

Tailored Fire & Security Group Ltd

Terms & Conditions of Sale & Supply

1. GENERAL

1.1 TAILORED FIRE AND SECURITY GROUP LTD (the Supplier) provides its services (as defined below) in accordance with the following terms and conditions which shall apply to every such sale, except to the extent stated and/or as varied in writing by a Director of the Supplier, and to the exclusion of any conflicting terms and conditions submitted by the Client (as defined below)

2. DEFINITIONS

2.1 Within these Terms and Conditions the following expressions shall have the following meanings:

- 2.1.1 **'The Client'** shall mean the person firm or company who has requested the Supplier to provide Services or with whom the Supplier contracts for the provision of Services.
- 2.1.2 **'The Goods'** shall mean the apparatus, materials or equipment (including any part thereof, any installment of the Goods or any parts for them), which the Supplier agrees to supply to or to the order of the Client.
- 2.1.3 **'Group'** shall mean in respect of either the Client or the Supplier, that party's group composed of that party, its holding company (if any), and all subsidiary companies of that party and of that party's holding company (if any).
- 2.1.4 **'Commissioning Works'** shall mean the Suppliers commissioning engineer setting the Goods to work.
- 2.1.5 **'CDPA'** means the Copyright Designs and Patents Act 1988 as the same may be amended, extended or re-enacted from time to time.
- 2.1.6 **'Incoterms'** shall mean the international rules for the interpretation of trade terms of the International Chamber of Commerce, 2000 edition (ICC publication no. 560).
- 2.1.7 **'Intellectual Property Rights'** shall mean patents, registered and unregistered designs, copyright, trade marks, database rights and all other intellectual property protection wherever in the world enforceable.
- 2.1.8 **'Know-how'** shall mean all inventions, discoveries, improvements and processes (whether patentable or non-patentable), copyright works (including without limitation computer programs), designs (whether or not registered or registrable) and all other technical information of whatever nature.
- 2.1.9 **'The Supplier'** shall mean Tailored Fire and Security Group Ltd and any part of the group composed of that party, its holding company (if any), and all subsidiary companies of that party and of that party's holding company (if any).
- 2.1.10 **'Services'** shall mean the services which the Supplier agrees to supply to or to the order of the Client.
- 2.1.11 **'Terms'** shall mean these Terms and Conditions of Sale and Supply.

3. WARRANTY & LIABILITY

3.1 All workmanship executed by the Supplier is in accordance with the relevant British Standard or

- European Standards, the Particular Specification, the General Specification, the Drawings or any other relevant Contractual Instrument.
- 3.2 All materials and equipment obtained, supplied and fixed by the Supplier are in accordance with the documents noted in 3.1 above and fixed in accordance with the Manufacturer's instructions. All warranties attaching to the materials will be passed onto the Client following the supply or successful commissioning works and operation of the products and handover of the project to the Client whichever be the first. The Client is then responsible for the maintenance as required of the products in accordance with the Manufacturer's Instructions. It is a condition of the warranty that all invoices and applications are paid and that the goods have been serviced in accordance with the Manufacturers and Suppliers recommendations failure to do so will invalidate the warranty.
- 3.3 The Suppliers liability in respect of the products referred to in 3.2 above is then limited to the level of guarantee passed onto the Client.
- 3.4 It is a condition precedent that all invoices for the works have been paid (apart from any retention entitled to be held under the terms of the Contract) failing which the commissioning works will not be carried out.
- 3.5 Subject as expressly provided in these Terms, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 3.6 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Client are not affected by these Terms.
- 3.7 Except in respect of death or personal injury caused by the Contractor's negligence, or liability for defective products under the Consumer Protection Act 1987, the Contractor shall not be liable to the Client by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the contract, for loss of profit, loss of opportunity, loss of contract or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Contractor's employees or agents or otherwise) which arise out of or in connection with the supply of the Goods and/or Services (including any delay in supplying or any failure to supply the Goods and/or Services in accordance with the contract or at all) or their use or resale by the Client, and the entire liability of the Contractor under or in connection with the contract for the supply of the Goods/Services (whether in contract, tort or otherwise) shall not exceed the price of the Goods and Services the subject of the contract, except as expressly provided in these Terms. The maximum liability of the Contractor for damage to property arising directly from the Contractor's employees, agents or sub-contractors in relation to the contract for the supply of the Goods and/or Services shall be £1,000,000.00, where the other provisions of this clause 3.7 do not, or are held not to apply to limit such liability.
- 3.8 The Contractor shall not be liable to the Client or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform any of the Contractor's obligations in relation to the Goods and/or Services, if the failure was due to any cause beyond the Contractor's reasonable control or the Client's failure to supply material, information, or any other necessary instructions, or other fault of the Client. Without limiting the foregoing, the following shall be regarded as causes beyond the Contractor's reasonable control:-
- 3.8.1 Act of God, explosion, flood, tempest, fire or accident;
 - 3.8.2 War or threat of war, act of terrorism, sabotage, insurrection, civil disturbance or requisition;
 - 3.8.3 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
 - 3.8.4 import or export regulations or embargoes;
 - 3.8.5 strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Contractor or a third party)
 - 3.8.6 difficulties in obtaining raw materials, labour, fuel, parts or machinery;
 - 3.8.7 power failure or breakdown in machinery;
 - 3.8.8 exhaustion of stock.
- 3.9 The Warranty does not apply to defects arising from ordinary wear and tear, misuse, neglect, failure to follow the Supplier's instructions (whether oral or in writing), alteration or repair of the Goods without the Supplier's approval, abnormal working conditions, or wilful damage, or

from circumstances over which the Supplier has no control, or from any drawing, design or specification supplied by the Client.

- 3.10 The Supplier's responsibility in the case of any defect is limited to the cost of making good such defect in its workshops, or, at its discretion replacing the affected Goods or parts thereof, in accordance with the terms of the Warranty.
- 3.11 Nothing in these Terms shall be taken to exclude or limit or purports to exclude or limit any liability of the Supplier for death or personal injury caused by the Suppliers's negligence or for fraudulent misrepresentation of the Supplier.

4. PAYMENT

- 4.1 Unless otherwise stated in writing by the Supplier, the Client shall pay for any Goods or Services supplied within thirty days from the date of invoice or application. Payment of the Supplier's charges shall be made less any retention covered by the Contract but without any other deduction or set off whatsoever. Materials stored off site will be included in such Invoice or application provided that the ownership thereof has been vested in the Client.
- 4.2 Any quoted discount shall not be applicable unless payment is made in strict accordance with these Terms.
- 4.3 Should prompt payment not be made the Supplier reserves the right (without prejudice to any other rights and remedies it may have) to charge the Client interest (both before and after any judgement) on all overdue monies at eight per cent per annum over the Bank of England base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest). The Supplier reserves the right to charge the Client for any costs in obtaining payment of monies overdue, which may include but are not limited to professional fees, solicitors fees, court costs, employment of a collection agency, bailiffs etc. Interest shall also apply in accordance with the foregoing to the cost to the Supplier of collection of the monies due.
- 4.4 All goods will remain the property of the Supplier until paid for in full.
- 4.5 All titles to the goods remains with the supplier until paid for in full and the title shall not be passed on to any other third parties until the goods are paid for in full.
- 4.6. At the discretion of and upon request by the Supplier, the Client shall pay the amount requested by the Supplier on pro-forma invoice prior to the issue of Goods or Services to the Client.
- 4.7 Where the Supplier is engaged to carry out work or Services over a period exceeding four weeks it may, at its discretion, instead of VAT invoices, issue applications for payment to the Client at periodic intervals which shall fall due for payment thirty days from the date of application, subject to clause 4.8, but which otherwise shall be subject to all of the payment terms in these Terms.
- 4.8 Upon its receipt of an application for payment from the Supplier, the Client shall:
- 4.8.1 pay the charges the subject of the application including the VAT payable in respect thereof within 30 days of the date of the application; or
- 4.8.2 forthwith provide a payment certificate in respect of the charges (including the VAT element) to the Supplier. In this event the Supplier shall issue a VAT invoice to the Client in respect of such charges, which the Client shall pay in full within 30 days of the date of the invoice, to the extent it has not already paid such charges; or
- 4.8.3 pay the amount of the charges the subject of the application exclusive of VAT within 30 days of the date of the application. In this event the Supplier shall issue a VAT invoice in respect of the charges and the Client shall pay the VAT the subject of the VAT invoice to the Supplier within 30 days of the date of the invoice
- 4.9 The Supplier agrees to sign and return any payment certificate issued to it by the Client, provided it has received payment in full of the charges including VAT the subject of the payment certificate and the Supplier has not issued or does not intend to issue a VAT invoice in respect of such charges. The Supplier will receipt paid VAT invoices upon request.

- 4.10 All Goods supplied by the Supplier shall remain the Supplier's absolute property until all amounts owing to the Supplier for the relevant Goods and any other Goods and/or Services agreed to be supplied by the Supplier to the Client, have been paid in full in cash or cleared funds.
- 4.11 Risk in the Goods passes to the Client on delivery, or where the Client wrongfully fails to take delivery of the Goods, upon the Supplier's tendering delivery.
- 4.12 Should the Client resell the Goods without having paid all amounts outstanding to the Supplier then the Client agrees to hold any proceeds of sale or sufficient part thereof to pay all amounts outstanding to the Supplier, as Trustee for the Supplier.
- 4.13 Until such time as the property in the Goods passes to the Client, the Client shall hold the Goods as the Supplier's fiduciary agent and bailee, and shall keep the Goods separate from those of the Client and third parties and properly stored, protected and insured and identified as the Supplier's property, but the Client may resell or use the Goods in the ordinary course of its business.
- 4.14 The Supplier shall be entitled at any time to repossession and to enter upon the Client's premises or where the Goods and products may be with such transport as may be necessary and to repossess any Goods or products which remain the Supplier's property.
- 4.15 Nothing in these Terms shall confer any right upon the Client to return any Goods sold or to refuse or delay payment therefor unless otherwise agreed by the Supplier.
- 4.16 Where Goods or products in which the Supplier has property are attached to or stored within any premises other than the Client's premises the Client will secure from the owners or occupiers of such premises the Client's right of entry to such premises and preserve notwithstanding termination of the Client's right of entry to such premises, the Supplier's right to enter those premises for the purpose of repossession of the Goods and products still in the Supplier's ownership.

5. SUSPENSION OR CANCELLATION OF DELIVERY

- 5.1 The Supplier reserves the right to suspend delay or cancel the delivery of some or all the Goods/Services or require advance payment for them if the Client is or reasonably appears unable to pay its debts and in those circumstances the Supplier shall also retain any other rights it has against the Client. The Supplier shall further be entitled to withdraw his workforce and the Client will pay to the Supplier the cost of redeployment of his labour as an extra to the original Contract. Such withdrawal of labour shall not vitiate the Contract.
- 5.2 The Supplier shall be entitled to postpone any commissioning activities until full payment for the relevant elements of the installation has been paid for in accordance with the terms of the Contract.
- 5.3 The Supplier shall be entitled to postpone the issue of any certification, manuals, drawings or the like until full payment has been received by the Supplier, in accordance with the terms of the Contract.
- 5.4 Cancellation of any contract by the Client shall be permitted by express agreement of the Supplier provided that the Supplier is reimbursed for all expenses incurred any equipment purchased shall become the property of the Client when paid for.
- 5.5 Should the Client as a result of actions set out in Clauses 5.1 to 5.4 incur penalties or damages through any subsequent third party arrangements or agreements, the Supplier shall not be held responsible or liable nor shall the Supplier accept any charges resulting from any such penalties or damages.
- 5.6 The Supplier reserves the right to charge a percentage of the overall order value in the event that any order is cancelled following receipt of the buyers order and instruction to proceed. This percentage will reflect the administration and any materials or labour costs incurred by the Seller. The percentage rates are: Cancellation within 3 days – 25%, Cancellation within 7 days – 50%, Cancellation within 24 hours of the date agreed for installation – 90%. In addition Cancellation of orders where engineers / goods are already despatched to repair or commence an installation will be charged travel to and from the site and a mileage charge and any other costs incurred.

6. FITNESS FOR PURPOSE

- 6.1 Except where he has Contracted for the design of any installation, the Supplier will not accept responsibility for the specified products and will advise the Client should he consider that any equipment specified is not so suitable, however it is the responsibility of the Client to issue instructions to the Supplier in this regard.

7. DESIGN

- 7.1 Any design undertaken by the Supplier which is associated with the Goods is based upon information and details provided by the Client and is carried out in good faith. Any redesign necessary due to inaccurate information will be chargeable to the Client and will become an extra to the Contract.
- 7.2 Details of documentation and details provided by the Client upon which any design is based are set out in the Supplier's quotation.
- 7.3 In the event of the Client failing to provide the Supplier with all details necessary to provide an accurate design the Supplier shall incur no responsibility or penalty for any failure associated with or arising from any design produced nor shall the Supplier be liable for any damages arising whether in contract or tort, except as otherwise provided under these Terms.
- 7.4 The Client is responsible for all design approvals including without limitation Fire Officer Licensing Public and Local Authority approvals.
- 7.5 Any drawings or designs issued by the Supplier to the Client for approval shall be deemed to have been approved without reservation by the Client if no comment is made in respect thereof in writing within a period of fourteen days from the date of issue to the Client.
- 7.6 Responsibility for any failure of any design to meet any criteria shall rest with the Client or other person approving (or deemed to approve in accordance with clause 7.5) any design.
- 7.7 Siting of alarm sounders on any design drawing of the Supplier is expected to give the audibility level required by B.S.5839. The Supplier cannot however guarantee the attainment of such audibility levels and upon completion of any installation and audibility tests it may be found that additional alarm sounders may be required to meet the audibility level required. In the event that additional alarm sounders are required to enable any installation to meet a particular standard the Supplier will supply them at prices ruling at date of dispatch upon receipt of the Client's supplemental order and upon and subject to these Terms. The supplier shall not incur any liability for non completion due to inadequate audibility levels, the supplier will not be liable for any costs associated additional materials, installation, commissioning and disruption due to the requirement of additional alarm sounders, the supplier carry out these additional works upon receipt of the Client's supplemental order and upon and subject to these Terms.
- 7.8 The Supplier shall not incur any liability for non conformance or non compliance in the event that the performance of the Goods is affected by circumstances not made known to the Supplier at the time of issuing any design including without limitation the acoustic qualities of any structure, the siting of machinery, plant, furniture, or fittings or the interior qualities or structure of any building.
- 7.9 In the event that additional work and/or materials are required to any installation to achieve any particular standard in consequence of any circumstance not made known to the Supplier at the date of its quotation, the Supplier shall be entitled to charge for all such additional work and/or materials, which charges shall be payable by the Client in accordance with the payment terms set out in these Terms.
- 7.10 If the Goods are to be manufactured or any process is to be applied to the Goods by the Supplier in accordance with a specification submitted by the Client, the Client shall indemnify the Supplier against all loss, damages, costs and expenses awarded against or incurred by the Supplier in connection with, or paid or agreed to be paid by the Supplier 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 Supplier's use of the Client's specification.
- 7.11 Any design undertaken by the Supplier is based upon a brief contained in the tender documentation, or other information and details provided by the Client who then is responsible for the accuracy thereof. Any redesign necessary due to inaccurate information will be chargeable to the Client and will become an extra to the Contract.

8. INSTALLATION

8.1 The programme for the Supplier to install the system(s) is stated in the quotation.

Any additional works required by the Client must be the subject of a written instruction to the Supplier 8.2 and shall be paid as an extra to the Contract. The programme implications shall also be stated on the

instruction having been previously agreed with the Supplier.

- 8.3 In the event that the Client fails to instruct the Supplier in accordance with clause 8.2 above then the Supplier shall incur no responsibility for penalties or damages howsoever arising in consequence of such additional works either not being undertaken or their not being undertaken at any particular time.
- 8.4 The Client shall be responsible for providing the Supplier with unimpeded access to any premises where the Goods/Services are to be delivered or provided with all services available to the Supplier to enable him to discharge his responsibilities effectively and in accordance with the programme or any amendments thereto in accordance with clause 8.2 above.
- 8.5 The Supplier's quotation for any installation is prepared upon the basis of the following requirements namely that:
- 8.5.1 electrical power and lighting as required for the works to be undertaken by the Supplier will be provided free of charge;
 - 8.5.2 scaffolding as necessary will be provided for the Supplier free of charge;
 - 8.5.3 use of welfare and storage facilities will be provided free of charge;
 - 8.5.4 builders work in connection with the installation will be provided free of charge including the costs of making good;
 - 8.5.5 containment equipment such as cable trays trunking channels and the like will be provided free of charge for wiring, cables and equipment;
- 8.6 In the event that the Client fails to issue to the Supplier a Practical Completion Certificate when any installation works are completed then the date of practical completion shall be deemed to be the date of setting to work the Goods supplied.
- 8.7 The Client shall witness that any installation by the Supplier works correctly and in accordance with the Client

9. COMMISSIONING

- 9.1 Where the Client is to fix Goods provided by the Supplier and the Supplier is to Commission the Goods:
- 9.1.1. the Client shall complete, sign and deliver to the Supplier not less than fourteen days before commissioning is required the Supplier's form of application for Commissioning;
 - 9.1.2. the Client shall ensure that the whole of the works to be commissioned are available to the Supplier to enable the Supplier to carry out the Commissioning works in one continuous operation; and
 - 9.1.3. the Supplier shall be entitled to charge and the Client shall pay the Supplier standing time and additional costs at the Supplier's stated daily commissioning rate or multiples thereof incurred if the works to be commissioned are incomplete or not available to the Supplier on the date stated for commissioning or if the commissioning works are delayed or interrupted due to the fault of the Client.
- 9.2 The Supplier will carry out commissioning works during any normal working hours, being 8 hours on weekdays between 0800 hours and 16.30 hours Monday to Friday inclusive.
- 9.3 In the event that the Client requires Commissioning works outside normal working hours it must issue to the Supplier an amendment to the Application for Commissioning. Commissioning works that take place outside the hours stipulated in clause 9.2 above, shall be chargeable at the Suppliers premium rate table.
- 9.4 The Supplier's quotation for Commissioning is prepared upon the basis that there shall be provided by the Client free of charge to the Supplier for use by the Supplier's Commissioning Engineer:
- 9.4.1. mains and temporary power;
 - 9.4.2. scaffolding and access equipment;
 - 9.4.3. storage and welfare facilities;
 - 9.4.4. as fitted installation drawing/installation schematic drawings; and
 - 9.4.5. installers test sheets and attendance by a representative of the Installer.
- 9.5 The Supplier shall not be required to complete any commissioning works unless there is a representative of the Installer present during the process of commissioning.

- 9.6 The Client shall be responsible for witnessing the works of commissioning and signature on completion certifying that he/she/its authorised representative has witnessed the satisfactory operation of the Goods. In the event that the Client fails to do so, the Warranty in clause 3 shall not be available or apply in respect of the Goods.
- 9.7 The Supplier will Commission the installation on completion of each section or element and will thence deliver to the Client the appropriate documentation which the Client will sign to signify approval.
- 9.8 Where the Supplier is installing the equipment and the Supplier is to Commission the same:
- 9.8.1. the Client shall complete, sign and deliver to the Supplier not less than fourteen days before commissioning is required the Supplier's form of application for Commissioning;
- 9.8.2. the Client shall ensure that the whole of the works to be commissioned unhindered access throughout the building is available to the Supplier to enable the Supplier to carry out the Commissioning works in one continuous operation; and
- 9.8.3. the Supplier shall be entitled to charge and the Client shall pay the Supplier standing time and additional costs at the Supplier's stated daily commissioning rate or multiples thereof incurred if the works to be commissioned are not available to the Supplier on the date stated for commissioning or if the commissioning works are delayed or interrupted due to the fault of the Client.
- 9.9 The Client is required to conform to the Tailored Fire & Security Group Ltd Standard Terms & Conditions of Commissioning which includes providing the required information in the timescales requested.

10. HEADINGS

- 10.1 The headings in these Terms are for guidance only and shall not be used in any way in the interpretation of their meanings

11. PROPER LAW

- 11.1 These Terms and any contract of which they form part shall be governed and construed in accordance with English Law and the Client and the Supplier submit to the non exclusive jurisdiction of the English Courts.

12. SEVERABILITY

- 12.1 If any provision of the contract between the Supplier and the Client is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the contract and the remainder of the provision in question shall not be affected.

13. THIRD PARTY RIGHTS

- 13.1 No party who is not a party to the contract between the Supplier and the Client shall be entitled by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of these Terms/the contract.