



## TERMS AND CONDITIONS OF SALE

### 1.0 TERMS OF THE AGREEMENT

1.1 This Agreement sets out the conditions upon which Armour Security Limited (henceforth 'the Company') provides its Customers with Systems, Equipment and Services. This supersedes any previous discussions, arrangements or representations between the Company and the Customer. Any other information provided by the Company in relation to contract should only be used as a guide and may be subject to periodic amendment reflecting changes to the systems and services offered by the Company or errors or omissions contained in the Company's literature.

Any variations to this Agreement will only become binding upon the Company, if agreed in writing by a Director of the Company. Nothing in this Agreement shall have the effect of depriving the Customer of their rights in respect of any fraudulent misrepresentation.

1.2 The Company reserves the right to refuse to accept any order based upon a proposal more than 30 days old - unless otherwise stated in the proposal to be open for a longer period and the proposal has not been withdrawn by the Company in that period.

1.3 Where an order for equipment is based upon the standard price list of the Company the price shall be valid provided that delivery is to take place within 30 days of the date of order. Should delivery exceed this period then the Company reserves the right to amend their proposal.

### 2.0 CUSTOMER OBLIGATIONS

2.1 The Customer shall:

2.1.1 Obtain and pay for all necessary consents for the installation of the System/Equipment and/or the provision of the Service. The Customer warrants that all consents and licences required for the installation of the System/Equipment and/or the provision of the Service on the terms of this Agreement will have been obtained prior to commencement of the Agreement.

2.1.2 Give to the Company access to the Site as is reasonably required at reasonable times in order for the Company to install the System/Equipment, provide the Service and/or exercise its rights hereunder. The Customer warrants that it has entitlement to grant such access. In the event of such access not being made available by the Customer, then the Company may charge the Customer for an abortive visit at its standard rates.

2.1.3 Ensure that there are suitable power supplies for hand-tools, adequate lighting, toilet and rest facilities, secured facilities for the storage of plant and machinery necessary to carry out the Agreement and an acceptable and safe working environment.

2.1.4 In the specific case of monitored Systems;

2.1.4.1 pay to the communications service provider such charges as may be made by the communications service provider for the connection of the System to the service provider's communications network and for any maintenance charges levied by the communications service provider;

2.1.4.2 agrees to ensure that any changes in respect of the System configuration, keyholder Information, passwords and other important information, is communicated to the Company in writing immediately. The Customer acknowledges that the Company has no obligation to contact a Keyholder if the details of that Keyholder are incorrect or have been changed but not notified to the Company;

2.1.4.3 take all reasonable steps to prevent false activations being transmitted to the Company. The Customer warrants that in the event of false activations, which in the sole opinion of the Company are deemed excessive, the Company may;

2.1.4.3.1 levy; additional charges to the Customer for the work resulting from such false activations transmitted by the System,

2.1.4.3.2 suspend all or part of the Service offered to the Customer;

2.1.4.3.3 charge the Customer a disconnection and reconnection fee for the disconnection and reconnection of the Service;

2.1.4.3.4 terminate the Agreement in whole or in part should the false activations continue without address by the Customer. In such instances, the Company will advise the Customer as soon as is practicably possible – confirming this in writing the next working day – of the extent that the Service has been limited or suspended. For the avoidance of doubt, the Customer will not be entitled to any refund for the suspension or restriction of the Service;

2.1.5 Not (and shall not permit any other person other than the Company and its duly authorised agents to) remove, repair or replace or in any way interfere with the System/Equipment under Service or any part of it.

2.1.6 Notify the Company of any proposed structural alterations to the Site, change of use, or any modifications to the communications installation so that the Company may assess whether such works will affect the System/Equipment or the Service. Any extension, addition or alteration to the System/Equipment or Service,

which may thereby become necessary, shall be carried out by the Company at the expense of the Customer.

2.1.7 Notify the Company (in writing) of any defects appearing in the System/Equipment and shall permit the Company to take such steps as it shall consider necessary to remedy such defect.

2.1.8 Bear the cost of replacing any part of the System /Equipment which is; defective, damaged, destroyed, lost or stolen. The decision to replace any part of the System/Equipment is at the sole discretion of the Company.

2.1.9 If the System requires a Unique Reference Number (Monitored System), pay the prevailing fee to the relevant Police Authority for the application and / or amendment and / or transfer of the URN.

2.1.10 Comply with such instructions as shall be provided with the System/Equipment or as the Company shall from time to time reasonably issue.

2.1.11 Take all reasonable precautions to protect the health and safety of the Company's employees, agents and sub-contractors while on the Site.

2.1.12 Make available the System/Equipment and supply all documentation and other information necessary for the Company to diagnose any associated fault.

2.1.13 Maintain and make available to the Company an up-to-date Fire Risk Assessment compliant with the Regulatory Reform (Fire Safety) Order 2005 and EICR certification in the case of electrical works.

2.1.14 Buy the Customer's Equipment on the terms of this Agreement.

2.1.15 Maintain (through utilisation of the Service) the System/Equipment in good working order.

2.1.16 Ensure the availability of an appropriate power supply through supply/installation of fuse spurs including 240 volt AC 13 amp unswitched fused spur supplies to be provided adjacent to the proposed panel/charger/control location/s which must be certificated to the current edition of the IEE Wiring Regulations.

2.1.17 Ensure the availability of a subscriber terminal unit / communication portal and any other necessary communication line to enable monitoring (for monitored systems or to enable remote maintenance).

2.1.18 Be responsible for financing the collection, treatment, recovery and appropriate disposal of all waste including but not limited to WEEE arising or deriving from the Service or the System and will comply with all additional obligations placed upon the Customer by the WEEE Regulations by virtue of the Customer accepting the responsibility set out above.

2.1.19 Provide a duly authorised Site Representative empowered to sign the Company's paperwork to evidence the Service was provided by the Company to the Customer's satisfaction. Should the Customer fail to provide a duly authorised Site Representative at the time of the Company's attendance then the Customer is deemed to have accepted the delivery of the Service is full and to their complete satisfaction.

## 2.2 The Customer acknowledges and accepts that:

2.2.1 Before the Service commences, the Customer agrees to cooperate with the Company and undertake such tests/inspections as may be requested to verify that the Equipment/System is present/properly connected/installed/without apparent damage so that the Service can commence and be delivered.

2.2.2 In the case of a monitored system, should the Company determine that the circumstances of an activation or series of activations appear such that the Company wishes to contact a Keyholder, the Company will attempt to contact a minimum of two Keyholders and will make one attempt to telephone each Keyholders' primary contact telephone number and one attempt to telephone any alternative contact number listed for that particular Keyholder. Where a Keyholder is not contactable, the Customer agrees and accepts that it shall be sufficient to leave a message on the Keyholders' answering service or device or with the person answering the call. The Customer must also provide a primary e-mail address for reporting purposes. It is the Customer's responsibility to provide the Company with full and correct contact details for all nominated Keyholders.

2.2.3 has no obligation to contact a Keyholder if the details of that Keyholder are incorrect or have been changed but not notified to the Company.

2.2.4 Where the System comprises an intruder alarm system, the Company has brought to the Customer's attention the requirements of the prevailing policy of the National Police Chiefs' Council (NPCC) policy on Police response to security systems.

2.2.5 Where the System comprises of a CCTV system, the Company has brought to the Customer's attention the requirements of the Data Protection Act in respect of CCTV monitoring.

2.2.6 Where the System comprises other security or fire safety system/equipment the Company has brought to the Customer's attention the requirements of the relevant British and European Standards and Legislation.

2.2.7. Where the works are electrical our estimated times and costs are given in good faith and assume the existing installation is in a satisfactory condition, meeting the minimum requirements of BS7671 IET Wiring Regulations. Any works required to bring the relevant parts of the installation up to standard will be at additional cost, however this will be brought to your attention as soon as identified.

2.2.8 Any Electrical quotation or estimate is based on a non-destructive survey and assumes that the existing electrical installation meets the minimum requirements of BS7671 IET Wiring Regulations and has a supply present. Should we identify additional work that is required to bring the installation up to the relevant standards, we will bring this to your attention and provide you with an estimate/quote to complete any remedial work.

2.2.9 For the purpose of all Service/Inspection works, the Company require that any Customer plant or machinery provided to us (for our use) and used during the course of the works, that the Customer shall indemnify the Company against any loss or damage arising from the activities undertaken unless such act is solely caused by our negligence or wilful misconduct. All plant and machinery will be subject to formal and recorded

inspection prior to its use and when required service and maintenance records will be provided upon request with the Customer solely responsible for ensuring the equipment used is fit for purpose and in line with any regulatory inspection. If it is identified that any equipment provided for works is found to be maintained in an unsatisfactory condition, then any loss or liability during works will remain solely with the Customer. If there is any reason or condition where these terms cannot be accepted, the Company will provide the required plant or machinery against which reasonable charges will be applied.

2.2.10 The customer is to advise the Company of the location of any concealed water, gas, electrical, telephone or other services prior to the commencement of installation work. In the absence of such advice, the Company cannot accept liability for damage to these services or consequential loss due to the services being damaged.

2.2.11 Cables will be concealed where possible but will be surface run where, in the opinion of the Company, concealment is impractical.

2.2.12 The customer is to advise the Company in writing of the location of any asbestos or asbestos type material that can be found on the premises. Should asbestos or a material suspected of being asbestos is found in areas other than where previously documented, the Company reserve the right to request that samples of the material are tested in accordance with the Control of Asbestos Regulations 2006 at no cost to the Company. The customer must make available their premises asbestos registers as per The Control of Asbestos Regulations 2006.

2.2.13 It is the Customer's responsibility to move all stock/or any obstruction that may impede our engineers during any electrical works.

2.2.14 Lifting of carpets/flooring will be carried out by our engineers. Whilst every care will be taken, we cannot accept responsibility for carpets replaced not as originally fitted.

### **3.0 OBLIGATIONS OF THE COMPANY**

3.1 The Company shall;

3.1.1 sell the Customer's Equipment to the Customer;

3.1.2 install the System as specified in the proposal issued to the Customer by the Company and

3.1.3 during the Term provide the Service.

3.2 The Company reserves the right to substitute equipment (either at the time of original installation or at replacement) detailed on the specification for any reason, providing it affords, materially, the same degree of functionality as the original items specified, having regard to the System as a whole.

3.3 No installation or service work will be carried out outside Normal Working Hours unless the Customer agrees to pay additional charges to the Company at the Company's then prevailing rates for such work at such times. Unless previously specified, no external work (whether in respect of installation or the provision of preventative or corrective maintenance services) shall be undertaken after 'local lighting up time' even if during Normal Working Hours, unless adequate and safe lighting, to the satisfaction of the Company, is provided by the Customer at the Customer's own cost.

3.4 The cost of delivery of the Customer's Equipment shall be an Additional Charge unless advised otherwise. Any other method of delivery or any special packaging requirements must be specified by the Customer at the time of the order and shall be an Additional Charge.

3.5 The Company will warrant any equipment comprising the Customer's Equipment (whether a part as originally installed on the Installation/Takeover Date or a replacement part supplied during the Service) for a period of twelve months from the date it was installed (the correction period). At the Company's discretion, this warranty includes for labour relating to the removal and replacement of such goods during this period. In addition, warranty of all systems is subject to maintenance to current British Standards by the Company throughout the correction period. For the avoidance of doubt the cost of replacement of any parts (whether replacement or otherwise) that fail outside the correction period shall be chargeable to the Customer unless otherwise provided for under these conditions. The Customer must give written notice to the Company within 28-days after the appearance of any defect. Should the Company agree to provide an extended warranty to the Customer's Equipment, this extension must be in writing and for the avoidance of doubt will exclude labour relating to the removal and replacement of goods which will be chargeable by the Company to the Customer at the Company's prevailing rates.

3.6 The attendance of the Company's Commissioning Engineer to the Site whether to carry out repairs, investigate reports of false alarms or faults on the Customer's Equipment whether supplied, installed or commissioned, caused by misuse, damage, neglect or vandalism will be charged as an Additional Charge and shall be at the cost of the Customer at the Company's prevailing rates. Where any Customer's Equipment is returned to the Company for repairs then unless otherwise agreed the Customer shall be responsible for the costs of carriage, to the Company.

3.7 The Company will use all reasonable endeavours to meet installation timetables and Response Levels but shall not be responsible for any loss suffered as a result of a failure by the Company to comply with time obligations under this Agreement. The Customer further accepts that some faults may not be capable of immediate correction by the Company. Any delays shall not entitle the Customer to rescind the Agreement.

3.8 The Customer warrants that it has drawn to the attention of the Company all factors affecting the Site which may affect the method of installation, specification of the System and the provision of the Service.

3.9 Unless stated in the proposal or the Acknowledgement of Sale all prices for installation are based on the assumption that the Customer's Equipment will be surface fixed. Any additional work required to install the Customer's Equipment or to achieve a flush installation shall either be provided by the Customer at its cost, including any redecoration that may be

necessary or shall be an Additional Charge. Unless otherwise specified in the proposal or the Acknowledgement of Sale the Company shall not be obliged to reinstate or make good any part of the Site which may be affected by the installation.

3.10 Unless stated in Company's proposal or Order acknowledgement, no allowance has been made for (a) the provision of as installed drawings (b) any inter-connection of the Customers Equipment to any other system or equipment at or on the Site. The provision of these will incur Additional Charges.

3.11 Where the Customers Equipment is required to meet a particular level of audibility, whether relating to an identified level of clarity or minimum volumes, the Company accepts no liability to comply with these requirements when the quantities and/or location of Customers Equipment has been instructed by a third party, whether as detailed on layout drawings or equipment schedules or otherwise. If required, the Company's Commissioning Engineer will carry out a full audibility test on completion of the installation and report on any defect as an Additional Charge. The cost of any work involved in raising the level of audibility shall be an Additional Charge.

3.12 Unless specifically stated in the proposal, we have not included for systems that use voice alarms, to have their speech intelligibility confirmed via RASTI Testing. Where such tests have been specifically included and documented in the proposal, they will be carried out only after full onsite tests, which will need to be carried out after the main structural works have been completed. Only after these tests will we be in a position to advise on final speaker quantities, locations and sizes. This in turn may affect cabling requirements and amplifier sizes which will be an Additional Charge.

3.13 At all times, the Company will operate in accordance with General Data Protection Regulations and its requirements in relation to the secure management of the Customer's data.

#### **4.0 THE COMPANY'S LIABILITY**

4.1 The provisions of this clause set out the Company's entire liability (including any liability for the acts and omissions of its employees or sub-contractors) to the Customer in respect of any breach of its contractual obligations arising under the Agreement and any representation, statement or tortuous act or omission – including but without limit, to negligence or breach of statutory duty – arising under or in connection with the Agreement and the Customer's attention is in particular drawn to the provisions of this clause.

4.2 In view of the limitations of the System and the Service and the provisions of this clause, the Customer will arrange separate insurance cover.

4.3 Any act or omission on the part of the Company or its employees, agents or sub-contractors falling within clause 5.1 shall be known as an 'Event of Default'.

4.4 Subject to clauses 5.5 and 5.6 the Company will not be liable for any loss, damage or injury sustained by the Customer or his property unless directly caused by the negligence of the Company or its employees.

4.5 Subject to the provisions of clause 5.6 the entire aggregate liability of the Company its employees agents and subcontractors in respect of any Event of Default shall be limited to a maximum sum equivalent to 30% of the total Installation Charge or 3 times the sum of the Annual Maintenance Charge or Annual Monitoring Charge – whichever is the lower – (in each case as at the date of the Event of Default, if known, otherwise, as at the date of notification of the claim to the Company). There will be no liability on behalf of the Company if the relevant invoice from the Company has not been paid by the Customer prior to the Event of Default.

4.6 The Company does not restrict its liability in respect of death or personal injury resulting from its own or its employees, agents or subcontractors' negligence or any damage suffered by the Customer where it would be unlawful to do so.

4.7 Subject to clause 5.6 the Company shall not be liable to the Customer in respect of any Event of Default for loss of profits, goodwill or any type of special, indirect, uninsured or consequential loss (including loss or damage suffered by the Customer as a result of action brought by a 3rd party) even if such loss was reasonably foreseeable or the Company had been advised of the possibility of the Customer incurring the same.

4.8 If a number of Events of Default give rise substantially to the same loss, then they shall be regarded as giving rise to only one claim under this Agreement.

4.9 The Customer shall afford the Company a reasonable time in which to remedy any Event of Default.

4.10 Without prejudice to the generality of the foregoing the Company shall not be liable for;

4.10.1 any failure of the System to transmit data from the site;

4.10.2 any failure in the telecommunications network, telephone lines, power supplies, utilities or other services provided by a service provider or utility or any other condition beyond the Company's control that prevents the System from in any way performing or the Company from being able to perform part or all of the Service and / or secure attendance of a Keyholder or the Emergency Services to the site;

4.10.3 any breach of contract due to any cause beyond its reasonable control including but not limited to; force majeure, Acts of God, war, military actions, sabotage, terrorist actions, riots, civil disobedience, strikes, industrial action, civil disaster, floods, lightning, epidemics, fire and acts or omissions of any party for which the Company is not responsible;

4.10.4 any loss, damage, costs, expenses or any other claims for compensation arising from incomplete, inaccurate or corrupted data transmissions being received by the Company and

4.10.5 any loss, damage, costs, expenses or any other claims for compensation arising from delays in Installation or service provision caused by circumstances beyond the control of the Company.

4.11 The Customer acknowledges that;

4.11.1 the Company has no special knowledge of the nature and value of the contents of the Site or of the nature of the risks to which the Site and its contents will be exposed;

4.11.2 the System and the Service are only an aid to security and fire safety and are designed to reduce the risk of loss or damage to the Site, its contents and occupants but does not guarantee to eliminate any part of such risk. The Company does not warrant or guarantee that the System or the Service will prevent, deter or restrict fire or trespass on the site or damage or criminal actions against the Site, its contents or occupants. The Company does not warrant or represent that the System or the Service is incapable of being compromised, neutralized bypassed or otherwise rendered inoperative by the Customer, trespassers, intruders or other unauthorized persons. In such event the Company shall not be liable for direct or indirect loss or damage suffered by the Customer, occupants, intruders or other unauthorised persons and the Customer acknowledges and agreed to the limitations of the Company's liability in relation to this clause;

4.11.3 the effectiveness of the System and / or Service is limited to the configuration of the System on the Site. As such, the System may suffer from areas of reduced detection, which can result in fire and intrusions not being detected by the System. Furthermore, changes in atmospheric conditions can result in changes in the effective operating range of detection devices, creating transient 'blind spots';

4.11.4 the provision of the Service will not guarantee that the System will operate without interruption or error.

4.12 The Customer agrees to immediately advise the Company by telephone and in writing within 48 hours, to be delivered to the Company by registered mail, details of any incident or complaint regarding the System or the Service to enable the Company to investigate the incident or complaint. In the event of the Customer making a claim against the Company for loss or damage, the claim must be made within 21 days of the occurrence specifying in detail the quantum and the basis of the claim. The Company shall have no liability for any claim made outside this period.

4.13 If the System should fail, due to a faulty part, which has not been supplied or manufactured by the Company, the Company shall have no liability for such failure.

4.14 The Customer shall be responsible for and reimburse the Company for any charges made by the Police, Fire or any other authority to the Company in connection with the installation and/or Commissioning of the System.

## **5.0 ACCEPTANCE**

5.1 Once the Company has commenced installation of the System/Equipment or has started to provide the Customer with the Service, or on payment in part or in full for the System/Equipment or the Service, the Customer acknowledges they have accepted the entire terms and conditions set out in this Agreement.

5.2 The Customer may (with the Company's prior written consent) cancel the Agreement before the Installation/Takeover Date. In the event of such cancellation the Company shall be entitled to levy a cancellation charge (which shall become payable immediately by the Customer) at the rate of 25% of the Installation Charge or 50% of the Annual Maintenance Charge and/or 50% of the Annual Monitoring Charge together with all restocking charges incurred by the Company.

## **6.0 PAYMENT**

6.1 In consideration of the Service provided to the Customer by the Company, the Customer will;

6.1.1 pay 50% of any Installation/Equipment supply Charge on issue of order to the Company and 50% on the Installation/Equipment Supply/ Takeover Date or agree with the Company, at the Company's sole discretion, to pay 50% of the Installation/Equipment Supply Charge on issue of order to the Company and then pay the remaining 50% of the Installation/Equipment Supply Charge in pre-agreed, interim payments, to the Company;

6.1.2 pay 100% of the Annual Maintenance Charge and / or 100% of the Annual Monitoring Charge prior to the Installation / Takeover Date and each subsequent years' Annual Maintenance Charge and/or Annual Monitoring Charge, prior to the commencement of the period to which the invoice relates;

6.1.3 pay (at the Company's prevailing rates) all Additional Charges upon receipt of the Company's invoice at the very latest within 28 days of the work being undertaken by the Company.

6.2 The Company may, at its sole discretion, allow payment of the Annual Maintenance Charge by instalment. Should the Company permit payment of the Annual Maintenance Charge by instalments and any instalment is not paid then the total amount of the Annual Maintenance Charge (including the instalment surcharge) will become immediately due and payable. Any payments made by instalments must be paid through Direct Debit.

6.3 All sums due by the Customer to the Company under the Agreement shall be paid without any set-off (whether legal or equitable) deduction or withholding of any kind.

6.4 The Company will not accept as a reason for non-payment any defects arising from the installation of the System, which have not been notified in writing to the Company within 14 days of the Installation / Takeover Date.

6.5 If the Customer fails to make any payment as and when it becomes due, the Company shall be entitled to do all or any of the following (in any order and on more than one occasion and such rights shall be in addition to any the Company shall have at law);

6.5.1 cancel or suspend all or any part of the Service without incurring any liability and without prejudice to the Company's rights to collect and levy the charges for such services. Cancellation and / or suspension and reinstatement of monitoring will lead to a fee being charged at the Company's then current rate; and

6.5.2 charge the Customer interest (both before and after any judgement) on unpaid sums – beyond their due date – at the rate of 8% per month, compounded monthly, until payment is made in full.

6.6 All costs, charges and expenses incurred by the Company (including legal and court costs) in recovering or attempting to recover any debt shall be paid by the Customer on a full indemnity basis. The Company shall be entitled to charge (in

addition to interest and any legal costs ordered by the court, and without prejudice to any other rights or remedies available to the Company) the sum of £150 (excluding VAT) by way of notional liquidated damages and as a contribution to the administrative costs incurred by the Company in taking steps to secure overdue payment. The provisions of this clause shall apply notwithstanding any termination or cancellation of this Agreement.

6.7 Any addition or variation to the quantities of assets or components, which comprise the System, may, at the Company's sole discretion, result in an increase to the Annual Maintenance Charge, Annual Monitoring Charge and Additional Charges.

6.8 In addition the Company is entitled to increase the Annual Maintenance Charge, Annual Monitoring Charge and Additional Charges by giving written notice (which may be in the form of the invoice) of such increase to the Customer.

6.9 Unless indicated otherwise, all sums payable under this Contract are stated exclusive of Value Added Tax (which will be charged at the rate prevailing at the relevant tax point) and any other tax or duty chargeable under any relevant legislation.

## **7.0 TERM**

7.1 Where Service is to be provided, the initial term of this Agreement is three years commencing from the Installation/ Takeover Date.

7.2 At the end of the initial term and each subsequent period, the Term will be automatically renewed for a further 12 months unless the Company or the Customer has given the other written notice of its wish to terminate the Agreement at least 90 days before the end of the then current Term.

7.3 If the Agreement is not terminated in accordance with these terms, then the Customer shall make payment of the Annual Maintenance Charge and / or Annual Monitoring Charge for the additional Term prior to the expiry of the current Term to avoid incurring the administration charges and ongoing interest upon sums due to the Company.

7.4 If the Customer wishes to cancel the Agreement before the end of the Term and without giving notice in accordance with clause 7.2, then the Customer shall;

7.4.1 pay to the Company on demand all arrears of the Annual Maintenance Charge and/or Annual Monitoring Charge and any Additional Charges that would have been made by the Customer for the remainder of the duration of the Term;

7.4.2 indemnify the Company against any additional loss costs charges and expenses incurred by the Company as a result of such cancellation;

7.4.3 pay the Company a one-off fee of £150 (excluding VAT) to attend Site and reset the System to enable the System to be handed over to the incoming service provider.

7.5 On termination of this agreement, the Customer will give the Company access to the Site to remove the Company's Equipment and the Customer shall make good the Site at its own expense. If the Customer should fail to provide such access within 14-days of the Company's written request the Customer shall pay to the Company an amount, by way of liquidated damages, equal to the cost to the Company of acquiring equivalent equipment.

7.6 If the Customer commits any breach of this Agreement or enters into any form of Liquidation, Administration, Receivership, Corporate Voluntary Arrangement, Individual Voluntary Arrangement or Bankruptcy, or any payment shall be more than one month in arrears, the Company may forthwith, by notice in writing, terminate this Agreement (and on such termination the Term shall come to an end) without prejudice to the Company's right to recover all of the Company's Equipment and any sum due by the Customer to the Company.

7.7 If the Company shall terminate this Agreement under clause 8.6 the Customer shall be liable to pay to the Company all sums then due together with all such other sums which would have become due in respect of the Annual Maintenance Charge and / or Annual Monitoring Charge from the date of termination to the earliest date upon which the Customer could have terminated this Agreement under clauses 8.1 and 8.2.

## **8.0 RISK AND TITLE**

8.1 Risk of damage to or loss of the System/Equipment and the requirement to insure the equipment shall pass to the Customer at the time of delivery to the Site.

8.2 Title to the Customer's Equipment shall not pass to the Customer until the Company has received payment in full in cleared funds, of the Installation/supply Charge of the System/Equipment together with any charges levied under the terms of Clause 6. Including for any interest and administrative charge applied.

8.3 Until such time as title to the Customer's Equipment passes to the Customer, the Customer shall hold the Customer's Equipment as the Company's fiduciary agent and bailee.

## **9.0 TECHNICAL INFORMATION/ADVICE**

9.1 Any technical information supplied by the Company shall only be relied upon by the Customer if confirmed in writing by the Company. The Company is not liable for any such technical information provided verbally by its employees. The Company relies upon the information supplied by the manufacturer of the Customer's Equipment and shall wherever so practicable, supply the Customer if so requested with copies of the manufacturer's technical information.

## **10.0 DISPUTE RESOLUTION**

10.1 If any dispute arises in connection with the Agreement, an authorised representative of the Customer and the Company shall, within 30-days of a written request from one party to the other, meet in good faith to resolve the dispute.

10.2 If the dispute remains unresolved either the Customer or the Company may refer it to mediation in accordance with the Centre for Effective Dispute Resolution (“CEDR”) Model Mediation Procedure that is in force at the date of the referral. The mediator will be nominated by the Company. To initiate the mediation either party may give notice in writing (the “Mediation Notice”) to the other requesting mediation. The mediation will start not later than 60-days after the date of the Mediation Notice.

10.3 The following principles shall apply to the mediation;

10.3.1 unless the Customer and the Company otherwise agree, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of either party in any future proceedings;

10.3.2 if the Customer and the Company reach agreement on the resolution of the dispute, the agreement shall be recorded in writing and binding on them once it is signed by duly authorised representatives of both parties;

10.3.3 failing agreement, the Customer and the Company may invite the mediator to provide a non-binding but informative written opinion if the parties provide consent to this in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to the Agreement without the prior written consent of both parties.

10.4 If the parties fail to reach agreement by the conclusion of the mediation, then the parties shall be free to refer to adjudication in accordance with the Scheme for Construction Contracts or commence formal legal proceedings in the courts in relation to the dispute. Nothing in this Clause shall prevent a party seeking urgent relief from the courts where it considers this is necessary to protect its position.

## **11. GENERAL**

11.1 The parties to the Agreement are the Company and the Customer. Any obligation of the Company under the Agreement is to the Customer only and to no other party. Where any payments are made or undertaken by a third party, such payments or undertakings do not confer any rights on the third party who is considered an agent of the Customer.

11.2 The Agreement may not be assigned or held on trust by the Customer without the prior written consent of the Company. The Company may assign all or any of its rights hereunder.

11.3 The Company shall be entitled to subcontract any of its obligations under the Agreement.

11.4 The Company reserves the right to make changes to the System or Service, in order to comply with safety, statutory, NICEIC, or BS/EU requirements or codes of practice, provided that such changes do not materially change the System or Service provided to the Customer.

11.5 Invalidity or unenforceability of any of the conditions in the Agreement shall not prejudice the remainder of the conditions of the Agreement.

11.6 Failure by the Company to exercise any right or remedy available to it under the terms of this Agreement shall not constitute a waiver of such right or remedy or any other rights or remedies and no partial exercise of any right or remedy shall prevent any further exercise of any right or remedy or the exercise of any other rights or remedies.

11.7 The Company shall have the right to vary these terms and conditions by notice to the Customer and the Customer shall be deemed to have accepted such new terms unless it has objected to the variations in writing within 14 days of such notice. If the Customer so objects, the Company shall be entitled to terminate this Agreement and if the Company does so terminate the Agreement it shall be entitled to full payment of any outstanding invoices which must be paid in full by the Customer without any right of set-off whatsoever, within 14 days of the said notice of termination by the Company.

11.8 No person who is not a party to this Agreement, save a company within the same group of companies or an associated company under common ownership as the Company, shall be entitled to enforce any term of this Agreement.

11.9 The Customer undertakes to indemnify and hold harmless the Company against any loss or damage the Customer may suffer as a result of a breach by the Customer of its obligations hereunder.

11.10 The Agreement shall be governed by and construed in accordance with English law. Each party irrevocably submits to the exclusive jurisdiction of the courts for the hearing and determination of any suit actions or proceedings that arise out of or in connection with this Agreement.

11.11 The Customer and the Company shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to one by the other, its employees, agents or subcontractors, and any other confidential information concerning either party’s business or its products or its services which either party may obtain. Both parties shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging their obligations under the Agreement and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the parties. This Clause [11.11] shall survive termination of the Agreement.