

**Britannia Fire and Security Ltd**

**CONDITIONS OF SUPPLY**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 The following terms as used herein shall have the meaning as stated:
- “Acknowledgement of Order”** means Our written acceptance of Your order issued in accordance with the provisions of clause 2.7;
- “Alarm Receiving Centre”** means the premises where Fire, Security and CCTV systems are monitored;
- “Business Day”** means any day between Monday to Friday inclusive, excluding any public or bank holidays;
- “Business Hours”** means between 09.00 and 17.00 on a Business Day;
- “Charges”** means the charges payable by You under the Contract;
- “Completion”** means completion of installation of the Goods, which shall be deemed to have occurred when the access code, control keys or other operating device are handed over to You or Your agent, notwithstanding any work remaining to be carried out by BT or any other communications provider, or by You or Your agents or sub-contractors;
- “Conditions”** means these Conditions of Supply;
- “Confidential Information”** means any information disclosed by one (the disclosing party) to another party (the receiving party) if the disclosing party has notified the receiving party that the information is confidential or the information could reasonably be supposed to be confidential;
- “Contract”** means a contract between Us and You for supply of Goods and/or Services, as evidenced by Our issuing an Acknowledgement of Order;
- “Control Equipment”** means equipment necessary for setting, un-setting configuring and testing the System, and for activating any Warning Equipment and Remote Signalling Equipment;
- “Deliverables”** means all documents, products and materials developed by Us or Our agents, subcontractors, consultants and employees in relation to the Goods and/or Services in any form, including any computer programs, data, drawings, reports and specifications (including drafts);
- “Equipment”** means any goods or materials (including but not limited to any Goods) in relation to which the Maintenance Service and/or the Monitoring Service is or are to be performed;
- “Goods”** means the goods or materials agreed in the Contract to be supplied by Us to You or any substitute goods or materials or equivalent type and quality supplied by Us to You (including any part or parts of them), comprised of the System and any other goods or materials so agreed to be supplied, or otherwise substituted and supplied as aforesaid;
- “Installation Charge”** means the charge set out in the Acknowledgement of Order as the charge for supply and installation of the Goods;
- “Installation Service”** means the installation service detailed in the Acknowledgement of Order;
- “Intellectual property Rights”** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
- “Maintenance Charge”** means the charge set out in the Acknowledgment of Order as the charge for the Maintenance Service;
- “Maintenance Service”** means the maintenance service detailed in the Acknowledgement or Order;
- “Minimum Term”** means the minimum term of Maintenance Service and/or the Monitoring Service as detailed in the Acknowledgement of Order;
- “Monitoring Charge”** means the charge set out in the Acknowledgement of Order as the charge for the Monitoring Service;
- “Monitoring Service”** means the monitoring service detailed in the Acknowledgment of Order;
- “Premises”** means the premises specified in the Acknowledgement of Order for delivery of the Goods and/or performance of the Services;

**“Quotation”** means a quotation for the Goods and/or Services which is provided by Us to you;  
**“Remote Signalling Equipment”** means equipment which automatically communicates the state of the System to the Alarm Receiving Centre, Police or Fire Authority (and also to You and/or Your keyholder, by virtue of any data transmission method selected by You and agreed by Us for this purpose);

**“Services”** means the services agreed in the Contract to be performed by Us for You (including any part or parts of them), comprised of the Installation Service and/or the Maintenance Service and/or the Monitoring Service;

**“Specification”** means the functional specification set out in the Acknowledgment of Order in accordance with which the Goods and/or Services are to be supplied and which will, amongst other matters, contain details of any additional charges payable for labour, parts, consumables and maintenance call outs and will specify the nature, number and frequency of routine maintenance inspections and the procedure and estimated response times for maintenance call-outs;

**“System”** means the Control Equipment, Warning Equipment, Remote Signalling equipment, detectors, devices and any other equipment and all interconnecting wiring as set out in the Specification;

**“Warning Equipment”** means equipment giving an indication at the Premises that an alarm condition has occurred;

**“We, Us, Our”** means Britannia Fire & Security Ltd;

**“You, Your”** means the person, firm or company named in the Acknowledgement of Order as the customer.

- 1.2 A reference to a clause is to a clause of these Conditions. Clause headings shall not affect the interpretation of these Conditions.
- 1.3 Any reference to **“parties”** means the parties to the Contract and **“party”** shall be construed accordingly.
- 1.4 A reference to a particular law is a reference to it as it in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.5 Words in the singular include the plural and the plural include the singular.
- 1.6 A reference to one gender includes a reference to the other gender.
- 1.7 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 or following those terms.

## 2. APPLICATION OF CONDITIONS

- 2.1 All Quotations are given and all orders are accepted by Us subject only to these Conditions, which shall be incorporated into the Contract and which shall prevail to the exclusion of any other terms including any conditions, warranties or representations written or oral, express or implied, even if contained in any of Your documents which purport to provide that Your own terms shall prevail.
- 2.2 Any representations or statements about any Goods and Services (including any advice or recommendation as to the use, application or storage of the Goods) shall have no effect unless expressly agree in writing and signed by Our authorised signatory;
- 2.3 You shall be responsible for ensuring the accuracy of Your order and giving Us any necessary information relating to the Goods and/or Services within a sufficient time to enable to enable Us to properly perform our obligations under the Contract.
- 2.4 You acknowledge that each party is jointly responsible for ensuring that the Specification is complete and accurate. You agree that You should confirm the details of the Specification with Your insurers. You further agree to notify Us of any changes in the risk and if any such changes necessitate any agreed amendments to the Specification, to pay any and all additional charges relating thereto to Us.
- 2.5 Notwithstanding the provisions of clause 2.4, We reserve the right to make any changes in the Specification which are required to conform to any applicable safety or other statutory requirements.
- 2.6 Any Quotation is given on the basis that no Contract shall come into existence unless and until We accept Your order in accordance with the provisions of clause 2.7. Any quotation is valid for a period of 30 days only from its date, provided that We have not previously revised or withdrawn it.

- 2.7 The placing of an order following any Quotation shall not be binding on Us unless and until We issue an Acknowledgement of Order to You.
- 2.8 The quantity and description of the Goods and/or Services shall be as set out in the Acknowledgement of Order.
- 2.9 Any topographical, clerical or other accidental errors in omissions in any sales literature, price list, Quotation, Acknowledgement of Order, invoice or other document or information issued by Us shall be subject to correction without any liability on Our part.
- 2.10 All samples, drawings, descriptive matter and advertising issued by Us and any descriptions or illustrations contained in Our website, catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Goods and Services described to them. They shall not form part of the Contract and this is not a sale by sample.
- 2.11 We have no obligation to accept any variation to the Contract requested by you, whether by addition, substitution or omission (or, without limitation, to the Goods/and or Services to be provided under the Contract) and no such request shall be deemed to be accepted in the absence of Our written agreement to the variation.

### 3. CONSUMER CONTRACTS

- 3.1 These Conditions shall apply both to customers who are:
- (a) Business customers; and
  - (b) Consumers,
- save where otherwise stated.
- A customer is a business customer if the customer purchases Goods or Services from Us for the purposes of the customer's business, trade or profession, rather than for private use. All other customers are consumers.
- 3.2 the following clauses 3.3-3.12 shall apply if and only if You enter into a Contract with Us as a consumer where the Contract is a distance contract or off-premises contract within the meaning of the [Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013 (the "**Regulations**")].
- 3.3 Under the Regulations, if You are contracting as a consumer, You may cancel a Contract for the purchase of Goods (without giving any reason for cancellation) at any time within the period:
- (a) Beginning upon the submission of Your order; and
  - (b) Ending at the end of 14 days after they day on which the Goods come into Your physical possession or the physical possession of a person identified by You to take possession of them (or, if the Contract is for delivery of multiple Goods, lots or pieces of something, 14 days after the day on which the last of those Goods, lots or pieces comes into Your physical possession or the physical possession of a person identified by You to take possession of them).
- 3.4 The cancellation right described in clause 3.3 does not apply in respect of any Goods which are made-to-order or which are custom made.
- 3.5 In order to cancel a Contract on the basis described in clause 3.3, You must inform Us of Your decision to cancel. You may inform Us by means of any clear statement setting out the decision. To meet the cancellation deadline, it is sufficient for Your to send Your communication concerning the exercise of the right to cancel before the cancellation period has expired.
- 3.6 You must arrange for the Goods to be returned to Us. You must comply with Your obligations referred to in this clause 3.6 without undue delay and in any event not later than 14 days after the day on which You inform Us of Your decision to cancel the Contract. You must pay the direct cost of returning the Goods.
- 3.7 If You cancel a Contract on the basis described in clause 3.3, You will receive a full refund of the amount You paid to Us in respect of the order, including the cost of delivery to You.
- 3.8 However, where We are to supply and install Goods for You, you agree that the installation of the Goods may commence before the expiry of the period referred to in clause 3.3 and You acknowledge that if the installation of the Goods does begin before the end of the period referred to in clause 3.3, then:
- (a) If the installation of the Goods is complete, You will lose the right to cancel referred to in clause 3.3;
  - (b) If the installation of the Goods has been partially completed at the time of cancellation, You must pay to Us an amount proportional to the installation work undertaken and the

Goods that have been installed or We may deduct such amount from any refund due to You in accordance with the exercise of the right to cancel referred to in clause 3.3.

- 3.9 Under the Regulations, if You are contracting as a consumer, You may also cancel a Contract for the purchase of Services entered into at a distance or off-premises (without giving any reason for cancellation) at any time within the period:
- (a) Beginning upon the submission of Your order; and
  - (b) Ending at the end of 14 days after the day on which the Contract is entered into.
- 3.10 The procedure for cancelling a Contract for the purchase of Services under the Regulations is identical to the procedure set out in clause 3.5 and if You cancel a Contract on the basis described in clause 3.9, You will receive a full refund of the amount You paid to Us in respect of the order.
- 3.11 However, you agree that We may begin the provision of the Maintenance Service and/or the Monitoring Service before the expiry of the period referred to in clause 3.9 and You acknowledge that if We do begin to provide the respective Service before the end of the period referred to in clause 3.9, then:
- (a) If the respective Service is fully performed, you will lose the right to cancel referred to in clause 3.9;
  - (b) If the respective Service is partially performed at the time of cancellation, You must pay to Us an amount proportional to the respective Service supplied or We may deduct such amount from any refund due to You in accordance with the exercise of the right to cancel referred to in clause 3.9.
- 3.12 Unless you cancel a Contract on the basis described in clause 3.3 or clause 3.9, (subject always to the provisions of clause 3.4, clause 3.8 and clause 3.11, respectively), the Contract may not be cancelled by You without Our written consent and on terms that You shall indemnify Us in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Us as a result of such cancellation.

#### **4. DELIVERY AND PERFORMANCE**

- 4.1 Whilst We will reasonably endeavour to provide the Goods and/or Services in accordance with Your requirements, all dates and times given to Us in relation to the discharge of Our obligations under the Contract are estimates only (unless otherwise agreed in writing to Us) and We shall not in any event be liable for any delay or for the consequences of any delay in the provision of the Goods and/or Services, howsoever caused.
- 4.2 Delivery of the Goods shall take place at the Premises.
- 4.3 If so stipulated in the Acknowledgement of Order, You shall provide at the Premises and at Your expense adequate and appropriate equipment and manual labour for unloading and reloading the Goods.
- 4.4 If delivery involves difficult access to or at the Premises, We reserve the right to levy an extra delivery charge.
- 4.5 We may deliver the Goods by separate instalments and perform the Services in separate instalments. Each separate instalment shall be invoiced and paid for in advance with the provisions of the Contract.
- 4.6 Each instalment shall be a separate Contract.
- 4.7 No cancellation or termination of any one contract relating to an instalment shall entitle You to repudiate or cancel any other contract or instalment.
- 4.8 If for any reason You fail to take or accept delivery of any of the Goods, or We are unable to deliver the Goods on time because You have not provided appropriate instructions, documents, licences or authorisations, We will charge You an abortive delivery charge and:
- (a) risk in the Goods shall pass to You (including for loss and damage caused by Our negligence);
  - (b) the Goods shall be deemed to have been delivered; and
  - (c) We may store the Goods until delivery, whereupon You shall be liable for all related costs and expenses (including storage and insurance); or
  - (d) Sell the Goods at the best price readily obtainable and (after deducting any reasonable costs and expenses in connection with the storage and expedited sale of the Goods), charge You for any shortfall below the Charge for the Goods.
- 4.9 Prior to performance of the Services, You shall remove any item and make good any condition at the Premises that could obstruct the performance of the Services. If We discover or are notified of,

before or during the performance of the Services, any obstruction, condition, hazard or other problem at the Premises which materially affects Our ability to undertake the Services in accordance with our standards at the level of the Charges, We shall be free to vary the Charges, notwithstanding that the obstruction, condition, hazard or other problem may have existed prior to issuance of the Acknowledgement of Order or may have arisen subsequently. Any additional costs caused by any delay or hindrance in the performance of the Services, or any interruption or suspension of performance, at the Premises for reasons beyond Our Control shall be treated as a variation to Your original order, You shall be liable for any such additional costs and an appropriate extension of time for completion of the Services shall be agreed in respect of any such variation.

- 4.10 If the performance of Our obligations under the Contract is prevented or delayed by Your act or omission or that Your agents, subcontractor, consultants or employees. We shall not be liable for any costs, charges or losses sustained or incurred by you arising directly or indirectly from such prevention or delay.

## **5. INSTALLATION SERVICE**

- 5.1 We shall carry out the Installation Service described in the Specification.
- 5.2 We shall install the Goods at the Premises on the anticipated installation date stated in the Acknowledgment of Order.
- 5.3 During the performance of the Installation Service You shall (at no cost to Us) provide Us with all co-operation, assistance and relevant information and access to all areas of the premises and to such facilities, resources and utilities at the Premises (including the provision of a suitable power supply to the working area) as We may reasonably require. You agree to provide or bear the cost of hiring any specialist access equipment required to undertake the Installation Service.
- 5.4 You shall be entirely responsible, at Your sole cost and expense, for obtaining any necessary easements, way leaves, permissions, consents or licences prior to the installation of the Goods at the Premises.
- 5.5 The installation Charge has been calculated on the basis that We will be able to gain access to the Premises without delay and that the work can be carried out without interruption on consecutive Business Days during Business Hours.
- 5.6 If Our costs are increased by a delay in obtaining access to the Premises or if We are required to delay or interrupt Our work or to undertake work outside Business Hours, We shall be entitled to levy a supplemental charge to the Installation Charge.
- 5.7 It is Your responsibility to advise us of the location of all concealed utility services infrastructure (including gas pipes and telephone cabling) prior to the commencement of any work.
- 5.8 Although We will exercise reasonable care in undertaking the Installation Service, unless agreed otherwise by Us in writing, We will not undertake any work involving carpet laying or the concealment of cables, nor will we undertake any building or carpentry work and You will bear the cost of an reinstatement, redecoration or re-plastering made necessary by the installation of the Goods.
- 5.9 The Goods must be used and operated in accordance with the instructions We have given You, and with reasonable care and in a manner to preserve their proper and efficient working.
- 5.10 You shall:
- (a) where applicable, pay any line or equipment charges due to third parties (and any increases from time to time); and
  - (b) pay for all electrical supplies to the Goods and remain responsible for the upkeep and maintenance of all electrical supplies to the Goods.
- 5.11 Neither You, nor any of Your agents or sub-contractors, shall adjust, tamper with, alter or interfere with the Goods in any way.

## **6. RISK AND TITLE**

- 6.1 The Goods will be at Your risk from the time of delivery.
- 6.2 Subject to clause 6.7, ownership of the Goods will only pass to You upon Our receipt of the payment required upon Completion in accordance with clause 10.3. We will be entitled to withhold delivery of any access code, control keys or other operating device until said payment has been received and no NSI, NICEIC or other relevant certification will be issued until said payment has been received.

- 6.3 If You are contracting as a business customer, ownership of the Goods will only pass to You upon:
- (a) Our receipt of the payment detailed in clause 6.2 above, together with;
  - (b) all other sums which are or which become due to Us from You on any account.
- 6.4 Until ownership of the Goods has passed to You, if You are contracting as a business customer, You must:
- (a) hold the Goods on a fiduciary basis as Our bailee;
  - (b) store the Goods separately from all other goods held by you so that they remain readily identifiable as Our property;
  - (c) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
  - (d) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery and indemnify Us against all loss or damage of whatsoever nature affecting the Goods;
  - (e) not assign to any other person any rights arising from a sale of the Goods without Our written consent; and
  - (f) give Us such information relating to the Goods as we may require from time to time, but You may, subject to clause 6.7, resell the Goods in the ordinary course of Your business, provided that You shall hold the entire proceeds of any such resale upon trust for Us until the Goods have been paid for in full and shall keep all such trust monies in a separate bank account which shall not be overdrawn and in which such trust monies are not mingled with Your own or any other monies. You acknowledge and agree that a sale by an administrator or liquidator as part of or in connection with the sale of Your assets or part of Your assets is not in the ordinary course of Your business.
- 6.5 If You are contracting as a business customer, Your right to possession of the Goods shall terminate immediately, if:
- (a) You have a bankruptcy order made against You, or make an arrangement or composition with Your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors. Or (being a nody corporate) convene a meeting of creditors (whether formal or informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed over your undertaking or any part thereof, or a resolution is passed or a petition presented to any court for Your winding up or for the granting of an administration order in respect of You, or any proceedings are commenced relating to your insolvency or possible insolvency; or
  - (b) You suffer or allow any execution, whether legal or equitable, to be levied on Your property or to be obtained against You, or You are unable to pay Your debts within the meaning of section 123 of the Insolvency Act 1986, or You cease or threaten to cease to trade, or You encumber or in any other way charge the Goods.
- 6.6 If You are contracting a business customer and if:
- (a) You are late in paying for the Goods; or
  - (b) You are late in paying for any other goods or services supplied by Us; or if
  - (c) Before title to the Goods passes to You, You become subject to any of the events listed in clause 6.5 (a) or (b), or We reasonably believe that any such event is about to happen and notifying You accordingly, then:
- Without limiting any other right or remedy We may have, We may at any time require You to deliver up the Goods and if You fail to do so promptly, We may enter any Your premises or the premises of any third party where the Goods are stored or kept in order to recover them. You shall not keep the Goods at any premises other than such premises as shall be specified in writing by You to Us prior to the dispatch of Goods to You, or at any premises at which you do not have the right to grant access to Us.
- 6.7 the Remote Signalling Equipment shall remain Our Property at all times. You agree to allow Us to remove the Remote Signalling equipment from the Premises upon termination of the Contract and risk in the Remote Signalling Equipment shall remain with You until such removal as aforesaid.

## 7. MAINTENANCE SERVICE

- 7.1 We shall carry out the Maintenance Service described in the Specification.
- 7.2 The Maintenance Service shall commence upon the date stipulated in the Acknowledgement of Order and shall (subject to earlier termination in accordance with clause 16.1) continue for the Minimum Term.
- 7.3 The Maintenance Service shall continue (subject to earlier termination in accordance with clause 16.1) beyond the Minimum Term (subject to the payment of all applicable Charges by You to Us) unless at least three calendar months prior written notice is given by either party to the other to terminate the Maintenance Service upon the expiry of the Minimum Term. If the Maintenance Service continues beyond the Minimum Term, the Maintenance Service shall (subject to earlier termination in accordance with clause 16.1) thereafter be terminable by either party giving the other three calendar months' written notice of termination.
- 7.4 During the performance of the Maintenance Service You shall (at no cost to Us) provide Us with all co-operation, assistance and relevant information and access to all areas of the Premises and to such facilities, resources and utilities at the Premises (including the provision of a suitable power supply to the working area) as we may reasonably require. You agree to provide or bear the cost of hiring any specialist access equipment required to undertake the Maintenance Service.
- 7.5 The Maintenance Charge has been calculated on the basis that We will be able to gain access to the Premises without delay and that the work can be carried out without interruption during Business Hours.
- 7.6 If Our costs are increased by a delay in obtaining access to the Premises or if We are required to delay or interrupt our Work or to undertake work outside Business Hours, We shall be entitled to levy a supplemental charge to the Maintenance Charge.
- 7.7 Any appointment time window notified by Us to You for performance of the Maintenance Service indicates the earliest and latest times that Our technician may arrive at the Premises and does not indicate the time that the work will be completed. You will be required to arrange for someone with authority to sign for the work to be carried out and to sanction any additional separately chargeable work to be present at the Premises for the entire duration of the appointment time window.
- 7.8 You agree that We may undertake remote maintenance inspections of the Equipment, by which We will:
- (a) access the programming of the Equipment remotely by secure internet, telephone or wireless connection;
  - (b) test and inspect the Equipment and carry out on-line maintenance; and
  - (c) test and effect the repair of the Equipment by altering the programming of the Equipment; and
  - (d) where British or European standards require more than one maintenance inspection per year, We may at Our discretion supplement routine maintenance inspections with remote inspections.
- 7.9 The Maintenance Service does not include support which is necessitated as a result of any fault in or damage to the Equipment attributable to:
- (a) failure or fluctuation of electric power, air conditioning, humidity control or other environmental conditions;
  - (b) vandalism, fire, extreme ambient temperatures, lightning, water or explosion;
  - (c) accident, transportation, neglect, misuse, abuse or default by You, Your employees or agents or any third party;
  - (d) any attempt by any person other than Our personnel or any person authorised by Us or Our authorised sub-contractor, to adjust, repair or support the Equipment; or
  - (e) user error, or any failure to use or operate the Equipment in accordance with any applicable instructions.
- 7.10 In addition, the Maintenance Service does not include:
- (a) electrical or other environmental work external to the Equipment;
  - (b) the support of any attachments or associated components which do not form part of the Equipment; or
  - (c) support for any fault in or damage to the Equipment reasonably determined by Us to have originated prior to the start date for the Maintenance Service stipulated in the Acknowledgement of Order.

- 7.11 In order to be eligible for maintenance under the Contract, the Equipment must at all times be in a condition suitable for regular routine maintenance and if We, in Our sole discretion, at any time deem the Equipment not to be in such a condition, We may, without liability to You, refuse to undertake the Maintenance Service in relation to the Equipment. All call-out charges shall remain payable in full.
- 7.12 Without limiting any of the provisions of clause 7.11 and notwithstanding that the Equipment may no longer be in a condition suitable for regular routine maintenance, We may still, acting reasonably, elect to undertake the Maintenance Service in respect of the Equipment, subject to Your prior written consent; if We make this election but the cost of servicing or reinstating the equipment exceed the annual Maintenance Charge, We reserve the right to recover any such excess cost from You up to the replacement value of the Equipment, together with all associated costs, charges and expenses incurred by Us.
- 7.13 Any new or replacement parts supplied to You in connection with the Maintenance Service shall become Your property and any old parts that are replaced by us shall become Our property. We shall not in any circumstances be deemed to have adopted any new or replacement parts supplied to You. Furthermore, where We provide the Maintenance Service in respect of any existing system, under no circumstances, shall We be deemed to have adopted the efficiency of that existing system's design.

## **8. MONITORING SERVICE**

- 8.1 We shall carry out the Monitoring Service described in the Specification.
- 8.2 You acknowledge that the Monitoring Service may not be provided without the Maintenance Service.
- 8.3 The Monitoring Service shall commence upon the date stipulated in the Acknowledgement of Order and shall (subject to earlier termination in accordance with clause 16.1) continue for the Minimum Term.
- 8.4 The Monitoring Service shall continue (subject to earlier termination in accordance with clause 16.1) beyond the Minimum Term (subject to the payment of all applicable Charges by You to Us) unless at least three calendar months' prior written notice is given by either party to the other to terminate the Monitoring Service upon the expiry of the Minimum Term. If the Monitoring Service continues beyond the Minimum Term, the Monitoring Service shall (subject to earlier termination in accordance with clause 16.1) thereafter be terminable by either party giving the other three calendar months' written notice of termination.
- 8.5 Since the Monitoring Service may not be provided without the Maintenance Service, pursuant to clause 8.2, You acknowledge that if the monitoring Service continues beyond the Minimum Term, the Maintenance Service must also continue beyond the Minimum Term, until such time as both Services are simultaneously terminated.
- 8.6 In order to facilitate Our provision of the monitoring Service, You shall at all times;
- (a) Keep and operate the Remote Signalling Equipment in a proper and prudent manner and in accordance with any relevant instructions issued to You;
  - (b) Maintain all agreed data transmission methods for the Remote Signalling Equipment; and
  - (c) Provide and maintain in full working order such other security measures as shall reasonably be specified by Us from time to time to enable adequately fulfil Our obligations under the contract.

## **9. CHARGES**

- 9.1 The Charges shall be the charges set out in the Acknowledgment of Order.
- 9.2 We reserve the right by giving notice to You at any time before delivery of the Goods and/or performance of the Services to increase the Charges to reflect any increase in Our costs which is due to any factor beyond our control (including any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture) any change in delivery dates, quantities or specifications which is requested by the You, or any delay caused by Your instructions or Your failure to give Us adequate information or instructions.
- 9.3 No allowance shall be made for any main building contractor's discount.

9.4 Value Added tax will, where applicable, be added to the Charges.

## 10. PAYMENT

- 10.1 Subject only to any special terms agreed in writing between You and Us, We shall be entitled to invoice You for the Charges on or at any time after the date of issuance of the Acknowledgement of Order.
- 10.2 Provided that You have passed Our credit rating check, then settlement terms will be net 28 days from invoice date, subject always to the provisions of clauses 10.3 and 10.4. In all other cases, payments shall be made in advance in such amounts as we may determine, upon submission by Us of a pro-forma invoice. Any other sums payable to Us by you under the Contract shall be paid by You to Us at such times as may be stipulated by Us.
- 10.3 Upon Your receipt of the Acknowledgement of Order and in any event prior to commencement of installation of the Goods, You shall pay Us such percentage of the Installation Charge as shall be specified in the Acknowledgement of Order. Upon Completion, You shall pay Us the balance of the Installation Charge.
- 10.4 You shall pay us the Maintenance charge and/or the Monitoring Charge for the Minimum Term on and at such intervals as shall be specified in the Acknowledgment of Order. We will review Our scale of charges on 1<sup>st</sup> January of each year and any increase in the Maintenance Charge and/or the Monitoring Charge, which shall be effective immediately, will be notified to and payable by You.
- 10.5 The provisions of clauses 10.3 and 10.4 are without prejudice to the provisions of clauses 10.1 and 10.2.
- 10.6 The time of payment of the Charges shall be of the essence of the contract.
- 10.7 No payment shall be deemed to have been received until We have received cleared funds.
- 10.8 All payments payable to Us under the Contract shall become due immediately on its termination, despite any other provision.
- 10.9 You shall make all payments due under the Contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless You have a valid court order requiring an amount equal to such deduction to be paid by Us to You.
- 10.10 Failure by You to pay any invoice by its due date and/or the occurrence of any one or more of the events set forth in clause 6.5 shall entitle Us:
- (a) at Our option, to charge interest at the rate of five percent (5%) per annum above Lloyds Bank plc's base lending rate from time to time calculated on a daily basis (whether before or after any judgement) until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest);
  - (b) to charge You with any costs incurred by Us in the course of collecting outstanding monies due to Us from You;
  - (c) to suspend any warranty for the Goods and/or Services or any other goods or services supplied by Us to You, whether or not they have been paid for;
  - (d) to appropriate any payment made by You to such of the Goods and/or Services as We may think fit;
  - (e) to set off any amount owed by Us to You against any amount owed by You to Us on any account whatsoever;
  - (f) to exercise Our rights under clauses 6.6 and 6.7 in relation to any goods;
  - (g) to terminate the Contract, or suspend or cancel any future delivery of Goods and/or performance of Services;
  - (h) to cancel any discount (if any) offered to You; and
  - (i) if You have an approved credit account, to withdraw or reduce Your credit limit or bring forward its due date for payment without notice.
- 10.11 if You are contracting as a business customer, We reserve the right to claim interest under the Late payment of Commercial Debts (interest) Act 1998.

## **11. CONFIDENTIAL INFORMATION, INTELECTUAL PROPERTY RIGHTS AND DATA PROTECTION**

- 11.1 You and we each agree that in the course of Us providing the Goods and/or Services to You, the parties may disclose to each other certain Confidential Information. You and We agree that each party will maintain the Confidential Information's confidentiality and not disseminate it to any third party without the disclosing party's prior written consent save that this obligation shall not apply to any Confidential information that either party has a duty (whether legal or otherwise) to communicate or that is in the public domain or is already in the receiving party's possession through no fault of the receiving party. You shall not use any Confidential Information for any purpose other than to carry out Your obligations to Us.
- 11.2 You acknowledge Our ownership of any and all Intellectual Property Rights in the Goods and the Services and in any Deliverables provided to You pursuant to the Contract and You agree not to contest Our ownership or use of any such Intellectual Property Rights. Without limitation, You shall not acquire any such Intellectual Property Rights or any licence or grant of rights therein, nor shall You register or attempt or permit to be registered, any such Intellectual Property Rights or any licence or grant of rights therein. You further acknowledge that, without limitation, any and all Intellectual Property Rights developed by us in performing the Services shall become vested and shall vest in Us absolutely and shall also be subject to the other provisions of this clause 11.2
- 11.3 No part of the Deliverables shall be used in any of Your prospectuses, advertisements or other publications, without Our prior written consent .
- 11.4 You shall hold Us harmless and shall fully indemnify Us against any and all loss, damage, costs and expenses awarded or incurred by Us in connection with, or paid or agreed to be paid by Us in settlement of any claim for the infringement of any third party Intellectual Property Rights resulting from Our use of any instructions, specification, or materials submitted by You.
- 11.5 You acknowledge and agree that any personal data contained in any information provided to Us to You or on Your behalf may be processed by Us and on Our behalf in connection with the supply of any Goods and/or Services under the Contract.
- 11.6 If You are contracting with Us as a business customer, it is Your responsibility to register Your CCTV system with the Information Commissioner's Office.

## **12. NON-SOLICITATION**

- 12.1 You shall not, without Our prior written consent, whether acting on Your own account, on behalf of, or with any other person (including any person which You direct to act on Your behalf), at any time from the date of first provision of the Services to the expiry of 6 months after the last date of supply of the Services, solicit or entice away from Us or employ (or attempt to employ) or otherwise engage or attempt to engage the services of any person who is, or has been, engaged as Our employee, consultant or subcontractor in the provision of the Services.
- 12.2 Any consent given by Us in accordance with clause 12.1 shall be subject to You paying to Us a sum equivalent to 15% of the then current annual remuneration of Our employee, consultant or subcontractor.

## **13. FORCE MAJEURE**

We reserve the right to defer the date of provision of the Goods and/or Services, or to cancel the Contract or reduce the volume of the Goods and/or Services ordered by You (without liability to You) if We are prevented from, or delayed in, the carrying on of Our business (wholly or in part) due to circumstances beyond Our reasonable control including Acts of God, government actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, Pandemic, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers, or any inability or delay in obtaining supplies of adequate or suitable materials, or the failure or demise of any source of supply.

## 14. WARRANTY

- 14.1 We will endeavour to transfer to You the benefit of any manufacturer's warranty or guarantee given to Us and We warrant (subject to the other provisions of these Conditions) that:
- (a) on delivery, the Goods shall be of satisfactory quality within the meaning of the Sales of Goods Act 1979; and
  - (b) if You have made it expressly known to Us in Your order that the Goods shall be suitable for a particular purpose and We have expressly stated in the Acknowledgement of Order that We will supply Goods suitable for that purpose, then the Goods shall be reasonably fit for purpose so stated; and
  - (c) the Services will be performed with reasonable skill and care.
- 14.2 Our liability pursuant to clause 14.1 shall be limited:
- (a) for Goods, to the replacement of any part of the Goods found to be defective and notified to Us within the period set forth in clause 14.3 (or, if the claim is on any manufacturer's warranty, within the relevant manufacturer's warranty period); and
  - (b) for Services, to re-performing (where possible) those Services found, in Our discretion, not to have been performed with reasonable skill and care and notified to Us within the period set forth in clause 14.3; or
  - (c) to refunding that part of the Charges already paid by You for the Goods and/or Services (as applicable) which is directly referable to the breach of the applicable warranty in clause 14.1.
- 14.3 Any defect or deficiency in or failure to correspond to Specification of the Goods and/or Services shall be notified to Us within 7 days of the time when You discover or ought to have discovered the defect or deficiency or failure to correspond to Specification, as applicable; otherwise, the Goods and Services shall be deemed to be satisfactory and a charge will be made for additional rectification work.
- 14.4 We shall not be liable for any breach of any warranty in clause 14.1, if;
- (a) You make any further use of any Goods which You have alleged to be defective after giving notice of any such defect;
  - (b) You modify, adjust, alter or repair the Goods without Our prior written consent;
  - (c) any connection to the Goods by others occurs without Our prior written consent;
  - (d) the defect arises because You failed to follow any oral or written instructions as to the use, care or storage of the Goods or (if there are none) good trade practice;
  - (e) the defect arises from any inadequate, incomplete, inaccurate or incorrect information, drawings, designs or other materials supplied by You, or from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse of the Goods or from any other cause which is not due to Our neglect or default;
  - (f) the defect relates to electrical work or any other work external to the Goods, or arises by virtue of any act or omission of You relating to the operation of the Goods, or through transportation or relocation of the Goods not performed by, for or on Our behalf, or by subjecting the Goods to any unusual physical or other stress or adverse environmental conditions;
  - (g) the Charges have not been paid by the time for payment stipulated in clause 10; or
  - (h) the defect is of a type specifically excluded by Us by notice in writing.
- 14.5 If upon investigation, We reasonably determine that any defect or deficiency in or failure to correspond to Specification of the Goods and/or Services is a result of, or is excused by, any of the matters referred to in clause 14.4, You shall be liable for all costs reasonably incurred by Us in investigating the same and determining the cause.
- 14.6 Without prejudice to the foregoing provisions of this clause 14, if You are contracting with Us as a consumer, clauses 14.7-14.8 summarise Your key legal rights in relation to the Goods, which are subject to certain exceptions.
- 14.7 The Consumer Rights Act 2015 says goods must be as described, fit for purpose and of satisfactory quality. During the expected life of the Goods You are entitled to the following:
- (a) up to 30 days: if the Goods are faulty, then You can get a refund;
  - (b) up to six months: if the faulty Goods cannot be replaced, then You are entitled to a refund of up to the full amount, in most cases;

- (c) up to one year: if the Goods can be expected to last up to one year. You may be entitled to a replacement, or, if the Goods cannot be replaced, You may be entitled to some of Your money back.
  - (d) When a manufacturer ceases trading or discontinues production of equipment or spare parts, or consumables, We cannot be responsible for replacement of such equipment or spares, even if the equipment is still under warranty.
- 14.8 If You wish to exercise Your legal rights to reject the Goods You must either return them in person to where You bought them, post them back to Us, or (if they are not suitable for posting) allow Us to collect them for You. We will pay the reasonable costs of return by post or collection.

## 15. LIMITATION OF LIABILITY AND INDEMNITY

- 15.1 The following provisions set out Our entire financial liability (including any liability for the acts or omissions of Our employees, agents and sub-contractors) to You in respect of:
- (a) any breach of these Conditions;
  - (b) any use made or resale by You of any of the Goods (or of any product incorporating any of the Goods) and any use made by You of any of the Services; and
  - (c) any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 15.2 All warranties, conditions and other terms implied by statute or common law (save for the conditions implied by section 12 of the Sale of Goods Act 1979 and section 2 of the Supply of Goods and Services Act 1982) are, to the fullest extent permitted by law, excluded from the contract.
- 15.3 Nothing in these Conditions excludes or limits Our liability:
- (a) for death or personal injury caused by Our negligence; or
  - (b) under section 2(3), Consumer Protection Act 1987; or
  - (c) for any matter which it would be illegal for Us to exclude or attempt to exclude Our liability; or
  - (d) for fraud or fraudulent misrepresentation.
- 15.4 Subject to clause 15.2 and clause 15.3:
- (a) We have no special knowledge of the nature or value of the contents of the Premises, or of the nature of the risks to which the Premises and contents will from time to time be exposed. We limit Our liability as set out below:
  - (b) We are not an insurer and the Goods and Services are not intended to be a substitute for proper and adequate insurance. The System is designed to reduce the risk of loss and/or damage to the Premises and its contents. We do not represent or warrant that the System may not be neutralised, circumvented or otherwise rendered ineffective by intruders or other unauthorised persons, nor that the System will not be affected by faults or interruptions and in any such event no liability will attach to Us in respect of any loss or damage sustained by You, howsoever caused;
  - (c) You agree that Our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance of the Contract shall be limited as follows:
    - i. in relation to the supply and installation of Goods, to the Installation Charge;
    - ii. in relation to the Maintenance Service, to the amount of Maintenance Charge paid by You to Us for the twelve months immediately preceding the claim or claims in respect of which liability is alleged;
    - iii. in relation to the Monitoring Service, to the amount of Monitoring Charge paid by You to Us for the twelve months immediately preceding the claim or claims in respect of which liability is alleged; and
    - iv. should You wish Us to assume a greater liability, We will require you to sign Our standard contract with an attachment clearly stating the additional liability limits and Your acceptance of the additional cost to You; and
  - (d) We shall not in any event be liable to You for loss of profit, loss of business, or depletion of goodwill in each case whether direct, indirect, special or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Contract; and
  - (e) We shall not be liable for any loss or damage arising from:

- i. any failure or delay by Police or Fire Authorities to respond to an alarm activation for whatever reason or for any withdrawal of response by Police or Fire Authorities for whatever reason or for the provision of alternative protection of the Premises in such event; or
- ii. any alarm transmission not being received at the Alarm Receiving centre, if this is due to the fault of BT or any other communications provider; or
- iii. the failure of Your fixed or mobile telephone service, Your internet or email service or any other means of data transmission not provided by Us but used to transmit alarm signals from the System, notwithstanding that such means of data transmission may have been deployed or set up on the System for You by Us.

15.5 Where We act as a subcontractor in supplying the Goods and/or Services to a contractor, no provision of the main contract between the contractor and the contractor's client (the "**Main Contract**") shall be deemed to be incorporated into the Contract and no act or omission by Us shall be deemed to cause or contribute to any breach by the contractor of any provision of the Main Contract, or to any failure by the contractor to undertake any works under the Main Contract, for which the contractor shall, in either case, be solely and exclusively liable.

15.6 Without limiting any of Your other indemnities under these Conditions, You shall hold Us harmless and keep Us fully and promptly indemnified against all direct, indirect or consequential liabilities (all three of which terms include loss of profit, loss of business, depletion of goodwill and like loss), loss, damages, injury, costs and expenses (including legal and other professional fees and expenses) awarded against or incurred or paid by Us as a result of or in connection with any claim made by or against Us in respect of any liability, loss, damage, injury, cost or expense whatsoever, howsoever and to whomsoever occurring, to the extent that such liability, loss, damage, injury, cost or expense arises directly or indirectly from Your fraud, negligence, failure to perform or delay in the performance of any of Your obligations under the Contract or breach thereof, subject to Our confirmation such costs, charges and losses to You in writing.

## 16. TERMINATION

16.1 Notwithstanding anything else contained in these Conditions, the Contract may be terminated by Us with immediate effect upon written notice to You if:

- (a) You commit any breach of Your obligations under the Contract and fail to remedy the same within 14 days of receipt of a written notice from Us specifying the breach and requiring it to be remedied; or
- (b) Any payment due under the Contract is more than 7 days in arrears; or
- (c) You become subject to any of the events listed in clause 6.5 (a) or (b).

16.2 Termination of the Contract (howsoever occasioned) shall not affect any accrued rights or liabilities of either party hereunder or at law, nor shall it affect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or to continue in force on or after such termination.

## 17. ASSIGNMENT AND SUBCONTRACTING

17.1 We may assign the Contract or any part of it to any person, firm or company.

17.2 You shall not be entitled to assign the Contract or any part of it without Our prior written consent.

17.3 We shall be entitled to subcontract all or any of Our obligations under all or any part of the Contract.

## 18. GENERAL

18.1 No forbearance or indulgence granted by Us to You shall in any way limit Our rights under these Conditions.

18.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business, or if You are contracting with Us as a consumer, to Your home address.

18.3 Neither We nor You intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

- 18.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected.
- 18.5 We shall be entitled at Our discretion to perform any of the obligations assumed by Us and to exercise any of Our rights granted to Us under the Contract through any other company or subsidiary.
- 18.6 The Contract constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior and contemporaneous agreements and understandings between the parties.
- 18.7 Any dispute arising under or in connection with the Contract shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application by either party to the President for the time being of the Law Society whose decision as to the type, qualifications and experience of such arbitrator shall be final and binding on the parties.
- 18.8 The costs of the arbitrator shall be borne by the parties as he directs and his decision on the issue in dispute shall be final.
- 18.9 These Conditions shall be subject to and construed under English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts for that purpose.

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