

- 1 Interpretation**
 1.1 In these terms:
 1.2 "Company" means John Crane (Ireland) Limited whose registered office is at Shannon Industrial Estate, Shannon, Co. Clare.
 1.3 "Conditions" means the terms and conditions of sale set out in this document and (unless the context requires otherwise) includes any special terms and conditions agreed in writing between the Company and the Customer.
 1.4 "Contract" means the contract between the Company and the Customer for the sale and purchase of the Goods into which these conditions are incorporated.
 1.5 "Customer" means the person, company or firm who accepts a quotation from the Company for the sale of Goods.
 1.6 "EU" means the European Union.
 1.7 "Goods" means the goods including any instalment for which the Company is to supply in accordance with these terms and conditions.
 1.8 "Ireland" means the Republic of Ireland, which for the avoidance of doubt does not include Northern Ireland.
 1.9 "Order" means a written order placed by the Customer.
 1.10 "Quotation" means the written or oral quotation given by the Company to the Customer and is valid for a period of 30 days unless otherwise agreed by the Company.
 1.11 "Sale of Goods Act" means the Sale of Goods Act, 1983 and 1980.
 1.12 "VAT" means Value Added Tax.
 1.13 "Writing" includes telex, cable, facsimile transmission and comparable means of communication.
- 2 Application of Conditions**
 2.1 The Company shall sell the Customer shall purchase the Goods in accordance with any Quotation of the Company which is accepted by the Customer or any Order of the Customer which is accepted by the Company subject in either case to these Conditions, which shall govern the Contract to the exclusion of all other terms and conditions subject to which any such Quotation is accepted or purported to be accepted, or any such Order is made by the Customer.
 2.2 These Conditions shall apply and be effective as of 1 July 2011.
 2.3 No variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of the Company and the Customer.
 2.4 The Company's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Company in writing. In entering into the Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed and that it shall accept any action arising out of or in connection with any such representation except in the case of fraud.
 2.5 Any advice or recommendation given by the Company or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by the Company is followed or acted upon entirely at the Customer's own risk, and accordingly the Company shall not be liable for any such advice or recommendation which is not so confirmed.
- 3 Orders and specifications**
 3.1 No Order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company's authorised representative by despatch by the Company of its acknowledgement of Order and the terms of the Company's order acknowledgement shall apply.
 3.2 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any Order (including any applicable specification) submitted by the Customer, and for giving the Company any necessary information relating to the Goods within a sufficient time to enable the Company to perform the Contract in accordance with its terms.
 3.3 The quantity, quality and description of and any specification for the Goods shall be those set out in the Quotation.
 3.4 If the Goods are to be supplied to the Customer by the Company in accordance with a specification submitted by the Customer, the Customer shall indemnify the Company against all loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid for by the Company in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company's use of the Customer's specification.
 3.5 The Company reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable statutory or EU requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance.
 3.6 No Order which has been accepted by the Company may be cancelled by the Customer except with the agreement in writing of the Company and on terms that the Customer shall indemnify the Company in full against all direct and indirect loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.
- 4 Price of the goods**
 4.1 Unless otherwise agreed in writing by the Company the price of the Goods shall be the price stated in any Quotation or where no price has been quoted (or a quoted price is no longer valid) the price listed in the Company's published price list current at the date of acknowledgement of Order. Where the Goods are supplied for export from Ireland the Company's published export price list shall apply. All prices quoted are valid for a period of 30 days or until earlier acceptance by the Customer, after which time they may be altered by the Company without giving notice to the Customer.
 4.2 Orders and contracts shall be due and payable by the Customer to the Company at the rate ruling at the date of the Company's invoice and are given on an ex-works basis and where the Company agrees to deliver the Goods otherwise than at the Company's premises, the Customer shall be liable to pay the Company's charges for transport, packaging and insurance.
 4.3 All prices are exclusive of delivery charges.
 4.4
- 5 Terms of payment**
 5.1 Unless otherwise agreed in writing by the Company, the Company shall be entitled to invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Customer, the Customer wrongfully fails to take delivery of the Goods or fails to tender delivery of the Goods.
 5.2 The Customer shall pay the price of the Goods as stated on the Company's invoice to the Customer in respect of those Goods or as otherwise agreed in writing between the Company and the Customer. Time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only on payment.
 5.3 No payment shall be deemed to have been received until the Company has received cleared funds.
 5.4 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:
 5.4.1 cancel the Contract or suspend any further deliveries to the Customer;
 5.4.2 appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer); and
 5.4.3 charge the Customer interest (both before and after any judgment) on the amount unpaid, at the rate of 2% per cent per annum above the European Central Bank base rate from time to time, accruing on a daily basis until payment in full is made, whether before or after any judgment.
 5.5 The Company shall be entitled to payment for all instalments of Goods delivered to the Customer notwithstanding that the remainder of the Goods shall not have been delivered.
 5.6 The Customer shall not be entitled to withhold payment of any amount payable under the Contract because of any disputed claim of the Customer in respect of faulty goods or any other alleged breach of contract whether in respect of the Contract or any other contract between the Customer and the Company nor shall the Customer be entitled to set off against any amount payable under the Contract to the Company any monies owed by the Company to the Customer or any account whatsoever, whether such a right is conferred on the Customer by statute or otherwise.
- 6 Delivery**
 6.1 Delivery of the Goods shall be made by the Customer collecting the Goods at the Company's premises at any time after the Company has notified the Customer that the Goods are ready for collection or, if some other place for delivery is agreed by the Company, by the Company delivering the Goods to that place. Where the Company agrees to deliver the Goods otherwise than at the Company's premises the Company shall have no obligation to the Customer under section 32(2) of the Sale of Goods Act.
 6.2 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods however caused. Time for delivery shall not be of the essence of the Contract unless previously agreed by the Company in writing. The Goods may be delivered by the Company in advance of the quoted delivery date upon giving reasonable notice to the Customer.
 6.3 The Company may make delivery by instalments. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Company to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to treat the Contract as a whole as repudiated.
 6.4 If the Company delivers to the Customer a quantity of goods of up to 5% more or less than the quantity accepted by the Company the Customer shall not be entitled to object to or reject the Goods or any of them by reason of the surplus or shortfall and shall pay for such Goods at the pro rata price. All such paragraph shall be deemed to be a special agreement between the parties for the purposes of section 30(4) of the Sale of Goods Act.
 6.5 If the Company fails to deliver the Goods (or any instalment) for any reason other than any cause beyond the Company's reasonable control or the Customer's fault, the Customer is accordingly liable to the Customer, the Company's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.
 6.6 If the Customer fails to take delivery of the Goods or fails to give the Company adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may:
 6.6.1 store the Goods until actual delivery and charge the Customer for the reasonable costs (including insurance) of storage; or
 6.6.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.
 6.7 No Goods will be made available for collection or despatched in the event that the Customer already has an overdue account with the Company, until all such overdue amounts are paid.
 6.8
- 7 Risk and property**
 7.1 Risk of damage to or loss of the Goods shall pass to the Customer:
 7.1.1 in the case of Goods to be delivered at the Company's premises, at the time when the Company notifies the Customer that the Goods are available for collection; or
 7.1.2 in the case of Goods to be delivered otherwise than at the Company's premises, at the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Company has tendered delivery of the Goods.
 7.2 The Customer will be solely responsible for unloading the goods upon delivery.
 7.3 The Customer shall be liable for any damage caused upon unloading the goods.
 7.4 Notwithstanding delivery and/or the passing of risk in the Goods, or any other provision of these Conditions, the property in the Goods shall not pass to the Customer until the Company has received in cash or cleared funds payment in full of the price of the Goods and all other goods agreed to be sold by the Company to the Customer for which payment is then due. If payments received from the Customer are not stated to refer to a particular invoice, the Company may appropriate such payment to any outstanding invoice.
 7.5 Until such time as the property in the Goods passes to the Customer, the Customer shall:
 (i) hold the Goods as the Company's fiduciary agent and as bailee;
 (ii) keep the Goods stored (at no cost to the Company) separately from any goods belonging to the Customer or any third party;
 (iii) properly store, protect, maintain the Goods in satisfactory condition and insured on the Company's behalf for their full price against all risks to the reasonable satisfaction of the Company; and
 (iv) hold the proceeds of insurance referred to in 7.5 (ii) on trust for the Company and not mix them with any other money nor pay the proceeds into an overdraft bank account;
 7.6 The Customer shall be deemed to have accepted the Goods in the ordinary course of its business.
 7.6.1 If the Customer fails to make an payment to the Company when due or proposes to compound with its creditors, has a bankruptcy petition presented against it or being a company, enters into voluntary or compulsory liquidation, has a receiver, an examiner appointed over all or any of its assets or takes or suffers similar action, or if the Company has reasonable cause to believe that any of these events is likely to occur then the Company shall have the right, without prejudice to any other remedies:
 (i) to enter, without prior notice, any premises of the Customer where goods owned by the Company may be and to repossess and dispose of any goods owned by it so as to discharge any sums owed to it by the Customer under this or any other contract.
 (ii) to require the Customer not to resell or part with possession of any goods owned by the Company until the Customer has paid in full all sums due to the Company under this or any other contract.
 (iii) to withhold delivery of any undelivered goods and stop any goods in transit.
 7.7 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods, which remain the property of the Company, but if the Customer does so, all monies owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) forthwith become due and payable.
- 8 Warranty**
 8.1 Subject to the conditions set out below, the Company warrants that the Goods will correspond with their specifications at the time of delivery and be free from defects in design, material for a period of 12 months from the date of delivery ("the Warranty Period").
 8.2 The above warranty is given by the Company subject to the following and other provisions of this condition 8:
 (i) the Company shall be under no liability to the extent permissible by law in respect of any defect in the Goods or lack of technical performance of the Goods arising from any drawing, design, information or specification supplied by the Customer;
 (ii) the Company shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Company's instructions whether oral or in writing, misuse or repair of the Goods without the Company's approval or improper storage;
 (iii) the Company shall be under no liability under the above warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment.
 8.3 Where the Company is not the manufacturer of the Goods, the Company will endeavour to transfer to the Customer the benefit of any warranty given to the Company by its supplier.
 8.4 Subject as expressly provided in these Conditions and except where the Goods are sold to a person dealing as a consumer (within the meaning of the European Communities (Unfair Terms in Consumer Contracts) Regulations 1995), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
 8.5 Where any claim in respect of any of the Goods which is based on any defect in the quality or condition of the Goods or their failure to meet specification is notified to the Company, the Company shall be entitled to replace the Goods (or the part in question) free of charge or, at the Company's sole discretion, refund to the Customer the price of the Goods (or a proportionate part of the price), but the Company shall have no further liability to the Customer.
- 9 Exclusion and Limitation of Liability**
 9.1 Condition 8 and the following sets out entire liability of the Company to the Customer in respect of:-
 (i) any breach of these Conditions; and
 (ii) any representation, statement, or tortious act or omission including negligence arising under or in connection with this Contract.
 9.2 Nothing in these Conditions excludes the Company liability for death or personal injury caused by the Company's negligence or fraudulent misrepresentation.
 9.3 THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO THE CONDITION OF THIS CONDITION 9(3) Subject to Clause 8 and 9(2):
 (i) the Company's total liability under this contract, tort (including negligence or breach of statutory duty) misrepresentation or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the Company's annual sales to the Customer; and
 (ii) the Company shall not be liable to the Customer for any loss of profit or other economic loss (direct or indirect), indirect or consequential loss or damage, costs, expense or other claims for consequential compensation whatsoever (howsoever caused) or loss or damage which arise out of or in connection with the Contract, or for any liability incurred by the Customer to any other person for any economic loss, claim for damages or awards howsoever arising from the Goods or otherwise.
- 10 Intellectual Property and Indemnity**
 10.1 Unless expressly provided to the contrary, the specification and design of the Goods (including the copyright, design right or other intellectual property in the Goods) and the product data sheets, drawings, designs and other design documentation, software, tools, dies and equipment relating to the Goods, shall as between the parties be the property of the Company.
 10.2 The Customer shall not remove, alter, deface or tamper with any of the marks, names, numbers or other means of identification used on the Goods or allow anyone else to do so.
 10.3 Where any designs or specifications have been supplied by the Customer for manufacture by or to the order of the Company, then the Customer shall indemnify the Company against all losses, damages, costs, expenses awarded against or incurred by the Company in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company's use of the Customer's specification or design.
 10.4 If any claim is made against the Customer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property right of any other person, then unless the claim arises from the use of any drawing, design or specification supplied by the Customer, the Company shall indemnify the Customer against all loss, damages, costs and expenses awarded against or incurred by the Customer in connection with the claim, or paid or agreed to be paid by the Customer in settlement of the claim, provided that:
 10.4.1 the Company is given full control of any proceedings or negotiations in connection with any such claim;
 10.4.2 the Customer shall give the Company all reasonable assistance for the purposes of any such proceedings or negotiations;
 10.4.3 the Customer shall not pursue to a final award, the Customer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Company (which shall not be unreasonably withheld);
 10.4.4 the Customer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Customer may have in relation to such infringement, and this indemnity shall not apply to the extent that the Customer recovers any sums under any such policy or cover (which the Customer shall use its best endeavours to do);
 10.4.5 the Company shall be entitled to the benefit of, and the Customer shall accordingly account to the Company for, all damages and costs (if any) awarded in favour of the Customer which are payable by, or agreed with the consent of the Customer (which consent shall not be unreasonably withheld) to be paid by, any other party in respect of any such claim; and
 10.4.6 without prejudice to any duty of the Customer at common law, the Company shall be entitled to require the Customer to take such steps as the Company may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Company is liable to indemnify the Customer under this clause.
- 11 Cancellation and Suspension**
 11.1 No Order which has been accepted by the Company may be cancelled by the Customer except with the written agreement of the Company and on terms that the Customer shall indemnify the Company in full against all loss (including loss of profit), costs (including the cost of all labour and material used), damages, charges and expenses incurred by the Company as a result of such cancellation.
 11.2 If the Customer:
 11.2.1 makes any voluntary arrangement with its creditors or (being an individual or firm) becomes bankrupt or (being a company) becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
 11.2.2 a receiver is appointed, of any of the property or assets of the Customer; or
 11.2.3 ceases, or threatens to cease, to carry on business; or
 11.2.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly; then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 12 Export terms**
 12.1 In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.
 12.2 Where the Goods are supplied for export from Ireland, the provision of this clause 12 shall (subject to any special terms agreed in writing between the Customer and the Company) apply notwithstanding any other provision of these Conditions.
 12.3 The Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
 12.4 Unless otherwise agreed in writing between the Customer and the Company, the Goods shall be delivered ex-works the Company's premises.
 12.5 Unless otherwise agreed in writing between the Customer and the Company, payment of all amounts due to the Company shall be made in Euro by confirmed irrevocable letter of credit opened by the Customer in favour of the Company and confirmed by a leading bank within 10 days of the Company's acceptance of the Order and upon presentation of the required documents to the Bank.
- 13 General**
 13.1 Any order required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
 13.2 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.
 13.3 The Company's rights contained in condition 7 (but not the Customer's rights) shall continue beyond the discharge of the parties primary obligations under the Contract following its termination by the Company or breach by the Customer.
 13.4 If any provision in this contract is held to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
 13.5 The termination of the Contract however arising shall not be prejudicial to any rights and duties of either party which may have accrued prior to termination.
 13.6 The Contract shall be governed by the laws of Ireland, and the Customer agrees to submit to the exclusive jurisdiction of the Irish courts.
- 14 Code of Conduct**
 14.1 The Company is committed to conducting its business ethically and lawfully. To that end, the Company, through its ultimate parent company, Smiths Group plc, maintains a Code of Corporate Responsibility and Business Ethics and mechanisms for reporting unethical or unlawful conduct. The company expects that the Buyer will also conduct its business ethically & lawfully. If the Buyer has cause to believe that the Company or any employee or agent of the Company has behaved unethically or unlawfully under, or in connection with, this Agreement, the Buyer is encouraged to report such behaviour to the Company or the Smiths Group plc. Smiths Group plc's Code of Corporate Responsibility and Business Ethics and mechanisms for making such reports are available on www.smiths-group.com.