



**SMC PNEUMATICS U.K. LIMITED**

**SUPPLY OF GOODS & SERVICES PURCHASE AGREEMENT**

1. This Contract is made up of the following:

- (a) The Conditions and
- (b) The Mandatory Policies.

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

**CONDITIONS**

1. **INTERPRETATION**

The following definitions and rules of interpretation apply in these Conditions.

**Definitions:**

|                    |   |
|--------------------|---|
| Business Day       | a day other than a Saturday, Sunday or public holiday in England.   |
| Business Hours     | the period from 9.00 am to 5.00 pm on any Business Day.   |
| Commencement Date  | the date being the earlier of: (i) 24 hours following the submission of a Purchase Order by the Customer; or (ii) the date of the Supplier's acceptance of the Purchase Order, unless declined by the Supplier in accordance with clause 2.2. |
| Conditions         | these terms and conditions as amended from time to time in accordance with clause 21.9.   |
| Contract           | the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.   |
| Control            | has the meaning given in section 1124 of the Corporation Tax Act 2010, and the expression <b>change of Control</b> shall be interpreted accordingly.  |
| Customer           | <b>SMC PNEUMATICS (UK) LIMITED</b> (Co No. 01352967) of Vincent Avenue, Crownhill, Milton Keynes, MK8 0AN   |
| Customer Materials | has the meaning set out in clause 6.3.8.  |



|                             |   |
|-----------------------------|---|
| Data Protection Legislation | means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications)  |
| Deliverables                | all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).  |
| Delivery Date               | the date specified for delivery of a Purchase Order, in accordance with clause 5.2.1.   |
| Delivery Location           | means the delivery address set out in the Purchase Order or such other address as agreed by the Customer in writing prior to delivery.  |
| Force Majeure Event         | means any circumstances beyond the reasonable control of a party including strikes, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of any other party), acts of God, government actions, war, invasion, riot, hostilities (whether war be declared or not), armed conflict, terrorist attack, terrorist activity, nuclear, chemical or biological contamination, sonic boom, civil commotion, revolution, malicious damage, compliance with any law or governmental order, rule, regulation or direction, sanctions, embargo, accident, power failure, breakdown of plant or machinery, fire, flood, drought, storm, earthquake or other natural disaster, disease, epidemic, pandemic or other notifiable disease, public health emergency, default of suppliers or sub-contractors, difficulties or increased expense in obtaining raw materials, labour, fuel, parts or machinery, or import or export regulations or embargoes. |
| Goods                       | the goods (or any part of them) set out in the Purchase Order.  |
| Goods Specification         | any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and the Supplier.  |



Intellectual Property Rights

patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks 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.

Mandatory Policies

the Customer's business policies and codes appearing at: [www.smc.eu/en-gb/company/smc\\_uk](http://www.smc.eu/en-gb/company/smc_uk).

Price  
Purchase Order

the price for the Goods, as set out in the Purchase Order the Customer's order for the supply of Goods and/or Services, as set out in the Customer's purchase order form (which shall incorporate the terms of this Contract.

Services

means any services set out in the Purchase Order, including any provided pursuant to an Purchase Order for Goods, as may be varied by written agreement from time to time.

Supplier

the person or firm from whom the Customer purchases the Goods and/or Services.

UK GDPR

has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT

value added tax or any equivalent tax chargeable in the UK or elsewhere.

Interpretation:

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

A reference to a party includes its personal representatives, successors and permitted assigns.

A reference to legislation or a legislative provision is a reference to it as amended or re-enacted. A reference to legislation or a legislative provision includes all subordinate legislation made under that legislation or legislative provision.



Any words following the terms **including, include, in particular, for example** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.

A reference to **writing** or **written** excludes fax but not email.

## 2. **BASIS OF CONTRACT**

- 2.1. The Purchase Order constitutes an offer by the Customer to purchase Goods and/or Services from the Supplier in accordance with these Conditions.
- 2.2. Once the Customer submits a Purchase Order to the Supplier, the Supplier shall have 24 hours to decline the Purchase Order in writing and thereafter such Purchase Order shall be deemed to have been accepted by the Supplier and the Supplier shall be bound to fulfil such Purchase Order.
- 2.3. These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.4. All of these Conditions shall apply to the supply of both Goods and Services except where the application to one or the other is specified.
- 2.5. The Supplier waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Supplier that is inconsistent with these Conditions.

## 3. **AMENDMENTS**

- 3.1. The Customer shall not be liable to accept an amended Purchase Order where any amendments to a Purchase Orders are made without the prior written consent of the Customer. In the event that the Customer does not agree to the proposed amendment then the Supplier shall supply the Purchase Order as set out in the original Purchase Order. .

## 4. **SUPPLY OF GOODS**

- 4.1. The Supplier shall ensure that the Goods shall:
  - 4.1.1. correspond with their description and any applicable Goods Specification;
  - 4.1.2. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement;
  - 4.1.3. where they are manufactured products, be free from defects in design, materials and workmanship and remain so for 12 months after the later of (a) delivery and (b) installation; and



- 4.1.4. comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.
- 4.2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.
- 4.3. If following such inspection or testing the Customer considers that the Goods do not comply or are unlikely to comply with the Supplier's undertakings at clause 4.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

## 5. DELIVERY OF GOODS

- 5.1. The Supplier shall ensure that:
  - 5.1.1. the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;
  - 5.1.2. each delivery of the Goods is accompanied by a delivery note which shows the date of the Purchase Order, the Purchase Order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
  - 5.1.3. it states clearly on the delivery note any requirement for the Customer to return any packaging material for the Goods to the Supplier. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 5.2. The Supplier shall deliver the Goods:
  - 5.2.1. on the date specified in the Purchase Order (**Delivery Date**);
  - 5.2.2. carriage paid to the Delivery Location or as otherwise agreed by the Customer in writing;
  - 5.2.3. during the Customer's normal hours of business on a Business Day, or as otherwise instructed by the Customer; and
  - 5.2.4. in accordance with the Customer's instructions notified to the Supplier from time to time in writing.
- 5.3. Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location. The Customer shall be entitled to reject a delivery if in its opinion there is a health and safety issue with the delivery (such as where the container or package has not been loaded properly).
- 5.4. The Customer shall not be deemed to have accepted any Goods or Services until it has had a reasonable time to inspect them following delivery or after any latent defect has become apparent. Neither any inspection or testing by the Customer or its representatives whether before or after physical delivery of the Goods or completion of the Services nor the signing of any document acknowledging physical receipt of any



Goods or completion of any Services shall constitute acceptance or approval of the Goods/Services by the Customer.

- 5.5. Delivery of the Goods shall be made within the time set out in the Purchase Order or as otherwise agreed between the Customer and the Supplier. Time for delivery shall be of the essence. If the Supplier believes that it may not be able to complete an Purchase Order in accordance with its terms it shall immediately advise the Customer's representative.
- 5.6. The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Customer to the remedies set out in clause 7.1.
- 5.7. The Customer may inspect and test the Goods at any time within 14 days of delivery. The Supplier shall remain fully responsible for the Goods despite any such inspection or testing and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.
- 5.8. Title and risk in the Goods shall pass to the Customer on completion of delivery.

## 6. **SUPPLY OF SERVICES**

- 6.1. The Supplier shall from the date set out in the Purchase Order and for the duration of the Contract supply the Services to the Customer in accordance with the terms of the Contract.
- 6.2. Performance of the Services shall be made within the time set out in the Purchase Order or as otherwise agreed between the Customer and the Supplier. Time for performance shall be of the essence. If the Supplier believes that it may not be able to complete an Purchase Order in accordance with its terms it shall immediately advise the Customer's representative.
- 6.3. In providing the Services, the Supplier shall:
  - 6.3.1. co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;
  - 6.3.2. perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
  - 6.3.3. use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;
  - 6.3.4. ensure that the Services will conform with all descriptions, standards and specifications set out in the Purchase Order, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;



- 6.3.5. use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;
  - 6.3.6. obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
  - 6.3.7. observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises and as notified by the Customer from time to time in writing;
  - 6.3.8. hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) and the Customer Equipment in safe custody at its own risk, maintain the Customer Materials and the Customer Equipment in good condition until returned to the Customer in accordance with clause 17.1, and not dispose of or use the Customer Materials and the Customer Equipment other than in accordance with the Customer's written instructions or authorisation;
  - 6.3.9. not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services; and
  - 6.3.10. comply with any additional obligations as set out in the Purchase Order.
- 6.4. All material and workmanship used in connection with the Services shall be guaranteed for a minimum of twelve months from completion of the Services.

## 7. CUSTOMER REMEDIES

- 7.1. If the Supplier fails to deliver the Goods by the applicable date or to perform the Services by the applicable date, or both, the Customer shall, without limiting or affecting other rights or remedies available to it, have any one or more of the following rights and remedies:
  - 7.1.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 7.1.2. to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;
  - 7.1.3. to recover from the Supplier any costs incurred by the Customer in obtaining substitute goods and/or services from a third party;
  - 7.1.4. to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided and/or Goods that it has not delivered; and
  - 7.1.5. to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.



- 7.2. If the Goods are not delivered by the applicable date or the Services are not performed by the applicable date, or both, the Customer may, at its option, claim or deduct 0.5% of the price of the Goods for each week's delay in delivery of the Goods and/or claim or deduct 0.5% of the price of the Services for each week's delay in performance of the Services, in each case by way of liquidated damages, until the earlier of delivery of the Goods or performance of the Services, as applicable, or termination or abandonment of the Contract by the Customer, up to a maximum of 5% of the total price of the Goods (in respect of late delivery of the Goods) and up to a maximum of 5% of the total price of the Services (in respect of late performance of the Services). If the Customer exercises its rights in respect of late delivery under this clause 7.2 it shall not be entitled to any of the remedies set out in clause 7.1 in respect of the late delivery of the Goods. If the Customer exercises its rights in respect of late performance under this clause 7.2 it shall not be entitled to any of the remedies set out in clause 7.1 in respect of the late performance of the Services.
- 7.3. If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 4.1, then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies, whether or not it has accepted the Goods:
- 7.3.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 7.3.2. to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;
  - 7.3.3. to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);
  - 7.3.4. to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
  - 7.3.5. to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute goods from a third party; and
  - 7.3.6. to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 4.1.
- 7.4. If the Supplier has supplied Services that do not comply with the requirements of clause 6.3.4 then, without limiting or affecting other rights or remedies available to it, the Customer shall have one or more of the following rights and remedies:
- 7.4.1. to terminate the Contract with immediate effect by giving written notice to the Supplier;
  - 7.4.2. to return the Deliverables to the Supplier at the Supplier's own risk and expense;
  - 7.4.3. to require the Supplier to provide repeat performance of the Services, or to provide a full refund of the price paid for the Services (if paid);



- 7.4.4. to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- 7.4.5. to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute services or deliverables from a third party; and
- 7.4.6. to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to comply with clause 6.3.4.
- 7.5. These Conditions shall extend to any substituted or remedial services and/or repaired or replacement goods supplied by the Supplier.
- 7.6. The Customer's rights and remedies under the Contract are in addition to, and not exclusive of, any rights and remedies implied by statute and common law.

## 8. CUSTOMER'S OBLIGATIONS

- 8.1. The Customer shall:
  - 8.1.1. provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and
  - 8.1.2. provide such necessary information for the provision of the Services as the Supplier may reasonably request.

## 9. CHARGES AND PAYMENT

- 9.1. The price for the Goods:
  - 9.1.1. shall be the price set out in the Purchase Order, or as otherwise agreed by the Customer and the Supplier and is the only sum payable by the Customer for or in connection with the supply of the Goods or Services; and
  - 9.1.2. shall be inclusive of the costs of packaging, insurance and carriage of the Goods as stated on the Purchase Order. No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 9.2. Unless otherwise agreed in writing by the Customer, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 9.3. In respect of the Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order number.
- 9.4. In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall pay the invoiced amounts within 45 days of the date of receipt of a correctly rendered invoice to a bank account nominated in writing by the Supplier or as otherwise agreed between the parties in writing.



- 9.5. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of VAT. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 9.6. If a party fails to make any payment due to the other party under the Contract by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each date at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when the base rate is below 0%.
- 9.7. The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. If the liabilities to be set off are expressed in different currencies, the Customer may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

## 10. INTELLECTUAL PROPERTY RIGHTS

- 10.1. The Customer acknowledges that all Intellectual Property Rights in the Customer Materials and the Customer Equipment and any data supplied by the Customer to the Supplier are and shall remain the exclusive property of the Customer and shall be used by the Supplier solely for the purpose of performing its obligations under the Contract. The Supplier shall keep the Customer Materials and the Customer Equipment in safe custody at its own risk, maintain them in good condition until returned to the Customer and not dispose or use the same other than in accordance with the Customer's written instructions or authorisation.
- 10.2. The Supplier grants to the Customer, or shall procure the direct grant to the Customer of, a fully paid-up, worldwide, non-exclusive, royalty-free perpetual and irrevocable licence to copy and modify the Deliverables (excluding Customer Materials) for the purpose of receiving and using the Services and the Deliverables.
- 10.3. The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 10.2.
- 10.4. The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Goods to the Customer.



- 10.5. The Supplier shall not without the Customer's prior written consent make use of the Customer's name or any of its Intellectual Property for promotional or publicity purpose.

## 11. INDEMNITY

- 11.1. The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses)) suffered or incurred by the Customer arising out of or in connection with:
- 11.1.1. any claim made against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services (excluding the Customer Materials);
  - 11.1.2. any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in the Goods, as delivered, or the Deliverables; and
  - 11.1.3. any claim made against the Customer by a third party arising out of or in connection with the manufacture of, any defect in, the use, possession, sale or supply of, the Goods, or the Services by the Customer or its customers (except to the extent that the claim is due to any defect in the Goods Specification provided by the Customer).
- 11.2. This clause 11 shall survive termination of the Contract.

## 12. INSURANCE

During the term of the Contract and for a period of two years thereafter, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract (and for not less than £10 million per claim for each type of insurance), and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

## 13. CONFIDENTIALITY

- 13.1. Each party undertakes that it shall not at any time during the Contract and for a period of two years after termination or expiry of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party, except as permitted by clause 13.2.
- 13.2. Each party may disclose the other party's confidential information:



- 13.2.1. to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under the Contract. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 13; and
- 13.2.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 13.3. Neither party shall use the other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.

#### 14. COMPLIANCE WITH RELEVANT LAWS AND POLICIES

- 14.1. In performing its obligations under the Contract, the Supplier shall:
  - 14.1.1. comply with all applicable laws, statutes, regulations and codes from time to time in force; and
  - 14.1.2. comply with the Mandatory Policies.

#### 15. DATA PROTECTION

- 15.1. The parties acknowledge that the factual arrangement between them dictates the classification of each party in respect of the Data Protection Legislation. However, the parties anticipate that each party will be a controller of any personal data which it processes for its own purpose.
- 15.2. In the event that a party is to be appointed to process personal data on behalf of the other party, the parties shall enter into a separate data processing agreement in accordance with the Data Protection Legislation.
- 15.3. The Supplier shall comply with, and shall procure that any of its staff and personnel comply with, the provisions of the Data Protection Legislation in relation to all personal data that is processed by it in connection with the Contract.

#### 16. TERMINATION

- 16.1. Without affecting any other right or remedy available to it, the Customer may terminate the Contract:
  - 16.1.1. with immediate effect by giving written notice to the Supplier if:
    - 16.1.1.1. there is a change of Control of the Supplier; or
    - 16.1.1.2. the Supplier commits a fails to deliver the Goods in accordance with the condition set out in clauses 4.2 and 5.6; or



16.1.1.3. the Supplier commits a breach of clause 14.

16.2. Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

16.2.1. the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

16.2.2. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), obtaining a moratorium, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;

16.2.3. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or

16.2.4. the other party's financial position deteriorates so far as to reasonably justify the opinion that its ability to give effect to the terms of the Contract is in jeopardy.

## 17. CONSEQUENCES OF TERMINATION

17.1. On termination of the Contract, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials and Customer Equipment, or, at the Company's sole option, destroy all Company Materials. In the case of Company Materials held in machine readable form "destruction" shall involve erasing these from the medium on which they are held. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned, delivered, or destroyed, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

17.2. Termination or expiry of the Contract shall not affect the parties' rights and remedies that have accrued as at termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

17.3. Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.



18. **FORCE MAJEURE**

Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from a Force Majeure. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 4 weeks, the party not affected may terminate the Contract by giving 14 days' written notice to the affected party.

19. **ANTI-BRIBERY & CORRUPTION**

- 19.1. The Supplier will fully comply with the Customer's Anti-Bribery and Corruption policy which can be accessed at [www.smc.eu/en-gb/company/smc\\_uk](https://www.smc.eu/en-gb/company/smc_uk) [https://www.smc.eu/en-gb/company/smc\\_uk](https://www.smc.eu/en-gb/company/smc_uk).
- 19.2. The Supplier will not offer or give or agree to give to any person employed by or connected with the Customer any gift or any consideration of any kind as an inducement or reward for doing any act relating to the entry of the Supplier into any contract.
- 19.3. The Supplier will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (**Anti-bribery law**).
- 19.4. The Supplier will not engage in any act of bribery.
- 19.5. The Supplier shall notify the Customer as soon as practicable of any breach of anti-bribery law that is committed by it, its employees, or other Associated Person.

20. **Modern Slavery**

- 20.1. The Supplier will fully comply with the Customer's Modern Slavery policy which can be accessed at [www.smc.eu/en-gb/company/smc\\_uk](https://www.smc.eu/en-gb/company/smc_uk).
- 20.2. The Supplier shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force in the Territory (**Anti-Slavery Laws**). The Supplier warrants and represents that it has not been convicted or any offence involving slavery and human trafficking, nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence in connection with slavery and human trafficking. The Customer may terminate the Contract with immediate effect by giving notice to the Supplier if the Supplier commits a breach of this clause 20.

21. **GENERAL**

21.1. **Assignment and other dealings.**

- 21.1.1. The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under the Contract.



- 21.1.2. The Supplier shall not assign, transfer, mortgage, charge, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.
- 21.2. **Subcontracting.** The Supplier may not subcontract any or all of its rights or obligations under the Contract without the prior written consent of the Customer. If the Customer consents to any subcontracting by the Supplier, the Supplier shall remain responsible for all the acts and omissions of its subcontractors as if they were its own.
- 21.3. **Notices.**
  - 21.3.1. Any notice given to a party under or in connection with the Contract shall be in writing and shall be:
    - 21.3.1.1. delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
    - 21.3.1.2. sent by email to the email address notified by the Supplier to the Customer from time to time in writing.
  - 21.3.2. Any notice shall be deemed to have been received:
    - 21.3.2.1. if delivered by hand, at the time the notice is left at the proper address;
    - 21.3.2.2. if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
    - 21.3.2.3. if sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.
  - 21.3.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 21.4. **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision of the Contract is deemed deleted under this clause 21.4 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.
- 21.5. **Waiver.**
  - 21.5.1. Except as set out in clause 2.5, a waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.



- 21.5.2. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
- 21.6. **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 21.7. **Entire agreement.**
  - 21.7.1. The Contract constitutes the entire agreement between the parties.
  - 21.7.2. Each party acknowledges that in entering into the 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 based on any statement in the Contract.
- 21.8. **Third party rights.**
  - 21.8.1. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
  - 21.8.2. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.
- 21.9. **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.
- 21.10. **Governing law.** The Contract, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
- 21.11. **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.