

# Terms and Conditions of Sale



**Rev 1.0 – 01/01/07**

INTERNAL SYSTEMS LIMITED

(Effective from January 2007)

## 1.0 DEFINITIONS AND EFFECT OF CONDITIONS

- a) The Company means Internal Systems Limited.
- b) These Conditions shall apply to and be incorporated into every agreement between Internal Systems Limited and any person, firm or company the ("Customer") under which the company supplies goods or services at the request of the Customer.
- c) These Conditions shall supersede all earlier conditions of the Company.
- d) These Conditions shall take precedence over any conditions of the Customer and shall not be varied without the written consent of a director of the Company.

## 2.0 DELIVERY

- a) Any delivery dates quoted whether verbally or otherwise are estimates only and in regard to any such date time shall not be of the essence.
- b) Delivery of the goods to the Customer's address or any other place stipulated by him shall constitute delivery and the risk therein shall pass upon such delivery to the Customer.
- c) The Company shall be entitled to make partial deliveries or deliveries by instalments and these Conditions shall apply to each partial delivery.
- d) Deviations in quantity of the goods delivered (representing not more than 10% by value) from that stated in the agreement shall not give the Customer any right to reject the goods or to claim damages and the Customer shall accept and pay at the contract rate for the quantity of goods actually delivered.

## 3.0 FRUSTRATION ETC. (FORCE MAJEURE)

If the Company is prevented at any time from performing any contractual obligation, or if any loss, damage or injury or delay in delivery is occasioned by or due to any cause beyond the Company's control including (but without prejudice to the generality of the foregoing expression) the commission of any criminal act, shortage of goods, act of war (whether declared or not), civil commotion, accident, strikes or lock-outs, Act of God or any restriction imposed by any local municipal or government authority (including Customs Authorities) whether British or foreign, the Company shall be entitled forthwith to determine the contract and to be discharged from all liabilities whatsoever to the Customer and the Company shall not be liable for any such loss, damage, injury or delay as aforesaid.

## 4.0 PRICE

- a) Unless otherwise stated any prices quoted by the Company are:
  - i) Exclusive of value added tax and any other taxes;
  - ii) Exclusive of carriage, packing and insurance;
  - iii) Exclusive of any release certificates; and the Company shall charge extra in respect of the above items.
- b) Prices quoted are those current at the time of quotation and the price payable by the Customer shall be that which is current at the time of delivery to the customer.
- c) Where agreed call offs are not adhered to by the Buyer, the Company reserves the right to amend the price structure in accordance with the quantities delivered.

## 5.0 PAYMENT

- a) The price is payable on demand but in any case must not be paid later than 30 days from end of month following.
- b) The Company reserves the right to suspend deliveries where payment is not received in accordance with paragraph (a) of this clause or in accordance with any alternative terms of payment agreed in writing.

## Terms and Conditions of Sale



c) Where payment is not made in accordance with the terms of paragraph 5(a) hereof the Customer shall pay interest on any unpaid amounts calculated at 3% above Lloyds Bank plc's base rate for the time being in force calculated on a daily basis.

d) No cash or other discount is allowed unless agreed in writing.

e) If the Company is able to deliver some items comprising the goods the subject of an agreement but unable to deliver all such items due to causes beyond its control (including but not limited to the examples referred to in Condition 3 hereof) the Customer shall pay for such items as are delivered.

### 6.0 TELEPHONED ORDERS

The Customer agrees to send to the Company a written order in confirmation of any telephoned orders duly marked with any confirmation reference given by the Company; otherwise the Company cannot accept liability for any duplication of delivery that may occur.

### 7.0 RETENTION OF TITLE

7.1 The equipment shall remain the property of the Company until payment is made in full for all sums of due under all Contracts between the Company and Customer.

7.2 The Customer shall hold all equipment property in which remains in the Company bailee (and for the avoidance of doubt, fiduciary) for the Company, shall store the same in such a way that it can be identified as the Company's property and shall keep it separate from the Customer's own property and the property of any other person.

7.3 At any time whatsoever the Company shall be entitled to recover Equipment property in which remains in the Company and for that purpose the Customer hereby grants to the Company, its agents and employees an irrevocable licence to enter any premises where such equipment is stored in order to repossess the same.

7.4 If in the normal course of business the Customer shall sell Equipment the property in which remains (prior to such sale) in the Company:

7.4.1 The Customer shall hold on trust for the Company absolutely all the benefit of and/or rights arising under any such contract of sale;

7.4.2 The Customer shall hold on trust for the Company absolutely all proceeds of any such contract of sale and shall pay the same into a separate identified bank account ("the trust account") (which shall at no time have paid into it monies other than monies held on trust for the Company and shall at no time be overdrawn) as trustee for the Company.

7.5 If as a result of or of the exercise of its rights under 7.4.1 and/or 7.4.2 above, the Company receives any monies the same will not in whole or in part discharge:

- 1) Any of the customer's liability to pay the purchase price under this or any other contract between the Company and the Customer; or
- 2) Any other debts owed by the Customer to the Company.

But if as a result of payment by the Customer of all or part of the monies owed by it to the Company under this or any other contract together with receipt by the Company of monies as a result of or of the exercise of its rights under 7.4.1 and/or 7.4.2 above, the Company receives in total monies exceeding in amount the Customer's contractual debts to it, the Company shall pay to the Customer a sum equivalent to such excess.

7.6 The Customer's rights to use the Equipment are automatically revoked on the appointment of an administrative receiver to the Customer.

### 8.0 SOFTWARE

a) Where the goods include software and the Customer has been furnished with the developer's software licence, he shall sign and return it to the Company within 7 days or as otherwise specified in the said licence.

In the event that the Customer fails to sign and return the said licence in accordance with (a) above;

- i) The Company reserves the right to withhold release of the software;
- ii) The Company shall nonetheless be entitled to payment in full for the software.

b) In the absence of the developer's software licence being furnished, the Customer agrees to accept a non-exclusive, non-transferable licence to use the software upon the terms of these Conditions with the additional terms of these Conditions with the additional terms.

## Terms and Conditions of Sale



i) The Customer undertakes not to copy (other than for normal equipment operation), reproduce, translate, adapt, vary or modify the software nor to communicate the same to any third party without the Company's prior written consent;

ii) The licence hereby granted shall continue until or unless;

a) Either party gives to the other party one month's prior written notice of termination whereupon and before the expiry of which the Customer undertakes to return or destroy the software as the Company shall direct PROVIDED THAT the Company shall only exercise its right to terminate in the event that the continued use or possession of the software by the Customer infringes the developer's third party rights or whence the Company is forced to do so by law;

b) The Company terminates the licence forthwith if the Customer fails or has failed to comply with any of the terms and conditions herein contained including but not limited to breach of copyright, patent or confidentiality.

c) The Company warrants that neither the performance nor the functionality of the (system/software) will be affected by changes to the date format (meaning the field configuration which contains the date information) within any part of the (system/software) caused by the advent of the year 2000.

### 9.0 DRAWINGS ETC.

All drawings, descriptive weights, dimensions and the descriptions and illustrations contained in the sales literature and price lists are approximate only and shall not form part of this Agreement in addition, drawings, technical documents issued either before or after the conclusion of this Agreement for the use or information of the Customer and such other information as may be supplied to the Customer including specifications shall not be copied, reproduced or communicated to any third party without the Company's prior written consent.

### 10.0 LOSS AND DAMAGE IN TRANSIT

The Company will refund the cost of, or at its discretion replace or repair free of charge any of the goods proved to the Company's satisfaction to have been lost or damaged in transit up to the moment of delivery provided that a signed goods received note is not provided by the Company and within 3 days after receipt of goods in the case of damage, or within 10 days of receipt of invoices in the case of loss, the Customer notifies the Company in writing of the occurrence of the damage or loss, and its nature and extent.

### 11.0 GUARANTEE

In respect of the goods the subject matter of any warranty or guarantee given by manufacturers of the same, the Company guarantees to the Customer that such goods will be free from defects caused by faulty materials or poor workmanship for the period of the guarantee or warranty given by the manufacturers. Under this warranty the Company will, at its option, either repair or give a replacement of equivalent quality or issue credit to the Customer for any goods found to be defective because of faulty maintenance by the Company or poor workmanship provided that:

a) The Company is notified in writing within 7 days of the Customer first discovering any such defects and in any event during the currency of such manufacturers warranty or guarantee;

b) The defective goods are returned to the Company at the Customer's expense;

c) Examination by the Company of such goods discloses to its satisfaction that such defects exist and have not been caused by misuse, neglect, accident, improper storage installation or handling or by repair or alteration not effected by the Company and

d) The Customer shall pay to the Company the cost (as certified by the Company) of any examination of such goods as a result of which the Company denies liability.

### 12.0 EXCLUSION OF LIABILITY

Except where provided otherwise in these Conditions, the Company shall be under no liability of whatsoever kind howsoever caused whether or not due to the negligence or wilful default of the Company or its servants or agents arising out of or in connection with the goods. All conditions, warranties or other terms, whether express or implied, statutory or otherwise, are hereby expressly excluded providing that nothing in this paragraph shall exclude or restrict any liability of the Company for death or personal injury resulting from the negligence of the Company or its servants or agents.

In any event, the Company's liability shall be limited to direct loss and shall not include indirect or consequential loss.

The Company shall not be liable for the loss of or damage to software programs during repair or upgrade of any goods whether or not the same are under warranty.

### 13.0 RETURNED GOODS & CANCELLATIONS

## Terms and Conditions of Sale



The Customer shall not return goods or cancel orders without the Company's prior consent. Such consent will not be given where goods have been specially purchased by the Company to meet the Customer's requirements. If the Company gives such consent, it reserves the right to make a cancellation charge.

### 14.0 COPYRIGHT, PATENTS, TRADE MARKS AND INTELLECTUAL PROPERTY RIGHTS

a) The Customer acknowledges that rights in respect of trade marks, trade names, copyrights, Patents and other intellectual property rights connected with the goods do not pass to the Customer.

b) The Customer agrees to indemnify the Company against all liabilities, costs and expenses which the Company may incur as a result of work done in accordance with the Customer's specifications which involve infringement of any patent or other proprietary right.

### 15.0 SUB-CONTRACTING

The Company reserves the right to sub-contract any part of any work or supply of any goods or services.

### 16.0 CONSTRUCTION AND USE

The Company shall not be responsible for adapting or modifying any goods to conform to statutory requirements not current at the time of the acceptance of order.

### 17.0 ASSIGNMENT

The benefit of this agreement may be assigned in whole or in part by the Company without the prior written consent of the Customer. The Customer shall not assign or transfer or purport to assign or transfer the agreement or the benefit thereof to any other person.

### 18.0 HEADINGS

The headings of these Conditions are for convenience only and shall have no effect on the interpretation thereof.

### 19.0 TERMINATION

The Company shall be entitled by notice in writing summarily to determine any agreement without prejudice to any claim or right the Company may otherwise make or exercise where;

a) The Customer is in breach of any term, condition or provision of this agreement or required by the law;

b) The Customer shall go in to liquidation (except for the purpose of reconstruction) or if any petition or resolution to wind up the Customer shall be presented or if a receiver is appointed of the Customer's undertaking property or assets or if a distress shall be levied upon any of the Customer's property or if the Customer shall commit any act of bankruptcy.

### 20.0 JURISDICTION

The agreement shall be governed by and construed in accordance with English law and the Courts of England shall have jurisdiction to hear all disputes arising in connection with the agreement.