfaction of the Company, the Purchaser shall be deemed to have accepted the Goods and/or Software unless the Company has been notified to the contrary in writing by the Purchaser within 3 Working Days of completion of such testing (the "**Notice**"). The Purchaser shall not give and shall be deemed not to have given the Notice unless the Purchaser has found a substantial defect in the Goods or the Software. If the Company is so notified, the Company shall use its reasonable endeavours to remedy any such defect within a reasonable time and the Purchaser shall be deemed to have accepted the Goods or the Software within 7 days of such defect being remedied.
- (h) Purchaser Delays shall be considered excusable delays for the Company and result in a corresponding automatic extension of any agreed upon time for the performance of the Company's obligations under the Contract. The Company shall not be liable to the Purchaser under any circumstances whatsoever for any penalty, damage or Loss resulting directly or indirectly from any Purchaser Delays.

23. SOFTWARE WARRANTY

- (a) The Company warrants that, during the Software Warranty Period, the Software shall perform substantially in accordance with its Specification.
- (b) If, during the Software Warranty Period, the Purchaser notifies the Company in writing of any defect or fault in the Software which results in the Software not performing substantially in accordance with its Specification, and the defect or fault does not result from the Purchaser, or its agents or contractors, having amended the Software or used it outside the terms of the Contract for a purpose or in a context other than the purpose or context for which it was designed or in combination with any other software not provided by the Company, the Company shall, at its option, do one of the following: (i) repair the Software, (ii) replace the Software, or (iii) terminate the Purchaser's licence to use the relevant Software, by notice in writing to the Purchaser, and refund to the Purchaser the part of the Software Licence Fee attributable to the licence(s) which have been terminated by the Company.
- (c) The Purchaser shall provide all information that may be necessary to assist the Company in resolving the defect or fault in the Software, including a documented example of any defect or fault, or sufficient information to enable the Company to re-create the defect or fault.
- (d) The Company does not represent or warrant that the use of the Software will be uninterrupted or error-free or that all problems will be corrected or if corrected, corrected to the full satisfaction of the Purchaser.
- (e) Except for the express terms, conditions and warranties of these Conditions and to the maximum extent permitted by applicable law, the Software is provided on an 'as is' and 'as available' basis, and all terms, conditions and warranties, whether express or implied, statutory or otherwise relating to software including those relating to satisfactory quality, fitness for a particular purpose and availability are expressly excluded.

24. LICENCE TO USE THE SOFTWARE

- (a) The Company hereby grants to Purchaser a non-exclusive, non-transferable licence to use the Software in object code only solely on and with the Goods on which the Software is installed by the Company, solely at the Location, and solely for the purpose described in the software documentation. The licence granted under this Condition 24(a) shall be for the initial period set out in the Order Acceptance ("**Initial Licence Period**"). Upon expiry of the Initial Licence Period and each Renewal Licence Period, the licence granted under this Condition 24(a) shall continue for a subsequent Renewal Licence Period unless either Party has given at least 60 days' notice in writing to terminate the licence granted under this Condition 24(a), such notice to expire at the end of the Initial Licence Period or then current Renewal Licence Period (as applicable). If the Company does not receive the Software Licence Fee for the applicable Renewal Licence Period by the date of expiry of the Initial Licence Period or then current Renewal Licence Period (as applicable), the Company reserves the right, at its discretion, to terminate the licence granted under this Condition 24(a). Upon termination of the licence granted under this Condition 24(a), the Company shall have the right, at its sole discretion, to deactivate the Purchaser's access to and use of the Software.
- (b) The Purchaser shall not install, or permit the installation of the Software on more than the permitted number of devices as specified in the Order Acceptance ("**Permitted Number of Devices**"), and shall not use, or permit the access or use of, the Software on or via more than the Permitted Number of Devices.
- (c) Immediately upon termination of the licence to use the Software, the Purchaser shall return to the Company the Software and related documentation or if requested by the Company shall erase all copies of the Software in its possession or under its control, and shall certify in writing to the Company that it has done so. In addition, the Company shall have the right, at its sole discretion, to deactivate the Purchaser's access to and use of the Software.
- (d) Title to the Software shall at all times remain with Company.

TERMS AND CONDITIONS OF SUPPLY

- (e) Purchaser agrees that the Software, all enhancements, related documentation, and derivative works are, and will remain, the sole property of the Company and includes valuable trade secrets. Purchaser agrees to treat the Software and related documentation as confidential and to not copy, reproduce, sub-license, or otherwise disclose the Software and related documentation to anyone other than its employees.
- (f) The Purchaser may make one copy of the Software to be used only for back-up purposes. No other copies or part-copies of the Software may be made without the prior written consent of the Company.
- (g) Except to the extent and in the circumstances required to be permitted by the Company by applicable law, Purchaser shall not disassemble, decompile, reverse engineer, create derivative works from, attempt to derive the source code or otherwise translate, customize, localize, modify, add to, or in any way alter, rent, or loan the Software or related documentation.
- (h) Unless otherwise agreed expressly in the Order Acceptance, all upgrades, updates, bug fixes, new versions and maintenance releases for the Software are excluded from the prices and are chargeable to the Purchaser.
- (i) The Purchaser shall permit the Company to inspect and have access to any premises (and to the computer equipment located there) at or on which the Software is being kept or used, and have access to any records kept in connection with the licences granted under this Condition 24, for the purposes of ensuring that the Purchaser is complying with these Conditions, provided that the Company provides reasonable advance notice to the Purchaser of such inspections, which shall take place at reasonable times.
- (j) Company shall not be responsible for any delays, delivery failures, or any other Loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Purchaser acknowledges and agrees that the Software may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- (k) Certain aspects of the Software may contain software code that is licensed under an open-source licence or third party licence ("**Third Party Components**"). Where the Software includes Third Party Components, Purchaser may be granted additional licence rights in respect of those Third Party Components, but not for the avoidance of doubt, in respect of the entire Software. Purchaser must comply with the licence terms applicable to any Third Party Components should Purchaser wish to exercise these additional licence rights.
- (l) Purchaser may be required to accept additional software licence agreement terms made available by Company prior to accessing and using some or all of the Software ("**Additional Software Terms**"). If and to the extent of any conflict between these Conditions and any Additional Software Terms, these Conditions shall prevail.

25. SOFTWARE MAINTENANCE SERVICES

- (a) Where the Order Acceptance states that the Purchaser is ordering Software Maintenance Services, the terms of this Condition 25 shall apply.
- (b) In consideration of payment by the Purchaser of the Software Maintenance Fees, the Company shall provide the software maintenance services specified in the Order Acceptance ("**Software Maintenance Services**") in respect of the Software specified in the relevant Order Acceptance only.
- (c) The Software Maintenance Services shall commence on the Commencement Date and shall continue for an initial period of 12 months or such other period as is specified in the Order Acceptance ("**Initial Software Maintenance Period**"). The Software Maintenance Services shall automatically renew for subsequent periods of 12 months (each 12 month period being a "**Renewal Software Maintenance Period**") unless either Party gives not less than 60 days' notice in writing prior to the end of the Initial Software Maintenance Period or then current Renewal Software Maintenance Period (as applicable) that it wishes to terminate the Software Maintenance Services, in which case the Software Maintenance Services shall terminate at the end of the Initial Software Maintenance Period or then current Renewal Software Maintenance Period (as applicable).
- (d) The Company shall not be liable for any failure to perform or comply with its obligations under this Agreement, or otherwise be liable to the Purchaser for any loss or damage suffered by the Purchaser, where such failure, loss or damage is caused in whole or in part by the Purchaser's failure to purchase and install the maximum number of Software updates and releases from time to time offered by the Company as part of its software maintenance offerings.

26. CEIA METAL DETECTORS

If the Goods include metal detectors manufactured by CEIA the following additional provisions apply: To ensure proper operation of the unit, CEIA recommends that the unit be firmly anchored to the floor using screws or silicone. If the unit is not firmly anchored to the floor, it may fall and pose a safety risk and/or its detection capability may be compromised. If the Purchaser requests that the Company not install the unit in accordance with CEIA's recommendations, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND SUBJECT TO CONDITION 9(e), THE COMPANY SHALL HAVE NO LIABILITY FOR ANY CLAIMS, COSTS, LOSSES, LIABILITIES OR DAMAGES OF ANY SORT (WHETHER DIRECT, INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), AND WHETHER ARISING IN CONTRACT, TORT (INCLUDING WITHOUT LIMITATION, NEGLIGENCE) BREACH OF STATUTORY DUTY, PRODUCT LIABILITY OR OTHERWISE RELATING TO THE LACK OF FIRM FIXATION OF THE UNIT TO THE FLOOR. To the fullest extent permitted by applicable law, the Purchaser shall indemnify and hold the Company and its Affiliates harmless from and against any and all Losses resulting from the lack of firm fixation of the unit to the floor.

27. X-RAY BODY SCANNER

- (a) The Purchaser is hereby notified that the exposure of human beings to x-ray radiation may be harmful. The Purchaser acknowledges that the safe operation of the Goods is entirely the Purchaser's responsibility and that, subject to Condition 9(e) and to the maximum extent permitted by applicable law, the Company shall have no liability relating to the use or operation of the Goods by the Purchaser or anybody acting on the Purchaser's behalf. The Purchaser undertakes to exercise such care and to adopt and follow such procedures in the use and operation of the Goods as may be necessary to eliminate or minimize the hazards referred to in this Condition. Without limiting the generality of the foregoing, the Purchaser undertakes to use the Goods in full compliance with Company's maintenance procedures and operator manuals, to comply with the requirements of all applicable environmental or occupational health and safety laws, radiation safety laws and industry standards relating to radiation safety for personnel security screening systems using x-rays, and to operate the Goods within the radiation dose limits established by such laws and standards.
- (b) The Purchaser is further notified that the use of x-ray Goods on human beings for non-medical purposes may be prohibited in some states or require registration with governmental authorities. The Purchaser undertakes to comply with all such prohibitions and registration requirements.
- (c) The Purchaser covenants that the use and operation of the Goods and the Software by or on behalf of the Purchaser shall comply with all applicable privacy and Data Protection Legislation.
- (d) To the fullest extent permitted by applicable law, the Purchaser shall defend, indemnify, and hold harmless Company and its Affiliates and their respective officers, partners, directors, employees, agents, successors, and assigns from and against any and all Losses to the extent they arise from any non-compliance with the undertakings in Conditions 27(a) to (c).

28. COMPLIANCE AND ETHICS

The Company is an Equal Opportunity Employer and is committed to conducting its business ethically and lawfully. To that end the Company maintains a Code of Business Ethics and mechanisms for reporting unethical or unlawful conduct. The Company expects that the Purchaser also will conduct its business ethically and lawfully. Smiths Code of Business Ethics is available at <http://www.smiths.com/responsible-business>.

29. DISPOSAL AND COMPLIANCE WITH WEEE REGULATIONS

- (a) For the purposes of this Condition 26 "WEEE Regulations" means the Waste Electrical and Electronic Equipment Regulations 2013 (SI 2013/3113) (as amended, replaced and/or modified from time to time) and "EEE" means electronic and electronic equipment as defined in the WEEE Regulations.
- (b) The Purchaser shall be responsible for and shall exclusively finance the cost of collection, delivery, treatment, recovery and environmentally sound disposal by an approved, authorised treatment facility of all WEEE arising or deriving from the Goods.
- (c) The Purchaser shall comply with all producer obligations under the WEEE Regulations in respect of all WEEE referred to in Condition 29(b).
- (d) The Purchaser shall provide the Company and the Company's WEEE producer compliance scheme operator with such data, documents, information and other assistance as the Company and/or such scheme operator may from time to time reasonably require to enable the Company to comply with its obligations pursuant to the WEEE Regulations and such scheme operator to satisfy the obligations assumed by it as a result of the Company's membership of the operator's compliance scheme.
- (e) The Purchaser shall be responsible for all costs and expenses arising from and relating to its obligations in this Condition 29.
- (f) The Purchaser agrees to indemnify and keep indemnified and hold harmless the Company for itself and on behalf of its compliance scheme operator from and against all costs and expenses which the Company and/or the compliance scheme operator incurs or suffers as a result of a direct or indirect breach or negligent performance or failure in performance by the Purchaser of its obligations in this Condition 29.
- (g) Further information in respect of the Company's arrangements for WEEE recycling can be found at <https://www.smithsdetection.com/weee-compliance/>.
- (h) The Company's producer registration number in the Netherlands is [●].

30. GENERAL

- (a) If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the Contract or the rest of these Conditions. If any provision or part-provision of these Conditions is deemed deleted under this Condition 30(a), the Parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- (b) Except as set out in these Conditions, these Conditions do not give any right to any person who is not a party to the Contract. The rights of the Parties to rescind or vary the Contract are not subject to the consent of any other person.

TERMS AND CONDITIONS OF SUPPLY

- (c) The Contract and any applicable Additional Software Terms constitute the entire agreement between the Parties relating to its and their subject matter. Each Party acknowledges that in entering into a Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.