

All contracts of sale by Technoswitch (Pty) Ltd, hereafter referred to as "Technoswitch" shall be on and subject to these Terms & Conditions. "The Customer" is the person, firm or company purchasing the Goods. "The Goods" are the goods or services supplied by Technoswitch.

## **1. INFORMATION ABOUT GOODS**

- 1.1. Any description, specification or drawing published by Technoswitch in relation to the Goods shall not form part of any contract of sale by Technoswitch.
- 1.2. The Customer in assessing whether the goods are reasonably fit for any particular purpose for which it is purchasing them has not relied on the skill or judgement of Technoswitch.

## **2. ORDERS**

- 2.1. No order shall be binding on Technoswitch unless and until expressly accepted by Technoswitch in writing.
- 2.2. No order given may be cancelled or amended unless agreed by Technoswitch in writing.

## **3. CONTRACT**

- 3.1. Technoswitch shall sell and the Customer shall purchase the Goods in accordance with the written order of the Customer accepted by Technoswitch in writing ("the Sales Order") and with these Terms & Conditions of Sales (together "the Contract").
- 3.2. The Contract represents the entire understanding and supersedes any previous agreement between Technoswitch and the Customer in relation to their subject matter.
- 3.3. The Contract shall not in any circumstances whatsoever be or be deemed to be affected by any previous dealings with Technoswitch and any previous terms and/or conditions issued by Technoswitch are superseded.

## **4. PRICE**

- 4.1. The Price payable for the Goods shall be the price specified in the Sales Order, provided that Technoswitch may at any time before delivery, without notice, increase the Price.
- 4.2. The Price is exclusive of Value Added Tax and the Customer shall pay Value Added Tax in respect of the Price at the standard rate prevailing at the date of delivery, together with all other taxes, duties or imports arising in connection with the sale.

## **5. PAYMENT**

- 5.1. Payment of the Price shall be made in the currency stipulated on the Technoswitch invoice at the office of Technoswitch within the Customer's agreed credit terms. All payments shall be made in full without deduction in respect of any right of set-off or counter-claim.
- 5.2. The Customer shall be liable to pay interest in respect of all such amounts unpaid calculated at the interest rate of 2 percent above the prime interest rate per annum compounded monthly in arrears as at the due date to date of final payment, both days included, only if the Customer's annual turnover and/or asset base exceeds R1 million or the unpaid amount falls at or exceeds R250,000 and the Customer is a juristic person.
- 5.3. If the Customer fails to make due payment under the Contract, Technoswitch shall be entitled to treat the Contract as repudiated by the Customer.

## **6. DELIVERY**

- 6.1. The Customer shall promptly, on request made at any time by Technoswitch, provide Technoswitch with any information or instruction it may require in order to supply the Goods.
- 6.2. Normal delivery terms are ex-works, despatch from Technoswitch works shall be deemed to be delivered to the Customer unless the Contract states otherwise.
- 6.3. Confirmed delivery dates are subject to credit being available at the proposed date of despatch. Technoswitch will contact the Customer if unable to ship because the available credit limit has been exceeded.
- 6.4. Where the Contract provides that delivery is Technoswitch's responsibility:
  - 6.4.1. Any delivery time indicated by Technoswitch is an estimate only and not an essential term of the Contract.
  - 6.4.2. Technoswitch shall deliver the Goods to the agreed delivery address. Delivery shall be deemed to take place when the Goods arrive at the Delivery Address (before unloading).
  - 6.4.3. Technoswitch shall not be liable for any damage to, deterioration in, or partial loss of the Goods in transit if the matter should have been apparent on a reasonable examination of delivery, unless Technoswitch receives written notice thereof from the Customer within 7 (seven) days of delivery.
  - 6.4.4. Where Technoswitch has made part delivery of the Goods, it will not be taken under any circumstances to have agreed to waive any lien or right of retention on the remainder of the Goods or to give up possession of the whole of the Goods unless expressly so agreed in writing.
- 6.5. Where the Customer has rejected any of the Goods or notified any damage or deterioration under this Clause 6, the Customer shall, if requested to do so by Technoswitch, return the Goods to Technoswitch within 7 (seven) days of such request.

## **7. RISK**

- 7.1. All risk in the Goods shall pass to the Customer on delivery.

## **8. RETENTION OF TITLE**

- 8.1. Notwithstanding delivery and the passing of risk, property in and title to, the Goods shall remain with Technoswitch and shall not pass to the Customer until Technoswitch has received payment of the full price of (a) all Goods the subject of this Contract and (b) all other Goods supplied by Technoswitch to the Customer under any contract whatsoever. Payment of the full price shall include, without limitation, the amount of any interest or other sum payable under the terms of this and all other contracts between Technoswitch and the Customer.
- 8.2. During such time as the property in the Goods remain in Technoswitch the Customer shall store the Goods separately from all other goods and in such a way as clearly to indicate at all times that the said property remains in Technoswitch. Technoswitch's representatives shall be allowed to enter at all reasonable times upon any land or buildings on or in which the Goods may be situated for the purpose of inspecting the way in which the Goods are being kept.
- 8.3. During such time as the property in the Goods remains in Technoswitch, the Customer in possession of the Goods shall hold the Goods as bailee of Technoswitch and shall have power to deal with the Goods in normal course of its business.
- 8.4. If the Customer shall sell any of the Goods it shall hold all the proceeds of sale as trustee for Technoswitch and shall (until payment of such proceeds to Technoswitch) place such proceeds in a separate bank account and hold the same to the order of Technoswitch.

**9. INTELLECTUAL PROPERTY**

- 9.1. All patent, design, trademark, service mark, copyrights and other industrial or intellectual property rights of Technoswitch of whatever nature in respect of the Goods, any of their constituent parts, their packaging or other material supplied with the Goods shall remain the absolute property of and vested in Technoswitch.
- 9.2. The Customer shall indemnify and keep indemnified Technoswitch against any and all loss, damage, claims costs and expenses whatsoever suffered or incurred by Technoswitch in connection with any infringement of any patent, design, trademark, service mark, copyright or other industrial or intellectual property right of any other person in connection with Technoswitch's use or application in relation to the Goods or possession of any material or information or instruction supplied by the Customer in relation to the Goods.

**10. WARRANTY**

- 10.1. Technoswitch warrants that save only as provided in the Conditions the Goods will on delivery correspond with Technoswitch's specification in respect of them current at the time of delivery.
- 10.2. Technoswitch warrants to the applicant that the goods purchased by it from Technoswitch will be free from defects in materials and workmanship for the period stated in below table from the date of the invoice rendered by Technoswitch to the applicant for the goods purchased by the applicant ("the warranty period").

| Product Manufacturer           | Warranty  |
|--------------------------------|-----------|
| Advanced                       | 3 years   |
| Apollo                         | 10 years  |
| BlazeCut                       | 2 years   |
| Detector Testers               | 1 year    |
| FFE                            | 3 years   |
| Fireaway                       | 1.5 years |
| Geofire                        | 2 years   |
| Hansentek (Neola)              | 2 years   |
| KAC                            | 3 years   |
| Klaxon                         | 1 year    |
| Plimat                         | 1 year    |
| Protectowire                   | 1 year    |
| Rotarex FireDETEC              | 1 year    |
| Sigma Fire & Security          | 2 years   |
| Spectrex (20/20 & Mini-series) | 3 years   |
| Spectrex (40/40 series)        | 5 years   |
| Technoswitch                   | 3 years   |
| Teletek                        | 2 years   |
| The Fire Beam                  | 5 years   |
| X-Sense                        | 1 year    |
| Xtralis                        | 2 years   |

- 10.3. Technoswitch shall not be liable under clause 10.2 above if:
  - 10.3.1. The Customer makes any further use of the Goods after giving notice in accordance with clause 10.2;
  - 10.3.2. The defect arises because the Customer failed to follow Technoswitch's oral or written instructions as to the installation, use, maintenance or cleaning of the Goods or (if there are none) good trade practice;
  - 10.3.3. The Customer alters or repairs the Goods without Technoswitch's prior written consent;
  - 10.3.4. The defect arises as a result of fair wear and tear, wilful damage, negligence or abnormal storage or working conditions. For example, the Customer will be responsible for replacing parts that are expected to have a limited working life, such as batteries and rubber seals;
  - 10.3.5. The defect arises as a result of electrical or power supply failure.
- 10.4. Any notice of defect in the condition or performance of the Goods given by the Customer under clause 10.2 shall be made in writing to Technoswitch within a reasonable time of discovery.
- 10.5. The benefit of the warranty under clause 10.2 is not transferable.

**11. RETURNS**

- 11.1. No return of Goods shall be accepted without a Returns Material Authorisation (RMA). All Non-Warranty returns will be subject to a discretionary handling fee. Please refer to Technoswitch's RMA process for complete details.

**12. LIABILITY**

- 12.1. Save only as provided in these Conditions Technoswitch shall not be liable for any defect in the Goods caused by the manufacture of the Goods in accordance with any material, information or instruction supplied or provided by the Customer. The Customer shall indemnify and keep indemnified Technoswitch against any and all loss, damage, claims, costs and expenses suffered or incurred by Technoswitch in connection with any such defect.
- 12.2. Save only as provided in these Conditions Technoswitch shall not in any event be liable for any special, indirect or consequential loss, damage, costs or claims including but not limited to loss or damage resulting from negligence and loss of profit or revenue.
- 12.3. Technoswitch's aggregate liability to the Customer in respect of any and all causes of action arising at any time in connection with the Goods, the Contract or its other subject-matter shall not exceed 125% of the price of the defective goods, which sum the Customer agrees is reasonable.
- 12.4. These Condition shall not exclude, restrict or limit any liability the exclusion, restriction or limitation of which is for the time being prohibited by legislation or any right or remedy in respect of any such liability.
- 12.5. Each of the exclusions, restrictions and limitations of Technoswitch's liability in these Conditions shall be separate and severable from every other such exclusion, restriction or limitation. If a court or competent jurisdiction finds any such exclusion, restriction or limitations to be unenforceable to any extent the exclusions, restrictions and limitations shall save to such extent remain in full force and effect.

**13. USE AND SAFETY**

- 13.1. The Goods are designed only for use in accordance with Technoswitch's operating and maintenance instructions in relation to the Goods at the time of delivery. Technoswitch warns that use, repair or adaption of the Goods in any other manner may result in damage to the Goods or other property and/or affect the safety of the Goods.
- 13.2. Save only as provided in these Conditions Technoswitch shall not be liable for any loss or damage caused wholly or partly by the fitment to the Goods or any part, accessory or item of equipment which has not been manufactured or approved by Technoswitch or by misuse of the Goods or failure to follow operating or maintenance instructions supplied by Technoswitch. The Customer shall indemnify and keep indemnified Technoswitch against any and all claims whatsoever in respect of any such loss or damage.

**14. GOODS PURCHASED FOR RESALE**

- 14.1. In respect of any goods which are purchased by the Customer for resale, the Customer shall not apply its own trade or other marks to the Goods or their packaging without the written consent of Technoswitch.
- 14.2. In respect of any Goods which are purchased by the Customer for resale, the Customer shall not alter or interfere with the Goods and shall comply with all applicable legislative and other requirements and standards and Technoswitch's instructions in relation to the storage, handling and safety of the Goods. Technoswitch shall indemnify and keep indemnified Technoswitch against any and all loss, damage, claims, costs and expenses suffered or incurred by Technoswitch arising from any failure by the Customer to comply with this Condition.

**15. DEFAULT AND TERMINATION**

- 15.1. If any of the events specified in Clause 15.2 occurs all monies accrued owing under the Contract shall become immediately due and payable and Technoswitch shall be entitled at any time thereafter to terminate the Contract and any other contract between Technoswitch and the Customer by notice and/or to suspend further deliveries of Goods the subject of any or all such contracts.
- 15.2. The events referred to in clause 15.1 are:
- 15.2.1. the Customer makes default in or commits a breach of the Contract;
  - 15.2.2. any distress or execution is levied upon the Customer's property or assets;
  - 15.2.3. the Customer makes or offers or proposes to make any arrangement or composition with its creditors, any resolution or petition to wind up the Customer is passed or presented, any petition for a bankruptcy order is made against the Customer, or a receiver or manager of the Customer's undertaking, property or assets or any part thereof is appointed; or
  - 15.2.4. the Customer fails to provide any letter of credit, bill of exchange or other security requested by Technoswitch.

**16. FORCE MAJEURE**

- 16.1. Should Technoswitch be prevented from or hindered or delayed in performing any of its obligations under the Contract by reason of strike, lock-out or trade dispute, acts of national or local government or other authority, Act of God, storm, tempest, fire, flood, explosion, accident, theft, civil disturbance, insurrection or war or by any other cause whatsoever beyond Technoswitch's reasonable control then the Contract may be suspended and/or cancelled (whether or not while suspended) by Technoswitch without notice and Technoswitch shall have no liability in relation to any failure by it caused by such prevention, hindrance or delay, or any such delay, suspension or cancellation.

**17. BREACH**

- 17.1. The Customer will indemnify, keep indemnified and hold harmless (on a full indemnity bases) Technoswitch against all costs, expenses and losses that Technoswitch incurs or suffers as the result of any breach by the Customer of any of its obligations under this Clause. This indemnity will not apply to any fine levied on Technoswitch as a result of Technoswitch's criminal liability.
- 17.2. If the Customer breaches this Clause Technoswitch shall have the right to terminate this Contract without notice and with immediate effect and will be in no way liable to the Customer in respect of such termination for payment of damages or any other form of compensation.

**18. GENERAL**

- 18.1. Each of the rights and remedies conferred on Technoswitch by these Conditions shall be in addition and without prejudice to any other right or remedy which Technoswitch may have under these Conditions or otherwise and in particular to any right to payment of all sums due or to become due in respect of the Goods.
- 18.2. No failure by Technoswitch to enforce any of its rights under the Contract, or delay by Technoswitch in enforcing any such rights, whether or not after knowledge of any breach of the Customer, shall constitute waiver thereof.
- 18.3. If any of these Conditions shall be held unenforceable, the remaining Conditions shall not be or be deemed to be of the essence of the Contract.
- 18.4. Save only as provided in these Conditions time shall not be or be deemed to be of the essence of the Contract.
- 18.5. The Contract shall be personal to the Customer and the Customer shall not assign any of its rights under the Contract without the prior written consent of Technoswitch.
- 18.6. Any notice under the Contract shall be given by letter or by telex, electronic mail, facsimile transmission or cable confirmed by letter.
- 18.7. Any reference in these Conditions to any provision of legislation shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time. Words in the singular include the plural and vice-versa. The headings in these Conditions are for convenience only and shall not affect their interpretation.
- 18.8. This Contract shall governed by and construed in all respect in accordance with South African Law. The parties consent, in terms of Section 45 of the Magistrates' Court Act, 32 of 1944, as amended, to the Magistrates' Court having jurisdiction in respect of any action or proceedings which may be brought against it arising out of, or relating to, this Contract, notwithstanding that the amount in question may exceed the jurisdiction of such Court, provided that Technoswitch shall be entitled to bring any such action or proceedings in the High Court or any other Court having jurisdiction.
- 18.9. This Contract represents the entire understanding between the parties and supersedes any previous agreement between Technoswitch and the Customer in relation to the subject matter.