

TERMS AND CONDITIONS OF SALE – COMMERCIAL CUSTOMERS

DEFINITIONS

“The Agreement” means the Agreement between the Customer and the Company relating to (inter alia) sale by the Company to the Customer of the Customer’s Equipment; the supply of the Company’s Equipment; the installation of the System and the provision of the Service.

“Additional Charges” means the charges for the Service provided to the Customer by the Company that are not detailed within the Annual Maintenance Charge, Annual Monitoring Charge or Installation Charge. Additional Charges include for such parts and services (including the cost of travel) of the Company’s employees, agents and / or subcontractors. These charges relate to but are not limited to; (a) any labour, travel, materials or equipment requested or found necessary as a result of service repairs or modifications; (b) emergency call-outs; (c) any remote intervention, remote resets and technical telephone support provided; (d) any labour, travel, materials or equipment required as a result of any fault due to the Customer’s breach of this agreement; (e) any work or repairs (not falling within clause 3.4 to the Excluded Parts / Service; (f) disposal of goods and / or materials; (g) return visits for the completion of the Service; (i) abortive visits where the Company has been unable to complete the Service on initial attendance; (j) administration fees and (k) suspension and reinstatement fees. For the avoidance of doubt, the foregoing events are specifically excluded from all service levels provided by the Company and are always chargeable.

“Annual Maintenance Charge” means the annual maintenance charge relating to the Service, as specified in the proposal issued to the Customer by the Company.

“Annual Monitoring Charge” means the annual monitoring charge relating to the Service, as specified in the proposal issued to the Customer by the Company.

“The Company” means Marlowe Fire & Security Limited, Company No. 05239777, trading as Marlowe Fire & Security, whose Registered Office is 20 Grosvenor Place, London, SW1X 7HN, or any other holding company or subsidiary company or associated company under common ownership thereof, designated by Marlowe Fire & Security Limited as the contracting party for the purposes of the Agreement who will provide the Service to the Customer.

“Company’s Equipment” means any and all equipment supplied by the Company to the Customer that has not been paid for by the Customer in full.

“The Customer” means the party receiving the Service provided by the Company.

“Customer’s Equipment” means all equipment comprising the System which has been supplied to the Customer by the Company and been paid for in full.

“Excluded Parts / Service” means; (a) all consumables including but not limited to; batteries, light sources, door contacts; (b) obsolete equipment; (c) closed protocol equipment; (d) control equipment including panels and D/NVRs; (e) signalling equipment; (f) high level access equipment including scaffolding, lifters, cherry pickers and scissor lifts; (g) equipment damaged due to vandalism, misuse, force majeure, Acts of God and environmental issues including but not limited to, vermin, wildlife, storms, fire, flood and water damage; (h) breach by the Customer of their obligations under this Agreement and (i) the actions of third parties including but not limited to mains power failure and communications line faults or any activity as detailed within Clause 2.1.4.

“Installation Charge” means the installation charge and the signalling installation charge relating to the System, as specified in the proposal issued to the Customer by the Company.

“The Installation / Takeover Date” means the date when the installation of the System has been completed by the Company (which will be evidenced through written notification from the Company to the Customer) or the date from which the Company begins to maintain and / or monitor the System (which will be evidenced through written notification from the Company to the Customer).

“Normal Working Hours” means the hours between 08:30 to 17:00, Monday to Friday excluding Public Holidays.

“Premium” means the service level provided during the Term, whereby the Company in respect of the System: (a) undertakes the number of preventative maintenance visits set out in the proposal issued to the Customer by the Company on dates specified by the Company during Normal Working Hours; (b) provides an emergency help desk facility 24 hours per day, 365 days per annum basis to receive reports of faults on the System; (c) attends the Site without charge (with the exception of Excluded Parts / Service) within the time prescribed by the Response Level to diagnose reported faults; (d) carries out without charge (with the exception of Excluded Parts / Service) such maintenance work found necessary as a result of normal wear and tear; and (e) replaces without charge (with the exception of Excluded Parts / Service) any faulty component part of the System where the fault has arisen due to normal wear and tear. For the avoidance of doubt, only in exceptional circumstances, authorised, in writing by a Director of the Company, does the Company offer a Premium service level to a Customer. A Standard service level is the normal service level offered by the Company on a default basis to all Customers.

“Priority Response” means attendance within 4 hours or by the time the System is set (whichever is greater), on a 24 hours per day, 365 days per annum basis.

“Response Level” means the time scale for an engineer to attend to an emergency call-out being either Priority Response, Standard A Response or Standard B Response.

“The Service” means, where appropriate; the installation of equipment; maintenance and / or monitoring of the System; the provision of an emergency help desk facility; the provision of a reactive call out and repair facility; the provision of a remote support and / or maintenance facility. The Service will be delivered in accordance with the service levels specified in the proposal issued to the Customer by the Company and hereinafter described. Any variations to such service levels will be detailed in writing to the Customer by the Company.

“The Site” means the address of the premises where the System is to be installed and or maintained and or monitored as set out in the proposal issued to the Customer by the Company.

“Standard” means the service level provided during the Term, whereby the Company in respect of the System: (a) undertakes the number of preventative maintenance visits set out as specified on the proposal issued to the Customer by the Company on dates specified by the Company during Normal Working Hours; (b) provides an emergency help desk facility 24 hours per day, 365 days per annum basis to receive reports of faults on the System; (c) undertakes to attend the Site on a chargeable basis to diagnose reported faults; (d) carries out on a chargeable basis, such repair work found necessary, replacing on a chargeable basis, any component part used in the course of the resulting maintenance work or any equipment where, in the Company’s sole opinion, repair of component parts would be uneconomic.

“Standard A Response” means attendance within 8 hours, on a 24 hours per day, 365 days per annum basis.

“Standard B Response” means attendance within the next working day during Normal Working Hours.

“The System” means the equipment as detailed in the System Specification / maintenance and / or monitoring proposal issued to the Customer as detailed in the proposal issued to the Customer by the Company.

“The Term” means the Initial Term as specified in clause 7.1 as extended in accordance with clause 7.2.

1. EXCLUSIVE TERMS OF THE AGREEMENT

1.1 This Agreement sets out the conditions upon which the Company provides the Customer with the System and the Service. This supersedes any previous discussions, arrangements or representations between the Company and the Customer. Other information provided by the Company 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 its rights in respect of any fraudulent misrepresentation.

2. CUSTOMER OBLIGATIONS

2.1 The Customer shall:

2.1.1 Obtain and pay for all necessary consents for the installation of the System and / or the provision of the Service. The Customer warrants that all consents and licences required for the installation of the System 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 such access to the Site as is reasonably required at all reasonable times in order for the Company to install the System, provide the Service and / or exercise its rights hereunder. The Customer warrants that it is and shall be entitled (at all times that are relevant for the performance of the parties rights and obligations under this Agreement) to grant such access. In the event of such access not being made available by the Customer then the Company may charge the Customer an abortive visit charge at its standard rates.

2.1.3 In the specific case of monitored Systems;

2.1.3.1 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;

2.1.3.2 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 or uploaded to the Company’s

portal. 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;

2.1.3.3 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; 2.1.3.3.1 levy; additional charges to the Customer for the work resulting from such false activations transmitted by the System,

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

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

2.1.3.3.4 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 practically 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;

2.1.4 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 or any part of it.

2.1.5 Notify the Company of any proposed structural alterations to the Site or of any modifications to the communications installation so that the Company may assess whether such works will affect the System or the Service. Any such extension or alteration to the System or Service, which may thereby become necessary, shall be carried out by the Company at the expense of the Customer.

2.1.6 Notify the Company forthwith (confirming such notification in writing) of any defects appearing in the System and shall permit the Company to take such steps as it shall consider necessary to remedy such defect.

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

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

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

2.1.10 Take all reasonable precautions to protect the health and safety of the Company’s employees, agents and subcontractors while on the Site.

2.1.11 Make available the System and supply all documentation and other information necessary for the Company to diagnose any fault in the System.

2.1.12 Maintain and make available to the Company an up to date Fire Risk Assessment compliant with the Regulatory Reform (Fire Safety) Order 2005.

2.1.13 Buy the Customer’s Equipment on the terms of this Agreement.

2.1.14 Maintain (through utilisation of the Service) the System in good working order to the Company’s satisfaction.

2.1.15 Ensure the availability of an appropriate power supply through supply/installation of fuse spurs.

2.1.16 Ensure the availability of a subscriber terminal unit / communication portal and any other necessary communication line to enable monitoring.

2.1.17 Be responsible for financing the collection, treatment, recovery and environmentally sound 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.

2.1.18 Provide duly authorised representatives 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 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 as may be requested to test that the System is properly connected / installed so that the Service can commence and be delivered.

2.2.2 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 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.

2.2.4 Where the System comprises of 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 of any other security or fire safety system the Company has brought to the Customer’s attention the requirements of the relevant British and European Standards and Legislation.

3. 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 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.

3.5 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.

3.6 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.

3.7 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. 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 tortious 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 4.1 shall be known as an 'Event of Default'.

4.4 Subject to clauses 4.5 and 4.6 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 4.6 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 ever 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 that of 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 4.6 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 (if it shall so request) 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.

5. ACCEPTANCE

5.1 Once the Company has commenced installation of the System or has started to provide the Customer with the Service, or on payment in part or in full for the System 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. PAYMENT

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

6.1.1 pay 50% of the Installation Charge on issue of order to the Company and 50% on the Installation / Takeover Date or agree with the Company, at the Company's sole discretion, to pay 50% of the Installation Charge on issue of order to the Company and then pay the remaining 50% of the Installation 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, subject to the application of an instalment surcharge of a minimum of 20% of the Annual Maintenance Charge. 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 2% 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.

7. TERM

7.1 Where Service is to be provided, the initial term of this Agreement is five 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 £100 (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 7.6 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 7.1 and 7.2.

8. RISK AND TITLE

8.1 Risk of damage to or loss of the System 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 Charge of the System 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. DISPUTE RESOLUTION

9.1 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.

9.2 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.

9.3 The following principles shall apply to the mediation;

9.3.1 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;

9.3.2 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;

9.3.3 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.

9.4 If the parties fail to reach agreement by the conclusion of the mediation then the parties shall be free to 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.

10. GENERAL

10.1 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.

10.2 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.

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

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

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

10.6 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.

10.7 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.

10.8 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.

10.9 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.

10.10 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.

10.11 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 [10.11] shall survive termination of the Agreement.