

# TERMS AND CONDITIONS OF SALE

The customer's attention is drawn in particular to the provisions of clause 10.

## 1. INTERPRETATION

1.1. In these Conditions, the following definitions apply:

**TGS:** Traffic Group Signals Limited, a company incorporated in England under number 04552828, whose registered office is at White Lion House, Gloucester Road, Staverton, Cheltenham, Gloucestershire, GL51 0TF

**Business Day:** a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

**Confidential Information:** all confidential information (however recorded or preserved) disclosed by TGS or its employees, officers, representatives or advisers to the Customer and its representatives in connection with the Contract, concerning:

1.1.1 the terms of the Contract;

1.1.2 any log-in codes or passwords supplied to the Distributor;

1.1.3 any intellectual property in the Products or any part of or assembly incorporated into the Products;

1.1.4 any information that would be regarded as confidential by a reasonable business person relating to the business, affairs, customers, clients, suppliers, intentions, or market opportunities of TGS or the operations, processes, product information, know-how, designs, trade secrets or software of TGS; or

1.1.5 any information developed by the parties in the course of carrying out the Contract.

**Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 14.8.

**Contract:** the contract between TGS and the Customer for the sale and purchase of the Products in accordance with these Conditions.

**Customer:** the person or firm who purchases the Products from TGS.

**Force Majeure Event:** has the meaning given in clause 14.1

**Order:** the Customer's order for the Products, as set out in the Customer's written acceptance of TGS's quotation and receipt of Purchase Order or Approved Finance Agreement.

**Products:** the goods (or any part of them) set out in the Order.

**Services:** the services to be provided by TGS as set out in the Order.

**Software:** all software supplied by TGS to the Customer under the Contract.

**Specification:** any specification for the Products, including any related plans and drawings, that is agreed in writing by the Customer and TGS.

- 1.2. In these Conditions, the following rules apply:
- 1.2.2 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
  - 1.2.3 A reference to a party includes its personal representatives, successors or permitted assigns.
  - 1.2.4 A reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
  - 1.2.5 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
  - 1.2.6 A reference to **writing** or **written** includes faxes and e-mails.

## 2. BASIS OF CONTRACT

- 2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2. The Order constitutes an offer by the Customer to purchase the Products and Services in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification are complete and accurate.
- 2.3. The Order shall only be deemed to be accepted when TGS issues a written acceptance of the Order, at which point the Contract shall come into existence.
- 2.4. The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of TGS which is not set out in the Contract.
- 2.5. Any advice or recommendation given by TGS or its employees or agents to the Customer or its employees or agents as to the storage, application or use of the Products which is not confirmed in writing by TGS is followed or acted upon entirely at the Customer's own risk, and accordingly TGS shall not be liable for any such advice or recommendation which is not so confirmed.
- 2.6. Any samples, drawings, descriptive matter, or advertising produced by TGS and any descriptions or illustrations contained in TGS's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Products described in them. They shall not form part of the Contract or have any contractual force.
- 2.7. A quotation for the Products given by TGS shall not constitute an offer. A quotation shall only be valid for a period of 30 Business Days from its date of issue unless specified otherwise in writing within the quotation document.

### 3. PRODUCTS

- 3.1. The Products and Services are described in the Pike Signals, Hollco, Safelite and Arkon specific literature and manuals as modified by any applicable Specification.
- 3.2. To the extent that the Products are to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify TGS against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by TGS in connection with any claim made against TGS for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with TGS's use of the Specification. This clause 3.2 shall survive termination of the Contract.
- 3.3. TGS reserves the right to amend the specification of the Products and/or Specification if required by any applicable statutory or regulatory requirements.
- 3.4. The Product(s) has been manufactured and tested for use/operation within the boundary of the country to which they are being supplied to by TGS. Onward selling to another user/country of use may infringe the regulatory requirements of the end market. It is the Customer's responsibility to ensure onward selling does not infringe any regulatory requirements.

### 4. GPS TRACKERS SUPPLIED BY TRACKIT247

- 4.1. TGS accept no contractual, product, hardware or software liability for trackers supplied by Trackit247.
- 4.2. Trackit247 will free issue trackers to TGS for installation at point of manufacture; Trackit247 will engage directly with the Customer concerning all installation charges, contract charges, training, terms and conditions relating to their products, software and services.

### 5. DELIVERY

- 5.1. TGS shall deliver the Products to the location set out in the Order or such other location as the parties may agree, such location to be within the United Kingdom (**Delivery Location**) at any time after TGS notifies the Customer that the Products are ready.
- 5.2. Delivery of the Products shall be completed on the Products' arrival at the Delivery Location.
- 5.3. Whilst TGS shall use reasonable endeavours to comply with any notified delivery date, any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. TGS shall not be liable for any delay in delivery of the Products that is caused by a Force Majeure Event or the Customer's failure to provide TGS with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.
- 5.4. If the Customer fails to accept delivery of the Products within three Business Days of TGS notifying the Customer that the Products are ready, then, except where such failure or delay is caused by a Force Majeure Event or TGS's failure to comply with its obligations under the Contract:
  - 4.4.1 delivery of the Products shall be deemed to have been completed at 9.00 am on the third Business Day after the day on which TGS notified the Customer that the Products were ready; and
  - 4.4.2 TGS shall store the Products until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).
- 5.5. If 10 Business Days after the day on which TGS notified the Customer that the Products were ready for delivery the Customer has not taken or accepted delivery of them, TGS may resell or otherwise dispose of part or all of the Products.

- 5.6. TGS may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## 6. QUALITY

- 6.1. TGS warrants that on delivery, and for the period defined for each product range as set out in the appropriate product manual (**warranty period**), the Products and Software shall:

- 6.1.1. conform in all material respects with their description and any applicable Specification; and
- 6.1.2. be free from material defects in design, material and workmanship; and
- 6.1.3. be fit for any purpose held out by TGS only.

- 6.2. TGS does not guarantee that all parts of the Products are manufactured using systems for which ISO 9000 accreditation has been granted.

- 6.3. Subject to clause 5.4, if:

- 6.3.1. the Customer gives notice in writing to TGS during the warranty period within 48 hours from the date of delivery (or where such defect is not apparent on reasonable inspection) within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 5.1;
- 6.3.2. TGS is given a reasonable opportunity of examining such Products; and
- 6.3.3. the Customer (if asked to do so by TGS) returns such Products to TGS's place of business at the Customer's cost and provide TGS with such information as it may reasonably request,

TGS shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full. If TGS finds that any repair requires TGS to buy items of equipment, TGS shall be entitled to charge the Customer at cost for such items.

- 6.4. TGS shall not be liable for Products' failure to comply with the warranty set out in clause 5.1 in any of the following events:

- 6.4.1. the Customer makes any further use of such Products after giving notice in accordance with clause 5.2;
- 6.4.2. the defect arises because the Customer failed to follow TGS's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Products or (if there are none) good trade practice regarding the same;
- 6.4.3. the defect arises as a result of TGS following any drawing, design or Specification supplied by the Customer;
- 6.4.4. the Customer alters or repairs such Products without the written consent of TGS;
- 6.4.5. the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions;
- 6.4.6. the Customer has not paid total price of the Products; or
- 6.4.7. the Products differ from their description or the Specification (as applicable) as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.

- 6.5. The above warranties do not extend to parts, materials or equipment not manufactured by TGS, and in such circumstances the Customer shall only be entitled to benefit from such warranty or guarantee as may be given by the manufacturer to TGS.

- 6.6. If the Customer returns any Products to TGS for repair or replacement pursuant to the warranty in clause 5.1 above, the Customer will be responsible for costs of delivery to TGS and must give a detailed description of the suspected fault and the unit description, product type and serial number. If TGS considers that a breach of warranty has occurred and elects to repair the Product(s), the repaired Product(s) will be returned to the Customer at TGS's cost with supporting documentation. All replaced/repaired components are warranted for one year from delivery to the Customer.
- 6.7. Except as provided in this clause 5, TGS shall have no liability to the Customer in respect of the Products' failure to comply with the warranty set out in clause 5.1.
- 6.8. The terms implied by sections 13 to 15 of the Sale of Products Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
- 6.9. These Conditions shall apply to any repaired or replacement Products supplied by TGS.

## 7. CANCELLATIONS AND RETURNS

- 7.1. Any Products returned as 'unwanted' or 'incorrectly ordered' within a period 10 working days of delivery may be accepted at the discretion of TGS but may (at TGS's sole discretion) be subject to a minimum restocking fee of 25% of the invoice value of the Products.
- 7.2. Products must be returned to TGS in their original condition and packaging and in a condition which will enable them to be immediately fit for re-sale. If not TGS will be entitled to refuse delivery and return the Products at the Customer's expense or may apply a handling charge which relates to the actual cost of reprocessing (subject to the minimum charge set out in 6.1 above).

## 8. TITLE AND RISK

- 8.1. The risk in the Products shall pass to the Customer upon the Products leaving TGS's premises and the Customer shall therefore be liable for any loss of damage to the Products occurring while the Products are in transit.
- 8.2. Title to the Products shall not pass to the Customer until TGS has received payment in full (in cash or cleared funds) for the Products and any other goods or services that TGS has supplied to the Customer in respect of which payment has become due.
- 8.3. Until title to the Products has passed to the Customer, the Customer shall:
- 8.3.1. hold the Products on a fiduciary basis as TGS's bailee;
  - 8.3.2. store the Products separately from all other goods held by the Customer so that they remain readily identifiable as TGS's property;
  - 8.3.3. not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
  - 8.3.4. maintain the Products in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
  - 8.3.5. notify TGS immediately if it becomes subject to any of the events listed in clause 9.2; and
  - 8.3.6. give TGS such information relating to the Products as TGS may require from time to time,

but the Customer may resell or use the Products in the ordinary course of its business (providing it keeps the proceeds of sale separate from any moneys or property of the Customer and third parties).

- 8.4. If before title to the Products passes to the Customer the Customer becomes subject to any of the events listed in clause 9.2, or TGS reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, provided that the Products have not been resold, or irrevocably incorporated into another product, and without limiting any other right or remedy TGS may have, TGS may at any time require the Customer to deliver up the Products and, if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Products are stored in order to recover them.

## 9. PRICE AND PAYMENT

- 9.1. The price of the Products shall be the price set out in the Order, or, if no price is quoted, the price set out in TGS's published price list in force as at the date of acceptance of the Order.
- 9.2. TGS may, by giving notice to the Customer increase the price of the Products to reflect any increase in the cost of the Products that is due to:
  - 9.2.1. any factor beyond TGS's control (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
  - 9.2.2. any request by the Customer to change the delivery date(s), quantities or types of Products ordered, or the Specification; or
  - 9.2.3. any delay caused by any instructions of the Customer or failure of the Customer to give TGS adequate or accurate information or instructions.
- 9.3. The price of the Products is exclusive of the costs and charges of packaging, insurance and transport of the Products, which shall be invoiced to the Customer, but does include the licence fee for the Customer's right to use the Software.
- 9.4. The price of the Products is exclusive of amounts in respect of value added tax (**VAT**). The Customer shall, on receipt of a valid VAT invoice from TGS, pay to TGS such additional amounts in respect of VAT as are chargeable on the supply of the Products.
- 9.5. The Customer shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice notwithstanding that delivery of the Products may not yet have taken place. Payment shall be made to the bank account nominated in writing by TGS. Time of payment is of the essence.
- 9.6. Any query concerning TGS's invoice must be made by the Customer within 7 days of the Customer's receipt of the invoice and failing any such query being raised within such period the Customer will be deemed to have accepted that the details shown TGS's invoice are correct.
- 9.7. If the Customer fails to make any payment due to TGS under the Contract by the due date for payment (**due date**), then the Customer shall pay interest on the overdue amount at the rate of [4]% per annum above the Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
- 9.8. The Customer shall pay all amounts due under the Contract in full without any deduction or withholding except as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against TGS in order to justify withholding payment of any such amount in whole or in part. TGS may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by TGS to the Customer.
- 9.9. If the Customer fails to pay for the Products in full on or before the due date for payment TGS may without notice suspend any credit facilities the Customer may have with TGS and may upon giving notice to the Customer cancel or suspend compliance with TGS's obligations under any other contract then subsisting between the parties, without prejudice to any other right or remedy available to TGS.
- 9.10. If any Products are ordered by the Customer on terms that they should be delivered to the Customer when requested by the Customer, TGS shall be entitled to invoice the Customer one year after the date of the Contract for any Products not requested by the Customer for delivery prior to that date.

## 10. TERMINATION

- 10.1. If the Customer becomes subject to any of the events listed in clause 9.2, or TGS reasonably believes that the Customer is about to become subject to any of them and notifies the Customer accordingly, then, without limiting any other right or remedy available to TGS, TGS may cancel or suspend all further deliveries under the Contract or under any other contract between the Customer and TGS without incurring any liability to the Customer, and all outstanding sums in respect of Products delivered to the Customer shall become immediately due.
- 10.2. For the purposes of clause 9.1, the relevant events are:
- 10.2.1. the Customer suspends, or threatens to suspend, payment of its debts, or is unable to pay its debts as they fall due or admits inability to pay its debts, or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986, or (being a partnership) has any partner to whom any of the foregoing apply;
  - 10.2.2. the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where the Customer is a company) where these events take place for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
  - 10.2.3. (being a company) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer, other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
  - 10.2.4. (being an individual) the Customer is the subject of a bankruptcy petition or order;
  - 10.2.5. a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
  - 10.2.6. (being a company) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer;
  - 10.2.7. (being a company) a floating charge holder over the Customer's assets has become entitled to appoint or has appointed an administrative receiver;
  - 10.2.8. a person becomes entitled to appoint a receiver over the Customer's assets or a receiver is appointed over the Customer's assets;
  - 10.2.9. any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 9.2.1 to clause 9.2.8 (inclusive);
  - 10.2.10. the Customer suspends, threatens to suspend, ceases or threatens to cease to carry on all or substantially the whole of its business;
  - 10.2.11. the Customer's financial position deteriorates to such an extent that in TGS's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; and

- 10.2.12. (being an individual) the Customer dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation.
- 10.3. TGS shall be entitled by written notice to the Customer to terminate the Contract forthwith in the event that Customer commits any breach of any of the provisions of the Contract and, in the case of such a breach which is capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring such breach to be remedied
- 10.4.** Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

## 11. LIMITATION OF LIABILITY

- 11.1. Nothing in these Conditions shall limit or exclude TGS's liability for:
- 11.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - 11.1.2. fraud or fraudulent misrepresentation;
  - 11.1.3. breach of the terms implied by section 12 of the Sale of Products Act 1979;
  - 11.1.4. defective products under the Consumer Protection Act 1987; or
  - 11.1.5. any matter in respect of which it would be unlawful for TGS to exclude or restrict liability.
- 11.2. Subject to clause 10.1:
- 11.2.1. TGS shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
  - 11.2.2. TGS's total liability to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 125% of the price of the Products.

## 12. INTELLECTUAL PROPERTY RIGHTS

- 12.1. TGS grants to the Customer a non-exclusive, perpetual licence to use the Software with the Products for the use with which it is supplied.
- 12.2. The Customer acknowledges that any and all of the trade marks, trade names, copyrights, patents and other intellectual property rights used or embodied in or in connection with the Software or any other part of the Products in which TGS has an interest is and shall remain the sole property of TGS or TGS's supplier. The Customer shall not in any way question or dispute the ownership of any such rights.
- 12.3. The Customer will not copy or modify the whole or any part of the Software or reverse engineer, decompile or disassemble the Software except as permitted by law. The Customer will not assign, transfer, sale, lease, sub-licence or otherwise deal in the Software or any part of it.
- 12.4. TGS warrants to the Customer that the normal use and possession of the Products and the Software will not infringe the patent, copyright, registered design or trade mark rights of any third party (save that it shall not be liable where such infringement arises from the instructions, plans, designs or instructions of the Customer).



- 12.5. In the event of any claim by any third party against the Customer for breach of any such right by normal use of possession of the Software or the Products by the Customer, the Customer shall promptly and fully notify TGS, will not make any admission of liability to such third party and will permit TGS, at TGS's discretion and cost (save where such liability arises due to the instructions, plans, designs or instructions of the Customer), to have the sole conduct of the defence of any such claim. The Customer will act in accordance with the reasonable instructions of TGS in connection with the defence of any such claim

## 13. CONFIDENTIALITY

- 13.1. The Customer shall keep the Confidential Information confidential and shall:
- 13.1.1. not use such Confidential Information except for the purpose of exercising or performing its rights and obligations under the Contract (Permitted Purpose); or
  - 13.1.2. not disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause;
  - 13.1.3. keep all the documents and other written material incorporating Confidential Information at the address referred to at the head of these Conditions;
  - 13.1.4. not use, reproduce, transform or store any of the Confidential Information in an externally accessible computer or electronic information retrieval system or transmit it in any form or by any means whatsoever outside the address at the head of these Conditions without prior consent of TGS; and
  - 13.1.5. make copies of such of the Confidential Information as is in written or electronically readable form only to the extent that such copies are strictly required for the Permitted Purpose.
- 13.2. The Customer may disclose the other party's Confidential Information to those of its representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
- 13.2.1. it informs such representatives of the confidential nature of the Confidential Information before disclosure;
  - 13.2.2. it procures that its representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to this agreement, and
  - 13.2.3. at all times, it is liable for the failure of any Representatives to comply with the obligations set out in this clause.
- 13.3. The term "Confidential Information" does not include any information that:
- 13.3.1. is or becomes generally available to the public (other than as a result of its disclosure by the Customer or its representatives in breach of this clause);
  - 13.3.2. was available to the Customer on a non-confidential basis before disclosure by TGS;
  - 13.3.3. was, is or becomes available to the Customer on a non-confidential basis from a person who, to the Customer's knowledge, is not bound by a confidentiality agreement with TGS or otherwise prohibited from disclosing the information to the Customer; or
  - 13.3.4. the parties agree in writing is not confidential or may be disclosed.

- 13.4. The Customer may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives TGS as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 12.4, it takes into account the reasonable requests of TGS in relation to the content of such disclosure.
- 13.5. TGS reserves all rights in its Confidential Information. No rights or obligations in respect of TGS's Confidential Information other than those expressly stated in the Contract are granted to the Customer, or to be implied from the Contract.
- 13.6. On termination of the Contract, the Customer shall:
- 13.6.1. return to TGS all documents and materials (and any copies) containing, reflecting, incorporating or based on the Confidential Information;
  - 13.6.2. erase all the Confidential Information from its computer systems (to the extent possible); and
  - 13.6.3. certify in writing to TGS that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the other party's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.
- 13.7. The provisions of this clause 12 shall continue to apply after termination of the Contract.

## 14. SERVICES

If the Contract provides for the supply of Services only (and not any Products) by TGS to the Customer then the following additional clauses shall apply to the Contract:

- 14.1. TGS warrants that the Services will be supplied with reasonable skill and care;
- 14.2. TGS's liability for breach of the warranty set out in clause 13.1 shall be limited to the correction or remedy of the Services supplied; and
- 14.3. under no circumstances shall the liability of the Seller for breach of the warranty set out in clause 13.1 exceed the price paid by the Customer to TGS under the terms of the Contract.

## 15. ANCILLIARY TERMS

- 15.1. Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A **Force Majeure Event** means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, import or export regulations or embargoes, difficulties in obtaining raw materials, labour, parts or machinery, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

- 15.2. TGS may at any time assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract. The Customer may not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of TGS.
- 15.3. Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first class post, recorded delivery, commercial courier, fax [or e-mail].
- 15.4. A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.3; if sent by pre-paid first class post or recorded delivery, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.
- 15.5. If any court or competent authority finds that any provision of the Contract (or part of any provision) is invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted, and the validity and enforceability of the other provisions of the Contract shall not be affected. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.
- 15.6. A waiver of any right or remedy under the Contract is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy.
- 15.7. A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.8. Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by an authorised representative of TGS.
- 15.9. The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, English law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

**I hereby acknowledge that I have read, understand and agree to the terms of this document:**

Print Name:

Title:

Company:

Signed:

Date: