

## CONTRACT TERMS AND CONDITIONS

### 1. Defined Terms

1.1. Capitalised terms used in these Terms and Conditions will have the following meanings:

"Company Equipment" means any equipment, including any Software, owned or licensed by the Company, that is located at a Site for the provision of the Service(s) and, if any, as set out in an Order.

"Cancellation Charges" means any compensatory charges payable by the Customer to the Company on cancellation of an Order accordance with clause 8.

"Charges" mean the fees payable by the Customer for the Service(s) as set out in an Order.

"Claim" means any legal claims, actions or proceedings against a Party, whether threatened or actual.

"Commencement Date" means the date set out on the cover sheet of this Contract.

"Contract" means the agreement by and between the Company and the Customer that comprises these terms and conditions and each Order.

"Design Proposal" means a design proposal issued by the Company containing details of the Services and customer-specific information.

"Force Majeure Event" means any circumstance beyond a Party's reasonable control that hinders, delays or prevents that Party from performing any of its obligations under the Contract including: acts of God, flood, storm, lightning, drought, earthquake, seismic activity or other natural disaster; epidemic or pandemic; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations; any law or any action taken by a government or public authority, including a failure by the Company to obtain (or revocation of) a necessary licence or consent; collapse of buildings, fire, explosion or accident; any labour or trade dispute, strikes, industrial action or lockouts, criminal or accidental damage.

"Intellectual Property Rights" means any patent, petty patent, copyright, database right, design right, community design right, semiconductor topography right, registered design, rights in confidential information and know-how, or any similar right in any part of the world and will include any applications for the registration of any of those rights capable of registration in any part of the world.

"Minimum Period of Service" means, for each Service, the minimum period of time that the Service will be provided by the Company, commencing on the Service(s) Start Date as set out in an Order but unless otherwise set out in an Order shall be in relation to the Remote Monitoring Service, a period of 12 consecutive months beginning on the Service Start Date and in relation to the sale, installation and service of Company Equipment being supplied on a rental basis, a period of 60 consecutive months beginning on the Service Start Date.

"Order" means an order under the Contract for one or more Service(s) as set out in a Quotation or Design Proposal as appropriate.

"Purchased Equipment" means any equipment, including any Software, sold by the Company to the Customer and, if any, as set out in an Order.

"Quotation" means a quotation issued by the Company.

"Service" means any Service including, where applicable, to a particular Site, or a part or component of a Service provided by the Company under the Contract that is set out in an Order, and may include any of the following: Company Equipment, Software and Purchased Equipment.



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"Service Level" means any agreed minimum level of Service to be achieved by the Company with respect to a Service, such as delivery, availability or restoration, and, if any, as set out in an Order.

"Service Start Date" means, for each Service, the date on which that Service is first made available to the Customer unless or to the extent set out otherwise in an Order.

"Site" means any location set out in an Order where or to which a Service will be provided.

"Soak Period" means, initial testing of site based on 7 days, testing includes: Communication Link, Alarm Activations, Quality of monitoring capability and voice over as set out in an Order

"Software" means any software, other than any open source software, and associated written and electronic documentation provided by the Company to the Customer as set out in an Order, together with any embedded software.

"Termination Charges" means any compensatory charges payable by the Customer to the Company on termination of the Contract or a Service in accordance with clause 13.2.

## **2. Order of Precedence**

In the event of a conflict between the documents constituting the Contract, the order of precedence will be as follows in decreasing order, for each Service:

- 2.1. These terms and conditions; and
- 2.2. The Order(s).

## **3. Commencement and Duration**

- 3.1. The Contract starts on the Commencement Date and will continue until all Services are cancelled, terminated or expire in accordance with the Contract.
- 3.2. The Company will provide each Service from its Service Start Date for the duration of the applicable Minimum Period of Service and will continue to do so until that Service is terminated or expires in accordance with the Contract.
- 3.3. Each Order will form an amendment to this Contract and will incorporate these terms and conditions and all relevant Schedule(s).
- 3.4. On termination or expiry of this Contract for any reason other than for cause, all Orders executed prior to the date of termination or expiry will remain unaffected and continue in force until termination or expiry of each Order in accordance with the terms of this Contract.

## **4. Company Obligations**

- 4.1 The Company will provide each Service to the Customer with reasonable care and skill and in accordance with the relevant current industry standards.
- 4.2 Before the Service Start Date and, where applicable, throughout the provision of the Service, the Company:
  - 4.2.1 Will provide to the Customer contact details for the helpdesk the Customer may contact to submit service requests, report Incidents and make inquiries relating to the Service;
  - 4.2.2 Will comply with all reasonable health and safety rules and regulations and reasonable security requirements that apply at a Site and are notified to the Company in writing. The Company will not be liable if, as a result of any such compliance, it is in breach of any of its obligations under this Agreement;
  - 4.2.3 Will inform the Customer if it is necessary for the Customer to provide any input(s), in order for the Service to function; and



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4.2.4 Will provide the Customer with the date on which delivery of the Service (or each part of the Service, including to each Site) is due to start ("Customer Committed Date") and will use its commercially reasonable endeavours to meet any Customer Committed Date.

4.3 On termination of the Service by either Party, the Company will have the right to disconnect and remove any Company Equipment which has been supplied on a rental basis and is located at the Site(s).

4.4 Installation of the Company Equipment shall be deemed to be complete when the control keys/setting code are handed over to the Customer, notwithstanding that the telephone line has not been installed or connected by the relevant telephone authority and/or the Customer has failed to fulfil his obligations (if any) under this agreement and as set out in the specification and/or the work remains to be carried out by the Customer's contractors. The Customer shall afford to the Company and its servants full access to the premises for the purpose of installing the Company Equipment. While every effort will be made to install the Company Equipment as soon as practicable, the Company will not be liable for any delay in installation.

4.5 The cost of any reinstatement or redecoration of the premises or its fittings or contents made necessary by the installation, inspection, maintenance, testing, repair, adjustment, alteration, removal or use of the Company Equipment shall be borne by the Customer, the Company hereby undertaking to exercise all reasonable care in carrying out its work.

## **5. Customer Obligations**

The Customer will:

5.1 provide reasonable assistance to and comply with reasonable requests from the Company in all matters relating to the Service(s), including access to the Sites, health and safety, security, or the quality or performance of a Service;

5.2 provide the Company with any information and materials as the Company may reasonably request in order to provide the Service(s) and will ensure that such information is accurate and complete in all material respects; and

5.3 Obtain and maintain all necessary consents, licences, permissions and authorisations that are required for the Service(s) including: consents for any alterations to buildings or entrance to property required from local authorities, landlords or owners; for the installation of Company Equipment; or for use of the Service(s) at a Site.

5.4 Pay the relevant telephone authority such charges as may be made by the relevant telephone authority for the connection of the Company Equipment to the telephone system and for the maintenance of this equipment by the relevant telephone authority.

5.5 Ensure that the external alarm bell does not cause a nuisance as defined under the Control of Pollution Act as per current regulations or any other statute or act of Common Law. Arrangements should be made to fit an automatic Timing Device to limit bell noise (to time as defined by current regulations) with the knowledge of any insurer concerned, or to have two key-holders available within this time under any circumstances.

5.6 not adjust, tamper, alter or interfere in any way whatsoever with the Company Equipment nor allow nor permit any third party to have access to the Company Equipment or to inspect, test, repair, adjust or alter it in anyway whatever.

5.7 Pay the emergency service charge from time to time in force for any visits requested by the Customer other than the routine maintenance visits in accordance with the relevant industry standard from time to time.

5.8 At its own cost provide a supply of electricity to, and the power points necessary for the operation of the Company Equipment

## **6. Charges and Payments**

6.1 The Customer will pay the Charges for the Service(s) in accordance with the Contract and as set out in the Order.

6.2 The Customer will pay each invoice in cleared funds without any set-off, counterclaim, deduction or withholding (other than as required by law) within 30 days of the date of the Company's invoice.



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- 6.3. The Company will invoice and the Customer will pay all Charges in the currency set out in the Order.
- 6.4. Charges are exclusive of VAT and the Customer will pay VAT on receipt of a valid tax invoice.
- 6.5. The Company reserves the right to increase the Charges in line with RPI upon notification to the Customer that it has elected to do so.
- 6.6. Unless stated otherwise in an applicable Order, the Company will invoice the Customer for:
- 6.6.1. Recurring Charges, monthly in advance on the first day of the relevant month (for any period where Service is provided for less than one month, the Recurring Charges will be calculated on a daily basis);
- 6.6.2. Any Termination Charges incurred in accordance with paragraph 10 upon termination of the relevant Service(s)
- 6.7. The Company may invoice the Customer for any of the following Charges in addition to those set out in the Order:
- 6.7.1. Charges for restoring Service if the Service has been suspended;
- 6.7.2. Charges for cancelling the Service;
- 6.7.3. Charges for expediting provision of the Service (or part of Service) at the Customer's request after the Customer has been informed of the Service Start Date;
- 6.7.4. Any other Charges set out in any applicable Order or otherwise agreed between the Parties.
- 6.8. The maintenance and monitoring charge is based on costs ruling at the date of commencement of the Services. The Company reserves the right to increase this charge at any time after the expiry of 12 months from the commencement of the Services or the installation of the Company Equipment (whichever is the earlier) by giving the Customer notice in writing.

## **7. Default on Payment**

- 7.1. If the Customer fails to pay any invoice in accordance with clause 6, the Company may:
- 7.1.1. Treat such failure as a material breach under clause 10; or
- 7.1.2. charge the Customer interest on the outstanding amount at the annual rate of 2 per cent above the Bank of England's base lending rate at the time, with such interest compounded daily from the due date of the invoice until payment is made in full by the Customer, whether before or after any judgment; and
- 7.1.3. Restrict or suspend any part of the Service(s) relating directly to the unpaid invoice until payment has been made in full.

## **8. Order Cancellation prior to the Service Start Date**

- 8.1. The Customer may immediately cancel an Order (or part of an Order) at any time before the Service Start Date by giving Notice to the Company.
- 8.2. If the Customer exercises its right under clause 8.1, the Customer will immediately pay to the Company the Cancellation Charges set out clause 13 below, or if none are specified, any reasonable and demonstrable costs payable to a third party or incurred in relation to preparations made by the Company up to the date on which Notice of the cancellation was received.

## **9. Termination for Convenience**

- 9.1. Either Party may terminate subject to clause 13, the Contract, a Service or any Order, at any time after the Service Start Date without cause by giving 90 days' prior Notice to the other Party.



## **10. Termination for Cause**

10.1. Subject to clause 13, either Party may immediately terminate an affected Service by giving Notice to the other Party if:

10.1.1. the other Party commits a material breach that is capable of remedy and fails to remedy the breach within 30 days from the date of the Notice of the breach; or

10.1.2. The other Party commits a material breach that cannot be remedied.

10.2. Subject to clause 13, either Party may terminate the Contract by giving Notice to the other Party if that other Party is the subject of a bankruptcy order; becomes insolvent; makes any arrangement or composition with or assignment for the benefit of its creditors; ceases to carry on business; goes into liquidation, either voluntary (otherwise than for reconstruction or amalgamation) or compulsory; ceases to trade or operate; owns any assets that are material to the operations of all or substantially all of its business that are the subject of any form of seizure or have a receiver or administrator appointed over them; or a notice is given, a petition issued, a resolution passed or any other step is taken to commence any of the procedures listed in this clause 10.2 in the jurisdiction of that other Party.

10.3. Subject to clause 13, either Party may terminate an affected Service by giving Notice to the other Party if any governmental or regulatory authority with competence and/or jurisdiction over the Parties decides that the provision of the relevant Service under this Contract is contrary to existing laws, rules or regulations or any decision, law or other official governmental order makes the provision of the Service illegal.

## **11. Termination for a Force Majeure Event**

11.1. Subject to clause 13.1, either Party may terminate the affected Service where a Force Majeure Event has caused a total loss of that Service for a continuous period of more than 30 days by giving Notice to the other Party.

11.2. The right in clause 11.1 will expire and the Notice will have no effect if the Force Majeure Event has ceased prior to the Notice being received.

## **12. Consequences of Termination**

12.1. Cancellation, termination or expiration a Service will not affect the Parties' rights and obligations in relation to any other Service(s) and each other Service will continue in full force and effect until termination or expiry of that Service or termination of the Contract.

12.2. Termination of the Contract or cancellation, termination or expiration of a Service or any Order(s) will not affect the rights of the Parties accrued up to the date of cancellation, termination or expiration, as applicable.

## **13. Payment on Termination**

13.1. Each Party will, on termination of the Contract or cancellation, expiration or termination of a Service or any Order for any reason, immediately pay to the other Party any outstanding amounts and interest that are properly due and payable for each relevant Service in accordance with the Contract.

13.2. The Customer will pay to the Company any applicable Termination Charges as more fully described in clause 13.3 in the event that:

13.2.1. The Customer exercises its right to terminate under clause 9.1; or

13.2.2. The Company exercises its right to terminate under clause 10.

13.3. If the Customer exercises its right under clause 9 to terminate the Agreement or any Service for convenience during the Minimum Period of Service, or if the Company exercises its right to terminate the Agreement or the Service for cause under clause 10 during the Minimum Period of Service, the Customer will pay to the Company by way of compensation:



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13.3.1. All outstanding Charges for Service rendered;

13.3.2. An amount equal to the Recurring Charges for the part(s) of the Service terminated for all other remaining months of the Minimum Period of Service;

13.3.3. All incremental charges incurred by the Company from a supplier due to the early termination;

13.3.4. Any remaining Charges outstanding with regard to Customer Equipment or Purchased Equipment.

#### **14. Limitation of Liability**

14.1. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

14.2. Where the Customer is acting as a consumer the Company's liability for any breach of Sections 13, 14 and 15 of the Sale of Goods Act is not excluded.

14.3. Nothing in the Contract excludes either Party's liability for:

14.3.1. Death or personal injury caused by its negligence;

14.3.2. Fraud or fraudulent misrepresentation; or

14.3.3. for any other reason not permitted by law.

14.4. Subject to clauses 14.2 and 14.3, neither Party will be liable, however arising out of or in connection with the Contract, whether in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent) restitution or otherwise for:

14.4.1. Any of the following losses, no matter if those losses are direct or indirect:

(a) Loss of profit, revenue or anticipated savings;

(b) Loss of business or contracts;

(c) Goodwill;

(d) Loss from wasted expenditure, wasted time or business interruption;

(e) Loss, destruction or corruption of data; or

(f) Liability to any third parties; or

14.4.2. Any special, indirect or consequential loss or damages,

(Collectively, the "Excluded Losses"); and

14.4.3. at any time, in the aggregate, any losses other than the Excluded Losses (the "Recoverable Losses") for more than the lesser of:

(a) 100 per cent of the Charges for the Service from which the Recoverable Losses directly arose that were paid and payable in the 12 months prior to the initial incident giving rise to the Recoverable Losses (not including VAT); and

(b) £100,000 pounds sterling.



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14.5. Nothing in the Contract will restrict or limit either Party's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under any indemnity.

14.6. The Customer is advised to obtain its own business continuity insurance.

14.7. The Company shall not be liable to the Customer for any loss suffered by the Customer as a result of a delay by the relevant telephone authority in making the connections for the transmission of signals between the Customer's Site(s) and the Police or other authority or if the relevant telephone authority or the Police or other third party shall for any reason withdraw its service. The Company's sole responsibility to the Customer is to notify the Customer of any transmission failure within 30 minutes of it occurring and that the Customer's Site is not being monitored.

## **15. Company Equipment**

15.1 Company Equipment will remain the property of the Company at all times and risk in the Company Equipment will pass to the Customer upon delivery, whether or not the Company Equipment has been installed.

15.2 The Customer will not use Company Equipment other than in accordance with the Company's written instructions or authorisation and will not move, add to, reconfigure, modify or otherwise interfere with Company Equipment, nor permit any other person (other than a person authorised by the Company) to do so. The Customer will be liable to the Company for any loss of or damage to Company Equipment, except where the loss or damage is a result of fair wear and tear or caused by the Company. The Customer will not move or relocate any Company Equipment without the Company's prior written consent and the Customer will pay the Company's costs or expenses reasonably incurred as a result of such move or relocation.

15.3 Title in any Purchased Equipment will not pass to the Customer until payment has been received in full.

15.4 On termination of the Service by either Party the Customer will:

15.4.1 Provide the Company with all reasonable assistance necessary to remove Company Equipment from the Site(s);

15.4.2 Disconnect any Customer Equipment from Company Equipment located at the Site(s);

15.4.3 Not dispose of or use Company Equipment other than in accordance with the Company's written instructions or authorisation;

15.4.4 Arrange for any Company Equipment located at the Site(s) to be returned to the Company; and

15.4.5 be liable for any reasonable costs of recovery incurred by the Company in recovering the Company Equipment.

15.5 The Company does not represent or warrant that the Company Equipment cannot be neutralised, circumvented or otherwise rendered ineffective by intruders or other unauthorised persons and in no event shall the Company be liable for any loss or damage suffered by the Customer as a result thereof.

## **16. Force Majeure Events**

Where a Force Majeure Event occurs:

16.1. Neither Party will be in breach of the Contract, nor legally liable, for any failure, delay, defect or omission in performing its obligations under the Contract; and

16.2. The affected Party will be entitled to a reasonable extension of the time for performing its affected obligations under the Contract.

## **17. Assignment and Subcontracting**

17.1. The Contract will be binding on, and inure to the benefit of, the Parties and their successors and permitted assigns.



17.2. The Company may assign the benefit of the Contract to any third party upon notice to the Customer.

## **18. Rights of Third Parties**

Except for any person to whom the benefit of the Contract is validly assigned, a person who is not a Party to the Contract will have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract, even if any term of the Contract purports to confer or may be construed as conferring a benefit on a third party.

## **19. No Partnership or Agency**

Nothing in the Contract establishes any partnership, exclusive arrangement or joint venture between the Parties, constitutes any Party the agent of the other Party, nor authorises any Party to make or enter into any commitments for or on behalf of any other Party except as may be expressly provided in the Contract.

## **20. No Waiver**

Except as otherwise specifically provided in the Contract, no failure to exercise, or delay in exercising, any right or privilege will operate as a waiver of any right or privilege.

## **21. Severance**

21.1. If any court or competent authority finds that any provision (or part of any provision) of the Contract is illegal, invalid or unenforceable, that provision or part provision, to the extent required, will be deemed to be deleted. The legality, validity or enforceability of any other provision of the Contract will not be affected.

21.2. If any invalid, unenforceable or illegal provision of the Contract would be valid, enforceable and legal if some part of it were deleted, the Parties will negotiate in good faith to amend the provision so that, as amended, it is legal, valid and enforceable, and to the greatest extent possible, achieves the Parties' original commercial intention.

## **22. Amendment**

No amendment of the Contract will be effective unless agreed in writing by the Parties.

## **23. Notice**

22.1 Any notice required or permitted to be given to either Party shall be validly given if left at or sent by pre-paid first class post to the other Party at the address set out in the Order, and if sent by post, shall be conclusively deemed to have been received by the receiving Party within 48 hours after the time of posting.

## **24. Entire Agreement**

24.1. The Contract constitutes the whole agreement between the Parties with respect to the subject matter and supersedes any and all prior oral or written understandings, arrangements, negotiations, communications and/or representations between them.

24.2. Any Customer's standard terms and conditions attached to, enclosed with, or referred to in any Order or in any pre-contractual negotiations will have no effect and will not apply.

## **25. Choice of Law and Jurisdiction**

25.1. This 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) will be governed by and construed in accordance with the law of Northern Ireland.

25.2. The Customer and the Company irrevocably agree that the courts of Northern Ireland will have exclusive jurisdiction to settle any dispute or Claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or Claims).

