



## **TERMS & CONDITIONS**

### **1. DEFINITION**

#### 1.1 In these Conditions:

"Alarm Monitoring Station" means the premises to which alarm and video signals are transmitted and from where the response to alarm and video signals is affected.

"Annual Service Charge" means the annual charge payable in advance as set out in the ISA and Monitoring Agreement.

"Authority" means the police, fire or other services specified in a Monitoring Agreement.

"CCTV" means Closed Circuit Television.

"Communications Link" means any telecommunications network, systems, line or link connecting Systems to the Alarm Monitoring Station.

"Company" means Alertsystems Ltd.

"Contract" means the contract between the Company and the Customer for the sale of the Equipment, supply of the Services and/or Monitoring including the ISA the Monitoring Agreement and any Operational Procedure.

"Conditions" means these Terms and Conditions of Business of the Company. "Customer" means the person, firm or company to whom the Company has agreed to sell/lease the Equipment and/or supply the Services as set out in the ISA and Monitoring Agreement.

"Equipment" means the equipment as set out in the Specification/Order to be installed by the Company.

"External Deterrent" means the equipment installed externally to provide detection of and visible and audible warnings to intruder activity.

"Force Majeure" means any cause beyond the Company's reasonable control including but without limitation, act of God, explosion, storm, flood, tempest, lightning strike, fire, war or threat of war, insurrection, civil disturbance or requisition, accident, interruptions to power supply, damage by rodents, strikes, lock-outs or other industrial actions, machinery breakdown, shortage of labour or other shortages.

"ISA" means the Installation and Service Agreement signed by the Customer and the Company setting out the terms upon which the Equipment is to be installed and what, if any, Services the Company shall provide.

"Lease Agreement" means a lease agreement in respect of the Equipment details of which are set out in the ISA

"Monitoring Agreement" means an agreement between the Company and the Customer for the services of an alarm receiving centre and/or monitoring station, details of which are set out in the ISA and Monitoring Agreement.

"Operational Procedures" means the administrative and operational procedures and specifications of the Systems installed by the Company and the Services provided by the Alarm Monitoring Station as detailed in the Operational Procedures document.

"Order" means the Order attached to or relating to the ISA and Monitoring Agreement in respect of the Equipment.

"Price" means the agreed price of the Equipment and/or the Services as stated in the Contract.

"Services" means the services to be provided by the Company and the Alarm Monitoring Station in respect of the Equipment as specified in the ISA and Monitoring Agreement.

"Specification" means the specification attached to the ISA in respect of the Equipment

"System" means the CCTV, External Deterrent or Intruder Alarm to be monitored by the Alarm Monitoring Station as specified in the Monitoring Agreement.

"Writing" means by letter on the Company or Customer's headed notepaper

### **2. BASIS OF SALE**

2.1 The Company shall sell and the Customer shall purchase the Equipment and/or Services subject to these Conditions (so far as they are not expressly varied in Writing) which shall govern the Contract to the exclusion of any other terms and conditions.

2.2 Where the Customer has agreed to enter into a Lease Agreement the Company will sell the Equipment to the Lessor but otherwise the Contract will be subject to the Conditions.

2.3 All quotations and offers shall remain valid for a period of 30 days. Thereafter, the Company shall be entitled to withdraw or modify the terms.

2.4 In entering into the Contract the Customer acknowledges that it does not rely on and waives any claim for breach of any representations made by the Company's employees or agents which are not confirmed in Writing.

2.5 Prior to the Company installing the Equipment it may carry out a pre-installation survey.



### **3. ORDERS AND SPECIFICATION**

- 3.1 No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in Writing.
- 3.2 The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order, ISA, Specification and Monitoring Agreement and any applicable specifications shall meet all necessary requirements and shall be suitable for the purpose for which the Equipment and/or Services are required. The Customer shall also be responsible for giving the Company any necessary information relating to the Equipment and/or Services within a sufficient time to enable the Company to perform the Contract in accordance with its terms. The time for delivery shall be extended by a reasonable period if delay is caused by instructions or lack of instructions from the Customer and the Company shall be entitled to make additional charges to the Price if it is necessary to make modifications to the specifications provided by the Customer.
- 3.3 Where necessary (but subject to reasonableness), the Company reserves the right to amend the Contract once a pre-installation survey has been carried out.
- 3.4 No order, ISA or Monitoring Agreement which has been accepted by the Company may be cancelled by the Customer except with agreement in Writing by the Company and on terms that the Customer shall indemnify the Company in full against all loss, (including loss of profit), costs, (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation.
- 3.5 If a Customer requests particular Equipment it shall be responsible for ensuring the Equipment's suitability before entering into the Contract.

### **4. PRICE**

- 4.1 The Price is subject to the Customer:
  - (a) providing reasonable unimpeded access and power supply to allow the Company to perform its responsibilities under the Contract;
  - (b) using and operating the Equipment with proper care and in such a manner as to preserve proper and efficient working thereof;
  - (c) making all necessary payments to British Telecom or any service provider as may be necessary for the operation of the Equipment in respect of the provision and servicing of a public switching telephone network, telephone wiring and terminal block, ISDN line or Broadband connection.
- 4.2 Where applicable the Customer shall make the following payments to the Company;
  - (a) The annual Service Charge and any payments due in respect of the Services yearly in advance, the first payment being due (unless otherwise stated in the ISA, Monitoring Agreement or the Lease Agreement) on the first anniversary of the date of installation of the Equipment or, where no installation was required under the Contract, the date of the Contract;
  - (b) all call out and labour charges of the Company (prevailing at the time incurred) in respect of the Services where attendance to the Customers premises is;
    - (1) on Bank or public holidays or outside the Company's working hours of 8.30am to 5.00pm Monday to Friday.
    - (2) due to Force Majeure, misuse, malicious damage or neglect of the Equipment;
    - (3) unnecessary where the Equipment is programmed for "Engineer reset" as set out in BS4737 or as required by the local police authority;
    - (4) in respect of an external system and is due to changes in the environment or site layout e.g. overhanging branches, excessive growth of foliage or display signs affected by wind or sunlight;
    - (5) due to the replacement of flood light lamps only.
  - (c) all material costs incurred by the Company where attendance is covered by (2), (3), (4) and (5) of (b) above.
  - (d) all charges incurred by the Company for specialist access and lifting equipment needed to complete the installation or provide the Services.
- 4.3 The Customer shall ensure that all payments under any Lease Agreement are paid (where applicable).
- 4.4 The Company reserves the right to increase all payments due under the Contract in respect of the Services and the Monitoring on the second anniversary of the date the Equipment was installed or if not installed by the Company the Services commenced and on each succeeding anniversary such increases being notified to the Customer not less than 28 days in advance.
- 4.5 Unless stated otherwise in the Contract the Price will not include Value Added Tax which will be charged if applicable at the rate ruling on the date of installation of the Equipment and/or performance of the Services.
- 4.6 The Company reserves the right to increase the Price to reflect any increase in cost to the Company due to any change in delivery dates, quantities or specifications of the Equipment, the Services or Monitoring or any delay caused by any instructions of the Customer or failure by the Customer to give the Company adequate information or instructions (as the case may be).



## **5. TERMS OF PAYMENT**

- 5.1 Subject to any special terms agreed in Writing between the parties the Company shall be entitled to require the Customer to pay a deposit payable at the time of the Contract.
- 5.2 Subject to any special terms agreed in Writing between the Customer and the Company the Company shall be entitled to invoice the Customer for the Price on or at any time after the Equipment has been installed or the Service had been performed unless the Customer wrongfully fails to ensure that their premises are fit for installation or fails to give the Company access to perform the Services in which event the Company shall be entitled to invoice the Customer for the Price at any time after the Company has attempted to install and/or given notice that it is ready to perform the Services.
- 5.3 The Customer shall pay the Price in full without any withholding, deduction, set off counterclaim or cross demand within 30 days of the date of the Company's invoice.
- 5.4 If the Customer fails to make any payment on the due date then without prejudice to any other right or remedy available to the Company the Company shall be entitled to:
  - 5.4.1 cancel the Contract or suspend any further installation, Service or Monitoring; and
  - 5.4.2 charge the Customer interest (both before and after any judgment) on the outstanding sum at the rate of 5% over the base lending rate from time to time of Royal Bank of Scotland PLC.

## **6 INSTALLATION**

- 6.1 The Company shall in no circumstances be liable for any loss or damage arising from any delay in installation of the Equipment or completion of the Services howsoever caused. The Company shall give the Customer such reasonable notice as it can if delivery or performance is likely to be delayed.
- 6.2 If the Customer prevents the Company installing the Equipment (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then without prejudice to any other right or remedy available to the Company the Company may store the Equipment until actual installation and charge the Customer for the reasonable costs (including insurance) of such storage.
- 6.3 The Company engineers will have unobstructed access to all relevant working areas and be afforded continuous and uninterrupted working. Whilst the Company will make all reasonable efforts to co-ordinate and work with other suppliers, servants, trades and the Customer, any delays or interruptions by these may result in additional charges being made to the Customer.
- 6.4 The Company does not accept responsibility or any liability for the performance or reliability of equipment or wiring that has not been approved, supplied and/or installed by the Company. If extra work arises because additional items of equipment are needed or re-cabling is required, then the Company reserves the right to charge the Customer accordingly.

## **7 THE SERVICES**

- 7.1 Unless specified in the ISA or Monitoring Agreement the Services do not cover malfunctions of parts or attachments which are not supplied by the Company or which are supplied by the Company but have been altered or modified otherwise than by the Company.
- 7.2 The Services do not cover high speed dome tilt motors and slip ring mechanisms, digital recorder hard drives, flood light lamps, batteries and consumable items which will be charged at the Company's prevailing prices.
- 7.3 It is the responsibility of the Customer to inform the Company that they wish to change the location of the Equipment. Any location alterations or attachments may require an alteration of the Annual Service Charge. Any costs of such changes will be charged at the Company's prevailing rates.

## **8 SERVICE DEPENDENCIES**

- 8.1 The Communication Links are provided by independent organisations which are not under the Company's control. The Company does not accept responsibility for any signal or transmission failing to reach the Monitoring Station, Authority or the Customer because of a failure or other problem with any Communication Link or liability for any resulting non-performance of the Services.
- 8.2 The Company shall ensure that all Systems will be compatible with the Alarm Monitoring Station's monitoring equipment and be configured to meet any requirements of the Alarm Monitoring Station. The Alarm Monitoring Station reserves the right to change its requirements for configuration of a System by notice to the Company where due to a change to any relevant law, standards or codes of practice applicable to the Services. On receipt of such notice the Company shall advise the Customer accordingly. The Company reserves the right to charge the Customer for any costs involved for any necessary alteration to the configuration of a System.



- 8.2 The Company and the Alarm Monitoring Station does not warrant or guarantee that the Authority will respond immediately or at all to any notifications received from the Alarm Monitoring Station and shall have no liability if the Authority fails to respond. If the Alarm Monitoring Station is advised by an Authority that it may not pass signals from a System to the Authority, then the Alarm Monitoring Station will have no obligation to the Customer to notify the Authority.
- 8.3 Where the police or other Authority adopts a Unique Reference Number (URN) THE Alarm Monitoring Station shall not be obliged to alert that Authority to any signals from any premises where the URN has not been supplied or where the URN has subsequently been withdrawn.

## **9. RISK AND PROPERTY**

- 9.1 Risk of damage to or loss of the Equipment shall pass to the Customer at the time of installation of the Equipment or if the Customer wrongfully fails to allow the Company to install the Equipment at the time when the Company should have installed the Equipment.
- 9.2 Notwithstanding installation and the passing of risk in the Equipment or any other provision of these Conditions the property in the Equipment shall not pass to the Customer until the Company has received payment of the Price in full together with payment for any other equipment or services agreed to be supplied by the Company to the Customer which is due.
- 9.3 Until such time as the property in the Equipment passes to the Customer the Customer shall hold the Equipment as bailee for the Company and shall keep it properly protected, insured and identified as the Company's property.
- 9.4 Until such time as the property in the Equipment passes to the Customer and provided the Equipment is still in existence and has not been resold the Company shall be entitled at any time to require the Customer to deliver up the Equipment to the Company and if the Customer fails to do so forthwith to enter upon any premises of the Customer or any third party where the Equipment is stored and repossess it.

## **10. WARRANTIES AND LIABILITIES**

- 10.1 Except where the Customer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 section 12) all warranties conditions or terms relating to satisfactory quality or condition of the Equipment and whether implied by statute or common law or otherwise are excluded.
- 10.2 The Company may from time to time make changes to the Specification to ensure compliance with any applicable safety or statutory requirements.
- 10.3 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing or any failure to perform any of the Company's obligations in relation to the Equipment and/or Services if the delay or failure was due to Force Majeure.
- 10.4 Where the Equipment (or any part thereof) is shown to the reasonable satisfaction of the Company to be defective by reason of faulty materials (other than those supplied by the Customer), workmanship or design (other than a design made furnished or specified by the Customer) the Company shall at its sole discretion:-
- 10.4.1 deliver and install replacement Equipment to the Customer or upgrade the Equipment free of charge; and/or
  - 10.4.2 refund to the Customer the price of such Equipment; and/or
  - 10.4.3 require the Customer to retain the Equipment and grant to the Customer a reasonable allowance in respect of such defects; provided that the Customer notifies the Company in Writing detailing the alleged defects within seven days of the date when the Customer reasonably became aware of it and in any event within a period of twelve calendar months from the date the Equipment was installed.
- 10.5 The Company shall be under no liability in respect of any defect arising from fair wear and tear, accidental or wilful damage, abnormal working conditions, failure to follow the Company's instructions (whether oral or in writing), misuse, alteration or repair of the Equipment without the Company's approval.
- 10.6 The Company shall be under no liability under the above warranty (or any other warranty condition or guarantee) if the Price has not been paid by the due date for payment.
- 10.7 Where parts, materials or equipment are supplied by third parties to the Company the Customer shall in lieu of the above warranty be entitled to the benefit of any such warranty or guarantee as is given by that third party to the Company.
- 10.8 If so required by the Company all defective Equipment shall be made available for collection from the Customer.
- 10.9 The liability of the Company under clause 9 hereof shall be accepted by the Customer in substitution for and to the exclusion of any other claims for direct loss, which the Customer may have.

- 10.10 If a part of the Equipment is defective the Customer shall accept the remainder of the Equipment and be liable to pay the Price, which will be reduced pro rata.
- 10.11 The Company does not know, and shall not be deemed to know, the true value of the Customer's property, nor the value of goods whether owned by the Customer or not which be on the Customer's premises at any time and is not therefore the Insurer thereof. Unless therefore otherwise specified in the Contract, or agreed by the Company in writing and subject to clause 10.12, the total aggregate liability of the Company in respect of any claims or demands made by the Customer under the Contract or otherwise in respect of the Equipment and/or the Service shall be limited to a sum equivalent to five times the Annual Service Charge but not exceeding £10,000.00. Where the Customer does not contract to receive the Services the Company's liability will be limited to 8% of the Price. The Customer shall notify the Company of any claim or circumstances which may give rise to a claim within 30 days of the occurrence giving rise to the claim or potential claim.
- 10.12 The Company shall not be liable to the Customer under the Contract or otherwise (except in respect of death or personal injury caused by the Company's negligence) in respect of the Equipment, Services and/or the Monitoring for any of the following:
- 10.12.1 any special indirect or consequential loss or damages howsoever arising;
  - 10.12.2 any liability to third parties incurred by the Customer;
  - 10.12.3 any statement or representation made by any employee or agent of the Company unless such statement or representation is approved and confirmed in Writing by the Company.
  - 10.12.4 In respect of Equipment not manufactured by the Company the Contract shall be subject to any terms and conditions which the manufacturer may from time to time lawfully attach to the supply or resale by the Company of the Equipment and the liability of the Company in respect of such Equipment shall be restricted to any such warranty or guarantee as is given by the manufacturer to the Company.
- 10.13 The price for the Order and the Services has been quoted and agreed commercially on the basis of the Company's liability to the customer as set out in the Order, ISA and Monitoring Agreement. The Company does not guarantee that the Equipment and Services will prevent or protect against occurrences of criminal and malicious intent. Since the potential loss or damage the Customer might suffer is likely to be disproportionate to the sums that can reasonably be charged by the Company, the Customer acknowledges that it is fair and reasonable for the Company to limit or exclude this liability, and that the proposed exclusions are fair and reasonable having regard to circumstances as at the date of the Order, ISA and Monitoring Agreement.
- 10.14 The Customer confirms that it will effect and maintain in force, for the duration of the contract, adequate insurance in respect of any potential loss, damage, or liability which it may suffer or incur as a result of the Company negligently providing the Services or breaching its contractual commitments, and shall provide the Company with reasonable evidence of such insurance upon request.

## **11. INSOLVENCY OF CUSTOMER**

- 11.1 In the event of the following and without prejudice to any other right or remedy available to the Company, the Company shall be entitled to cancel the Contract or suspend any further installation or Service under the Contract without any liability to the Company:
- 11.1.1 the Customer entering into a voluntary arrangement with its creditors or becoming subject to an administration order or (being an individual or firm) becoming bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
  - 11.1.2 a petition being presented for an administration order or a winding up order is made in relation to the Customer pursuant to the Insolvency Act 1986; or
  - 11.1.3 an incumbent taking possession or a receiver being appointed of any of the property or assets of the Customer; or
  - 11.1.4 the Customer ceasing or threatening to cease to carry on business; or
  - 11.1.5 the Company reasonably apprehending that any of the events mentioned above are about to occur in relation to the Customer and notifies the Customer accordingly.
- 11.2 If the Price, or any other sums remain unpaid by the Customer when any of the circumstances in clause 11.1 above occur then the Price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

## **12. DURATION**

- 12.1 Subject to clause 11.2 the Contract for the Services and/or the Monitoring shall commence on the date of the Contract and shall continue in force until one party gives to the other 3 months written notice to the other to terminate the Contract which shall expire no earlier than one year from the date of the Contract.
- 12.2 Where the Customer has entered into a Lease Agreement the Contract for the Services and/or the Monitoring shall take effect for the period that the Lease Agreement shall remain in force.



**13. GENERAL**

- 13.1 Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing (and shall be sent by hand delivery or first class pre-paid post) addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice. If the notice is hand delivered the notice shall be deemed served at the time of delivery. If the notice is sent by first class pre-paid post the notice is deemed served 48 hours after posting.
- 13.2 The rights and remedies of the Company under the Contract shall not be diminished waived or extinguished by the granting of any indulgence forbearance or extension of time by the Company nor by any failure of or delay by the Company in asserting or exercising any such rights or remedies.
- 13.3 The Company shall be entitled without the prior approval of the Customer to assign sub-contract or sub-let the Contract or any part thereof but the Customer shall not be so entitled without the prior approval of the Company.
- 13.4 These Conditions and each and every Contract made pursuant thereto shall be governed by the laws of England and the Customer and the Company agree to submit to the non-exclusive jurisdiction of the English Courts.
- 13.5 Except as otherwise provided in these Conditions a person who is not a party to the Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract or any of these Conditions.