

Terms and Conditions of Sale

These *Terms and Conditions of Sale* apply to products and services purchased directly from UTC Fire & Security Americas Corporation, Inc. (hereinafter "UTCFS"). As all terms and conditions of sale herein are subject to change, check our website at www.gesecurity.com for the latest Terms and Conditions of Sale. **If you have questions about these Terms and Conditions of Sale, contact the appropriate customer service center.**

Standard Terms and Conditions of Sale

Sales of products and services by UTCFS are expressly subject to and conditioned upon the terms and conditions set forth below. Any different or additional terms set forth by Buyer, whether in Buyer's purchase order or another communication, are expressly objected to and rejected and will not be binding on UTCFS unless agreed to in writing by an authorized officer of UTCFS.

All periods of days set forth herein are calendar days unless otherwise stated.

Sales and payment terms. Unless otherwise agreed in writing by UTCFS, terms are net 30 days. Past due accounts will be subject to the maximum legal rate of interest or 1.5% per month, whichever is less. If a delinquent account is sent to collections, Buyer is responsible for all collection and attorney fees. All payments are to be made in US dollars. If a Buyer's account becomes past due, UTCFS may ship products on a cash in advance basis, or may refuse shipments until the account is paid in full.

Acceptable forms of payment. All remittances must be in a single payment in the full amount of the invoice (adjusted for any debit memos) and must be in accordance with the following requirements:

- Wire or electronic fund transfer (referencing invoice number) and Buyer must be the originator of wire.
- Buyer company check (drawn on company account with company name).
- Irrevocable letter of credit (referencing invoice number).

Third-party checks, bank checks, and foreign drafts will be accepted only if approved in advance in writing by the CFO of UTCFS and must have accompanying documentation that references invoices being paid.

Security interest. Buyer hereby grants to UTCFS and UTCFS reserves, a purchase money security interest in each product sold by UTCFS to Buyer in the amount of its purchase price. Any such security interest shall be satisfied by payment in full of the invoiced amount. Buyer agrees to execute any and all such documents, including financing statements, as may be necessary for UTCFS to perfect such security interest. Notwithstanding the foregoing, a copy of the sale or channel agreement may be filed on behalf of UTCFS with the appropriate authorities at any time as and for a financing statement.

Prices. Products and services will be invoiced at prices in effect on date of shipment (invoice date). Prices are not necessarily valid for other current or future sales. Any invoice errors must be disputed within 30 days of invoice date and are subject to correction by UTCFS. Prices exclude any present or future federal, state, provincial, local or other governmental taxes, duties and tariffs applicable to the sale, transportation or use of products purchased, all of which taxes, duties and tariffs shall be paid by Buyer. International sales are subject to applicable transportation and import duties, licenses and fees, or as agreed to by the purchase order. All prices are FOB shipping point.

Change in Buyer's financial condition. UTCFS reserves the right to cancel an order or require full or partial early payment if (1) the solvency or operation of Buyer is in question, (2) Buyer becomes the subject of any bankruptcy proceedings, (3) there is an appointment of a trustee or receiver for Buyer, or (4) Buyer makes an assignment or other arrangement for the benefit of its creditors. UTCFS also reserves the right to cancel or modify Buyer's credit terms at any time.

Delivery, title, and risk of loss. All shipments will be FOB shipping point, and title and risk of loss will pass to Buyer when accepted for shipment by the freight company. On-time shipment is dependent upon Buyer promptly supplying all necessary documentation. UTCFS will ship via its preferred carrier. UTCFS reserves the right to make partial shipments unless specifically stated otherwise on Buyer's purchase order. Freight charges are prepaid by UTCFS and will be invoiced to Buyer. Buyer must promptly file claims for damaged items with the freight carrier. UTCFS will determine the point of shipment. Products may ship from multiple locations.

Excusable delays. UTCFS shall use commercially reasonable efforts to deliver products ordered by Buyer as soon as reasonably practicable. In the event of interruption of any such delivery due to causes beyond the reasonable control of UTCFS, including but not limited to fire, flood, acts of God, war,

insurrection, vandalism, sabotage, terrorist events, labor disturbances, riots, national emergency, embargoes or restraints, accidents, extreme weather, governmental prohibitions, or inability to obtain necessary materials or components, UTCFS shall not be in breach and shall have the right, in its sole discretion and upon notice to Buyer, to delay or terminate such delivery. Upon receipt of such notice, Buyer shall have the option to change or terminate such orders.

Shortages. Buyer must notify UTCFS Customer Service within 10 business days of receipt of a shipment in the event that Buyer receives less than the full quantity ordered (a "shortage"). All claims for shortages shall be waived and released after 10 business days of receipt. At UTCFS's option, shipment will be fulfilled or a credit will be mailed to Buyer within 30 days of claim receipt.

Limited warranty

a. For the applicable warranty period set forth in UTCFS's *Return and Warranty Policy* (current version available on our website), UTCFS warrants that its products are free from defects in workmanship and materials, and will conform to UTCFS's published specifications, subject to the terms of this limited warranty. This warranty extends only to Buyer and does not extend to any other party. UTCFS is not responsible for components that UTCFS has not supplied. Nor is UTCFS responsible for conditions, changes, alterations, additions, or applications over which UTCFS has no control. Defects or problems as a result of such components, conditions, changes, additions, alterations or applications are not the responsibility of UTCFS. Such conditions include normal wear and tear; catastrophe; fault or negligence of or damage caused by the user or a party other than UTCFS; improper installation, application, storage, maintenance, or use of products; improper or negligent change or alteration of the product; other causes external to products; or failure to conform to any applicable recommendations of UTCFS. The warranty does not cover, and UTCFS does not warrant, batteries of any type. To the extent that any product includes software or firmware, whether included in a product furnished hereunder or provided separately, UTCFS warrants that such software/firmware will, at the time of delivery by UTCFS and for a period of 90 days thereafter, conform in all material respects to UTCFS's documentation relating to such software/firmware. In the event of product discontinuance, the applicable warranty period going forward for units previously sold and for units sold in the future, will be announced in conjunction with announcement of the product discontinuance and may, at UTCFS's sole discretion, be shorter than the term of the original warranty.

b. If any UTCFS product fails to meet this limited warranty, UTCFS shall, at its option, correct any such failure by repairing any defective or damaged parts of damaged product, or make available, FOB shipping point, any necessary repaired or replacement parts. UTCFS reserves the right to replace any product under warranty with new, refurbished or remanufactured product. UTCFS will not be responsible for labor costs of removal or reinstallation of products. The repaired or replaced product is then warranted under the terms of the limited warranty for the balance of the term of the warranty or for 90 days, whichever is longer. For any warranty claim, Buyer must first contact Customer Service and request authorization to return the product (see "Return Material Authorization" in the *Return and Warranty Policy* on our website).

c. The preceding subsections of this limited warranty set forth the exclusive remedies for claims based on any defect, failure, malfunction, or any other performance or nonperformance of any product, whether the claim is in contract, indemnity, warranty, tort (including negligence), strict liability or otherwise, and however instituted. Upon expiration of the applicable limited warranty period, any liability of UTCFS in connection with such exclusive remedies shall terminate, and Buyer shall have 30 days after the warranty period to give written notice of any defects, failures, malfunctions, or other performance or nonperformance issue that appeared during the warranty period. Except as set forth in the section entitled "Patents," the foregoing limited warranty is exclusive and in lieu of all other warranties, whether written, oral, implied, or statutory. NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE SHALL APPLY.

Software license. As used herein, the term "Software" means (a) machine-readable object code or (b) a computer program or compilation of data that is fixed in any tangible medium of expression or any storage medium from which the program may be perceived, reproduced or otherwise communicated, only with the aid of a machine or device. Furthermore, the term "Software" shall include, without limitation, any proprietary software provided for the ordinary operation of the products, any optional software to enhance the operation of the products, and any upgrades or revisions of this material

UTCFS provides in fulfillment of a specific written commitment or otherwise. Nothing herein shall be deemed to create an obligation on the part of UTCFS to provide any support, upgrades, or revisions to any software other than pursuant to a separate written obligation to do so. Buyer is granted a limited license for any Software and related user documentation delivered by UTCFS, whether as part of any product or provided separately. Buyer is not granted a license for any other software or documentation. This license allows Buyer to:

a. use the Software and user documentation only on the products on which it is installed at the time of delivery or, if the Software is supplied separately, in connection with products supplied by UTCFS. Buyer must obtain a supplementary license from UTCFS (which UTCFS may or may not grant in its sole discretion) before using the Software in connection with any other equipment or for any other purpose; and

b. make one copy of the Software in machine-readable form solely for backup purposes, provided that Buyer reproduces on any such copy the copyright notice and any other proprietary legends that were on the original copy.

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Patents. UTCFS warrants to Buyer that UTCFS products sold hereunder in the normal course of business shall be delivered free of any rightful claim of any third-party for infringement of any U.S. patent. If notified promptly in writing and given authority, information, and assistance, and contingent upon Buyer not taking any position adverse to UTCFS in connection with such claim, UTCFS shall defend, or may settle at its expense, any suit or proceeding against Buyer so far as based on a claimed infringement which would result in a breach of the warranty stated in this section, and UTCFS shall pay damages and court costs awarded therein against Buyer due to such breach as determined in a final, non-appealable judgment. In case any UTCFS product or part thereof is in such suit held to constitute such an infringement and the use for the purpose intended of said product or part is enjoined, UTCFS shall, at its expense and option, either procure for Buyer the right to continue using said product or part, or replace same with a noninfringing product or part, or modify same so it becomes noninfringing, or remove the product and refund the purchase price (less reasonable depreciation for any period of use) and any transportation costs separately paid by Buyer. The foregoing states the entire liability of UTCFS for patent infringement by the products or any part thereof. This does not apply to any product or part specified by Buyer or manufactured to Buyer's design, or to the use of any product furnished hereunder in conjunction with any other product in a combination not furnished by UTCFS as a part of this transaction. As to any such product or part, or use in such combination, UTCFS assumes no liability whatsoever for patent infringement, and Buyer shall hold harmless, defend and indemnify UTCFS against any infringement claims arising therefrom.

Limitation of Liability

a. **UTCFS's liability to Buyer on any claim of any kind, whether as a result of breach of contract, warranty, indemnity, tort (including negligence), strict liability or otherwise, for any loss or damage arising out of, connected with or resulting from the transaction, or from UTCFS' performance or breach thereof, or from the design, manufacture, sale, resale, installation, repair, operation or use of any products furnished, shall in no event (except as specifically provided for under the "Patents" section) exceed the price paid by Buyer for the products which give rise to the claim. Any such liability shall terminate upon the expiration of the applicable warranty period, provided, however, that Buyer's rights to prove title in the products purchased from UTCFS shall not terminate.**

b. **Notwithstanding anything else herein, in no event, whether as a result of breach of contract, warranty, indemnity, tort (including negligence and strict liability) or otherwise, shall UTCFS or its suppliers be liable for any special, consequential, indirect, incidental, exemplary, economic or punitive damages, including but not limited to: loss of profit or revenues; loss of use of the products or any associated equipment; damage to associated equipment; cost of capital, substitute products, facilities or**

services; downtime costs; loss of actual or potential business opportunity or loss of reputation; or claims of Buyer's customer for such damage.

c. **Unless otherwise agreed to in writing and signed by the President of UTCFS, products sold are not intended for use in connection with any nuclear facility or activity. If resold by Buyer for such use, UTCFS disclaims all liability for any nuclear damage, injury, or contamination, and Buyer shall defend, hold harmless and indemnify UTCFS against any such liability, whether as a result of breach of contract, warranty, tort (including negligence and strict liability), or otherwise.**

d. **Buyer hereby agrees to indemnify, defend, and hold harmless UTCFS in connection with any loss, liability, claim, settlement payment, interest, award, judgment, damages, fines, penalties, cost and expense, including without limitation reasonable attorneys fees and arbitration, mediation and expert fees and any recall costs and expenses, arising out of or relating to Buyer's: negligence; misuse; improper installation, storage, maintenance or use of products; changes, alterations or additions to products; or components implemented into products.**

Disclaimer. UTCFS does not make any claims or warranties of any kind regarding any product's potential, ability, or effectiveness to detect, minimize, or in anyway prevent death, personal injury, property damage, or loss of any kind whatsoever. UTCFS is not responsible for any death, personal injury, damage, loss, or theft related to the product or its use or for any harm, whether physical or mental, related thereto. UTCFS does not represent that the product may not be compromised and/or circumvented, or that the product will prevent death, personal injury, bodily injury, and/or damage to property of purchaser or others resulting from burglary, robbery, fire, or otherwise, or that the product will in all cases provide adequate warning or protection. Buyer understands that a properly installed and maintained product may only reduce the risk of events such as burglary, robbery, fire, or similar events without warning, but it is not insurance or a guarantee that such events will not occur or that there will be no death, personal injury, and/or property damage as a result. UTCFS shall not be liable for any death, personal injury, property damage, or loss of any kind whatsoever to purchaser or others, whether directly, indirectly, incidentally, consequentially, or otherwise, caused by the operation, nonoperation, functioning, malfunctioning, or misuse of the product. UTCFS does not warrant that its products will work properly in all environments and applications and does not warrant the product against harmful electromagnetic interference induction or radiation (EMI, RFI, etc.) emitted from external sources.

Proprietary information. Buyer agrees that UTCFS has and claims various proprietary rights in the hardware, firmware, software and the integration of ancillary materials, knowledge and designs that constitute UTCFS products, and that Buyer will not directly or indirectly cause any such proprietary rights to be violated.

Federal Acquisition Regulations. The products and services sold by UTCFS are commercial items as defined by Federal Acquisition Regulations ("FAR") and the prices in any transaction are based on UTCFS's standard commercial accounting policies which do not consider any special requirements of U.S. Government cost principles and do not meet the requirements of Part 31 of the FAR or similar procurement regulations. UTCFS agrees only to perform a contract for the sale of a commercial item on a fixed-price basis. UTCFS will not agree to submit or certify to any cost or pricing data nor will it agree to any requirements to establish price reasonableness under FAR Part 15 or similar regulations. In stating its position, UTCFS refers to FAR Part 12 - "Acquisition of Commercial Items." Transactions under \$3,000 are made pursuant to FAR Part 13, Simplified Acquisitions.

Custom products. Intellectual property resulting from the development of custom products (including but not limited to hardware, software and technical documentation) for a buyer are exclusively the property of UTCFS and may not be reproduced, redistributed or resold by Buyer without prior written permission from UTCFS.

Design changes. UTCFS reserves the right to make changes in design of any products without incurring any obligation to notify Buyer or to make the same change to units previously purchased.

Export laws. Buyer agrees to comply with all applicable export laws, assurances, codes and license requirements, and controls of the U.S. and other applicable jurisdictions in connection with the use and resale of products including without limitation Buyer's acceptance of responsibility for the payment of any relevant taxes or duties or similar government charges or fees.

Governing law. The internal substantive laws of the State of New York shall govern this transaction.