



# TFS SYSTEMS LIMITED

## TERMS & CONDITIONS OF SALE



### 1. APPLICATION

1.1 These conditions shall apply to any contract for the sale of equipment or materials and/or the carrying out of installation and/or commissioning by the Company and are to assist both the Customer and the Company in clarifying respective responsibilities and supersede any previous terms and conditions of sale, installation and commissioning published by the Company.

1.2 In these Conditions, the following expressions shall have the following meanings;

"Acceptance" means the successful completion of Installation and/or Commissioning;

"Acceptance Certificate" means the certificate of acceptance issued by the Company to the Customer following Installation and/or Commissioning;

"Acceptance Date" means the date upon which the Acceptance occurs;

"Additional Item(s)" means the following where incurred:  
any special packaging costs under clause 4.4.;  
transportation costs under clause 4.4. where the Customer has requested express same day, overnight delivery or any other similar service or where the price payable (exclusive of Value Added Tax) is £1,000 (One Thousand Pounds) or less;  
or any extra costs incurred as a result of delay caused by the Customer;  
or any variation required by the Customer and accepted by the Company in respect of the Equipment or the services.

"Commissioning" means the engineering test to be carried out on and at the site to Equipment whether supplied by the Company or not in accordance with the Specification;

"the Commissioning Engineer" means the Company's Commissioning Engineer;

"the Company" means TFS Systems Limited, its assignee(s) and/or its sub-contractor(s);

"the Contract" means any quotation or contract for the supply of Equipment and/or the carrying out of Installation and/or Commissioning by the Company on these conditions of sale of Equipment, Installation and Commissioning and any other document incorporated in a contract between the Company and the Customer;

"the Customer" means the buyer or employer under the Contract.

"the Equipment" means the equipment or materials the subject of the Contract;

"Installation" means the civil works to be carried out on and to the site in order to install the Equipment whether supplied by the Company or not in accordance with the Specification;

"Normal Working Hours" means 8.30am to 5.30pm, Monday to Friday excluding Bank Holidays and days in lieu thereof;

"the Site" means the site where the Installation and/or Commissioning is to take place;

"the Site Representative" means the Customer's site representative who is technically competent and qualified and has specific knowledge of the Site, the Installation and Commissioning;

"the Specification" means the detailed list of works of Installation and Commissioning to be carried out on and to the Site and attached to the Contract;

"Working Day" means Monday to Friday.

### 2. OTHER TERMS OR REPRESENTATIONS

2.1. No other standard Conditions or Terms shall apply to the Contract whenever received

2.2. The Customer shall not rely upon any oral terms or representation unless confirmed by the Company in writing.

2.3. Any terms specified by the Company in its Specification or any document referred to in it or any subsequent document issued by the Company shall override these Conditions with which the term is inconsistent.

### 3. AGREEMENT

3.1. The Company shall be bound by any Contract only on despatch of an Acknowledgement signed by a duly authorised signatory of the Company. A quotation given by the Company is not an offer capable of acceptance so as to make it a binding Contract.

3.2. The Customer shall immediately notify the Company of any material error in the Specification.

3.3 If any term put forward by the Customer is inconsistent with these Conditions or any other term specified by the Company, the Company's Acknowledgement of Sale shall be deemed to be a counter offer capable of acceptance by any conduct by the Customer indicating intention to proceed with the transaction.

3.4. The Company reserves the right to refuse to accept any order based upon a quotation more than 60 days old in age unless otherwise stated in the quotation to be open for a longer period and the quotation has not been withdrawn in that period.

3.5. Where the order for Equipment is based upon the standard price list of the Company the price shall be valid provided that delivery is to take place within 30 days of the date of order.

### 4. SALE OF EQUIPMENT

4.1. Where no specific instructions are given to the Company about the manner in which the Equipment is to be delivered or the delivery address then unless otherwise specified in the Company's Acknowledgement of Sale, the Company shall deliver the Equipment to the location mentioned in the Acknowledgement of Sale by such transport and in such instalments as the Company shall determine.

4.2. The cost of delivery of the Equipment shall be an Additional Item unless advised otherwise.

4.3. Delivery will normally be within 3 days of the despatch of the Acknowledgement of Sale but time is not of the essence of the Contract.

4.4. Any other method of delivery or any special packaging requirements must be specified by the Customer at the time of the order and shall be an Additional Item.

### 5. NON-DELIVERY AND DAMAGED EQUIPMENT

5.1. From the time when the Equipment is despatched from the Company's premises whether by carriage or by collection by the Customer or by delivery to the Site, the risk of any loss, damage to or deterioration of the Equipment shall be and remain with the Customer notwithstanding that the Company may arrange carriage. The Company shall be under no liability arising from their choice of carrier or carriers, or from the act or omission of such carrier or carriers and the Customer waives all rights under Section 32(2) of the Sale of Goods Act 1979 in addition to any other rights hereby excluded or restricted.

5.2 The Company shall not be liable for any expenses, losses or damages caused by any delay in delivery and delays shall not entitle the Customer to rescind the Contract.

5.3. In the cases of sales where the Company delivers directly or contracts directly with the carrier, then the Company will at its option either repair or replace or issue a credit note in respect of Equipment lost or damaged in transit (other than by default of the Customer) provided:

5.3.1. the Customer specifies on the carrier's consignment note details of such loss or damage; and

5.3.2. in respect of complete non-arrival of all of the Equipment comprised in the Contract, notification is made within three days of the date of the despatch of the Equipment (the date of despatch to be identified from the copy despatch note sent to the Customer) and separately to the carrier within the period stipulated by the carrier's terms and conditions of carriage for claims against the carrier; and

5.3.3. in respect of damage to all or part of the Equipment or loss of part of the Equipment comprised in the Contract, notification is made to the Company within three days of delivery of the Equipment (which will normally be stated on the carrier's consignment note) and separately to the carrier within the period stipulated by the carrier's terms of carriage for claims against the carriers. On request the Company will inform the Customer of the name and address of the carrier and any time limit for claims stipulated by them.

5.4 Once the Equipment is ready for delivery the Company shall be entitled to invoice and be paid for the Equipment as if they had been delivered if for any reason the Customer does not arrange for or accept delivery. The Company shall arrange storage for the Equipment and the cost of storage shall be an Additional Item.

5.5 Where the Equipment is 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. INSTALLATION

6.1. If specified in the Specification, the Company shall install the equipment at the Site.

6.2. The Installation shall be in accordance with the Specification (if any) and in accordance with the relevant British Standard Code of Practice applicable to the Installation current at that time.

6.3. All prices for Installation are based on the assumption that the Equipment will be surface fixed. Any additional work required to install the Equipment or to achieve a flush Installation shall either be provided by the Customer at its cost, including any redecoration that may be necessary or shall be an Additional Item. Unless otherwise specified in the Specification the Company shall not be obliged to reinstate or make good any part of the premises at the Site which may be affected by the Installation.

6.4. Unless stated in the Specification no installed drawings have been allowed for in the price of Installation.

6.5. The Company accepts no responsibility for the co-ordination of Installation with any other services provided by third parties. The Company will provide such information as may be reasonably requested by the Customer to assist any such third party, but any alterations to or any re-working of the Installation required by such co-ordination shall be an Additional Item.

6.6. Any request for alterations to or additions to the Installation whether by way of variations or otherwise must be in writing and shall be an Additional Item.

6.7 Unless stated in the Specification, no allowance has been made in the price for any interconnection of the Equipment to any other system or equipment at or on the Site to facilitate the shutdown of the Equipment or remote control.

6.8 Where the Equipment is required to meet a particular level of audibility, whether relating to an identified level of clarity or minimum volumes, the Company accepts no liability to comply with these requirements when the quantities and/or location of Equipment has been instructed by a third party, whether as detailed on layout drawings or equipment schedules or otherwise. If required the Commissioning Engineer will carry out a full audibility test on completion of the Installation and report on any defect as an Additional Item. The cost of any work involved in raising the level of audibility shall be an Additional Item.

### 7. COMMISSIONING

7.1. Where the Equipment to be Commissioned has not been installed by the Company, the Customer will be required to provide on the Site for the period of Commissioning, a Site Representative.

7.2. Before the Commissioning Engineer will commence any connection or testing work as part of the Commissioning, the Customer must issue to the Commissioning Engineer for retention a complete set of all cable test sheets which must detail as a minimum the information required under the then current IEE Regulations.

7.3 Where the Commissioning involves fire alarm systems, any documents not available to the Commissioning Engineer, will be recorded on the Certificate as being a variation from BS 5839 Part 1.

7.4. The Commissioning Engineer will carry out low voltage continuity earth line resistance and capacitance tests on all circuits as part of the Commissioning and any failures will be notified to the Site Representative who will be required to instigate the clearance of these faults.

7.5. The Commissioning Engineer must be satisfied prior to commencement of Commissioning that all cables are clearly marked and identifiable as well as all conductors. With particular regard to Commissioning involving fire alarm systems all cables and conductors must be appropriately identified and if not this will be recorded on the Certificate as a variation from BS 5839 Part 1.



# TFS SYSTEMS LIMITED

## TERMS & CONDITIONS OF SALE



7.6. In the event of any delay of Commissioning and which is not due to the failure of the Company and whether caused by the Customer or otherwise, the Company retains the right to charge as an Additional Item for either an abortive visit or for the additional hours incurred in waiting for the faults to be rectified. Any such Additional Item will be charged at the then hourly rate for Commissioning services. In addition, any time lost due to lack of access to the site on the pre-arranged day, incomplete works, unavailable access equipment or lack of installed drawings will be charged as an Additional Item.

7.7. The Commissioning Engineer will provide a separate docket covering the additional time involved in Commissioning which must be signed by the Site Representative. The failure by the Customer to acknowledge and accept these charges as they are incurred will result in the Commissioning Engineer not returning to the Site to complete the works.

7.8. The cost of Commissioning only includes the final connection of any control Equipment. All field Equipment must be connected by the time the Commissioning Engineer attends the Site. If any cables are to be terminated by the Commissioning Engineer then these must where applicable be glanded off and stripped ready for termination.

7.9. No detector heads are to be installed by the Customer until the Commissioning Engineer has carried out his own particular test to the respective circuits.

7.10. The Customer is responsible for and required to make available to the Commissioning Engineer all installed drawings and zone charts for specific schematic drawings. If requested at the time of commencement of Commissioning, the Commissioning Engineer will during such Commissioning be prepared to assist to ensure that on addressable systems the correct address numbers are provided for inclusion on their own as installed drawings.

7.11. The Customer is required to give at least 7 working days' notice for the attendance of the Commissioning Engineer.

7.12. The Commissioning allows for one final handover to the Customer. In the event the Customer requires any third party to be present to approve the Commissioning then the Customer must arrange and any additional visit required to demonstrate the system to any third party will be an Additional Item.

### 8. DATE FOR INSTALLATION AND/OR COMMISSIONING

8.1. The Installation and/or Commissioning shall be carried out by the Company during Normal Working Hours unless otherwise specified. Any date mentioned by the Company is an estimate only and not a term of the Contract.

8.2. If Installation and/or Commissioning is delayed by any circumstances outside the Company's reasonable control (including, without limitation, war, civil disorder, natural disaster, fire, flood, theft, industrial dispute, delay by suppliers carriers or other subcontractors, inability to obtain materials labour or manufacturing services from usual sources, manufacturing faults, or acts of omissions of the Customer), the date for Installation and/or Commissioning shall be extended until a reasonable time after such circumstances have ended.

8.3. The Customer's acceptance of Installation and/or Commissioning shall constitute a waiver of any claim by the Customer in respect of delay.

8.4. The Customer shall pay as an Additional Item for any work carried on outside the Normal Working Hours.

### 9. ACCEPTANCE

9.1. The Equipment, Installation and Commissioning shall be deemed to have been accepted by the Customer and in all respects in accordance with the Contract on signature by the Customer of the Acceptance Certificate, or where the Equipment is not installed by the Company upon the expiration of three days after delivery unless the Customer gives notice rejection within that period.

### 10. THE CUSTOMER'S OBLIGATIONS

10.1. The Customer shall ensure that the Site and access to it are safe and suitable for the delivery, Installation and Commissioning of the Equipment, that all necessary licenses and consents have been obtained, and that there are suitable power supplies for hand-tools, adequate lighting, toilet and rest facilities, secured facilities for the storage of plant and machinery necessary to carry out the Contract and an acceptable and safe working environment. 240 volt AC 13 amp 'secret' style key-switched fused spur supplies are to be provided adjacent to the proposed panel/charger/control location/s which must

be certificated to the current edition of the IEE Wiring Regulations.

As far as access to the Site is concerned, the Customer will be expected to provide the Company with such information and plans as may be reasonably required including details of any security arrangements to enable the Company to fulfil its obligations under the Contract.

10.2. The Customer shall provide at its own cost the Company with all facilities and help that it may reasonably require including (without limitation) access to the Site at all times, parking space and all necessary scaffolding or other items required for access to the Site, which shall be safe to use and comply with all relevant Health and Safety legislation and in particular with regard to fire alarm beam detectors, suitable powered access will be required to safely access both ends of each beam set simultaneously.

10.3. The Customer must advise the Company of the existence of concealed pipes, wires and cables for water, gas, electricity, telephone, computer, data communication and other such services affecting the Site and shall confirm the location of such services to the Company before Installation and/or Commissioning commences. In the absence of such notice, the Company accepts no liability for damage to such services or any loss, damage or injury whatsoever incurred or sustained in consequence thereof as the Customer hereby acknowledges, and the Customer shall indemnify the Company against any claim whatsoever for loss damage or injury resulting from damage to such services as aforesaid.

10.4. The Customer shall only operate the Equipment after the Acceptance Date and in the case of Equipment installed by the Company shall only operate the same in accordance with the written information and instructions which may from time to time be supplied by the Company to the Customer.

10.5. Such facilities as are reasonably requested by the Company and not provided by the Customer and which are necessary for the Installation and/or Commissioning, shall be provided by the Company and charged to the Customer as an Additional Item.

10.6. The Customer shall ensure that there is no interruption to the work of Installation and/or Commissioning. The price is based on the assumption of full continuity of work and that the Company shall have unhindered access during normal working hours.

10.8. The Customer shall be responsible for complying with all instructions given by the Company and the Manufacturers of the Equipment for its use, particularly with regard to any environmental conditions.

### 11. PRICE AND PAYMENT TERMS

11.1. The price payable under the Contract shall be as specified in the Company's Acknowledgement of Sale, together with Value Added Tax and any other tax, duty or levy chargeable in respect of the Contract. The price specified is nett and no deduction for early settlement or retention or for any set-off or counterclaim may be made. Unless otherwise specified no main contractor's discount has been allowed for in the price.

11.2. Unless otherwise stated, any Additional Items shall be added to the price.

11.3. Unless otherwise specified the Customer shall pay the price and Additional Items (if any) as follows:

- (i) in the case of Equipment, within 30 days of the end of the month in which the Equipment was despatched by the Company;
- (ii) in the case of Installation and/or Commissioning within 30 days of the end of the month in which Installation and/or Commissioning was completed;
- (iii) in the case of any interim account, within 30 days of the end of the month to which the account relates.

11.4. The Company shall be entitled to render to the Customer an interim account every month.

11.5. The Company reserves the right to charge interest at 8% above NatWest Bank PLC's base lending rate for the time being on any overdue payments until repaid in full.

11.6. The Company reserves the right to recover from the Customer all direct expenses reasonably incurred by the Company in connection with any overdue sums.

11.6.1. Without prejudice to any other rights of the Company, if there is any reason to doubt that the amounts due from the Customer under the Terms of the Contract will be paid in full according to the Terms thereof, then the Company reserves the right to payment in full before delivering the Equipment or performing the Installation or Commissioning or any other services whatsoever for the Customer.

11.6.2. The Customer shall indemnify the Company against all losses sustained or extra expenditure incurred as a result of such a suspension of delivery or Installation or Commissioning including a reasonable allowance for storage.

11.6.3. Where payment requested in accordance with this Condition is not received within 30 days of demand, the Company reserves the right to sell or dispose of the Equipment produced or acquired for the Customer and to recover any additional loss from the Customer.

11.7. Where the Equipment is to be delivered by instalments and the price thereof is payable by instalments, the failure to pay any outstanding instalment invoiced to the Customer shall entitle the Company to refuse to supply any further Equipment to the Customer and to recover by action the whole or part of any price which is due unpaid in addition to any other rights or remedies under the Contract.

### 12. RETENTION OF TITLE

12.1.1. Legal ownership of the Equipment is to remain vested in the Company until both the price for the Equipment and any Additional Items have been paid for in full, and until full payment has been received by the Company under any other contract with the Customer for which payment is outstanding;

12.1.2. If the Customer obtains possession of the Equipment prior to such payment, the Customer shall hold the Equipment in a separate and identifiable form as bailee and fiduciary agent for the Company;

12.1.3. Failure to pay the full amount when due shall give the

Company or its employees or agents, the right to repossess the Equipment (and enter the Customer's premises for that purpose if necessary) with or without notice and without liability and, at its option, to avail itself of any other legal remedy;

12.1.4. The Company shall have the right to sell the Equipment once they have been re-possessed under this Condition.

12.2. Notwithstanding this Clause 12, the Company shall be entitled to maintain an action for the price of the Equipment and Additional Items at any time after the date when payment is due.

12.3. The Customer may contract to sell the Equipment to a third party in return for valuable consideration provided always that the Customer shall account in a fiduciary capacity to the Company for the proceeds of sale (to the extent of the Customer's indebtedness to the Company) keeping the same separate and identifiable from its other monies. The Customers rights under this Clause 12.3 shall cease if an event specified in clause 20 occurs to the Customer.

12.4. If prior to payment in full being made the Equipment become commingled with similar equipment belonging to the Customer and/or any third party the Customer shall hold the Company's proportion of the commingled Equipment or their proceeds of sale on trust for the Company. The Company shall be treated as a tenant-in-common of the commingled equipment and the Customer shall hold as trustee for the Company's proportion and (if the commingled equipment has been sold) pay to the Company its due proportion of the proceeds of sale.

12.5. Where the Equipment is attached to either buildings or plant or machinery of the Customer, the Customer agrees that it is not its intention that the Equipment thereby becomes fixtures and fittings or part of the plant or machinery, but the Equipment shall remain as chattels and be severable from the buildings or plant or machinery.

### 13. VARIATION WORK

13.1. The Company will consider any reasonable request by the Customer in respect of variation work, whether by way of addition, omission, or substitution of any work, whether Installation or Commissioning. The price of any such variation work shall be an Additional Item in accordance with the Company's day work rates.

### 14. IMPROVEMENT TO SPECIFICATION

14.1. The Company's policy is one of continued research and development and the Company reserves the right to amend or change any Equipment Specifications or products listed in the Specification at its discretion at any time without notice.

14.2. The Company also reserves the right because of difficulties in obtaining supplies to use at its discretion Equipment and materials other than those specified provided that this does not materially affect the performance of the Equipment or the system.



# TFS SYSTEMS LIMITED

## TERMS & CONDITIONS OF SALE



### 15. TECHNICAL INFORMATION/ADVICE

15.1. Any technical information supplied by the Company shall only be relied upon by the Customer if confirmed in writing by the Company. The Company is not liable for any such technical information provided verbally by its employees. The Company relies upon the information supplied by the manufacturer of the Equipment and shall wherever so practicable supply the Customer if so requested with copies of the manufacturer's technical information.

### 16. LIABILITY

16.1. The Company has no special knowledge of the nature and value of the contents of the premises at the Site for which the Equipment has been specified and in which it is to be Installed or Commissioned or of the nature of the risks to which the premises and their contents will be or may from time to time be exposed. The potential loss or damage which the Customer might suffer is likely to be disproportionate to the price that can reasonably be charged by the Company under agreements of this nature. As the Customer knows or should know the extent of such potential loss or damage and is therefore in the best position to do so, it should insure against all likely risks. Accordingly the Customer accepts that it is reasonable that the Company limits its liability to the Customer as set out below, which specifies the entire liability of the Company including liability for negligence.

16.2. The Company accepts liability:

16.2.1. for death of personal injury resulting from the negligence of the Company, its employees or agents acting in the course of their employment;

16.2.2. arising out of any breach of the obligations as to title implied by statute;

16.2.3. where the Customer deals as consumer for any breach of any condition or warranty implied by statute as to the Equipment whether as to correspondence with the description or sample or as to its quality or fitness for the purpose or particular purpose;

16.3. The Customer is required to notify the Company of any claim above as soon as is possible.

16.4 The majority of fire alarm installations involving products procured from the Company will ultimately be utilised to protect people and property at risk and the Customer is advised to ensure that they have engaged suitably qualified persons to design, install, commission and maintain any systems.

### 17. EXCLUSION OF LIABILITY

17.1. Except as provided for in Clause 16, the Company shall not be liable to the Customer for any consequential loss or damage of whatsoever nature (including, without limitation, loss of use, production, profits, custom or goodwill, damaged property and increased operating expenses (however arising) whether from breach of contract or negligence or otherwise.

17.2. Except as provided for in Clause 16, the Company's total liability for all claims of whatever nature and however arising (whether from breach of Contract or negligence or otherwise) against the Company employees and sub-contractors shall be limited to £50,000.

### 18. CUSTOMER'S DEFAULT

18.1. If the Customer shall fail to observe and perform any of these Conditions or if any distress or execution shall be levied on the Customer's property or if the Customer shall make or offer to make any arrangement with creditors (where the Customer is an individual or firm) if an Interim Order under Section 252 of the Insolvency Act 1986 is made in respect of or a Petition in Bankruptcy is presented against the Customer or (where the Customer is a Company) if a Receiver or Manager of the Customer's assets or an Administrative Receiver or Administrator of the Customer shall be appointed or if a Resolution or Petition to wind up the Customer shall be passed or presented, the Company shall be entitled (in addition to any other rights or remedies) it may delete or suspend performance of the Company's obligations under the Contract, or to terminate the Contract or to suspend and later terminate.

### 19. SUB-CONTRACTING

19.1. The Company may sub-contract the performance of all or any of its obligations under the Contract.

### 20. ENTIRE AGREEMENT

20.1. This Contract comprises the entire agreement between the parties relating to the subject matter hereof, to the exclusion of all other terms and conditions prior collateral agreements, negotiations, notices of intention, promises, warranties, undertakings and representations (collectively "representations") other than those representations expressly included in the Contract; the parties agree that they have not been induced to enter into this Contract on the basis of any representations other than those expressly included in the Contract; and neither part shall be bound by or liable for any representation of any kind or nature not expressly included in the Contract.

20.2. The Customer shall not rely on any variation of the Contract or any waiver of any of its terms unless contained in or evidenced by a letter or facsimile transmission or telex sent by or on behalf of the Company.

### 21. NOTICE

Any notice by either party to the other pursuant to these Conditions shall be given by letter or facsimile transmission or email.

### 22. LAW

The Contract shall be subject to and construed in accordance with English Law.

### 23. ARBITRATION

Any dispute or difference of any kind whatsoever which arises or occurs between the parties in relation to any thing or matter arising under, out of or in connection with the Contract shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of the Chartered Institute of Arbitrators in accordance with the rules of the Chartered Institute of Arbitrators

### 24 HEALTH & SAFETY & CDM REGULATIONS

24.1 Our quotation is based upon information provided to the Company at the time of Quotation. Should the Health & Safety Plan not have been issued as part of the enquiry documentation, the Company reserves the right to amend the offer to encompass any specific requirements the Health & Safety Plan may require.

24.2 In particular the client shall make available the Building Asbestos Register and be responsible for advising the Company of any Asbestos Containing Materials that are present on site as required by the Control of Asbestos Regulations 2006.

24.3 In particular the client shall be responsible for advising the Company of any Hazardous Materials that are present on site as defined by the Control of Substances Hazardous to Health Regulations.

24.4 The Company shall provide their Employees with Industry Standard and Company Issue Safety Footwear, Eye Protection, Hi-Visibility Vests, Ear Defenders, Hard Hats and Gloves. For any other specific requirement the Company reserves the right to amend the offer to encompass such additional requirements.

24.5 Where the Company are the Principal Contractor the Company will carry out their responsibilities as required by the Construction (Design and Management) Regulations 2007.