



Our Business is Protecting Yours

AlertSystems Limited - Standard Terms

We agree to contract with you on the following terms. These constitute an agreement between us and you and must be read together with our Order Form. If there is any conflict between these terms and our Order Form, the Order Form shall take priority. Any other terms contained in any other document are excluded from the agreement between us unless their inclusion is expressly agreed in writing by both of us. Any other terms and conditions proffered by you (or on your behalf), for example in any purchase order or other document, are expressly rejected by us.

1. Definitions

In these terms:

“Agreement” means the contract between us and you for the sale of the Equipment and/or the supply of the Services, which is made up of these standard terms, the Order Form and the Operational Procedures, which Agreement shall begin on the Effective Date;

“Authorised Users” means your employees, agents and independent contractors who are authorised by you to use the Data Services;

“CCTV” means Closed Circuit Television;

“Communication Links” means any telecommunications network, systems, line or link connecting Systems to the alarm receiving centre;

“Data Services” means the services to be provided by us to you in respect of the hosting, managing and/or storage of data from a system specified for such services in the Order Form;

“Effective Date” means the date on which the Order Form is accepted by you;

“Emergency Services” means the police, fire or other emergency services;

“Equipment” means the equipment set out in the Order Form to be installed for you by us;

“External Deterrent” means the equipment installed externally to provide detection of and visible and audible warnings to intruder activity;

“Intellectual Property” means any and all patents, patent applications, know-how, trademarks, trademark applications, trade names, registered design, copyright, database rights or other similar intellectual property rights created, developed, or used in connection with this Agreement;

“Lease Agreement” means a lease agreement in respect of the Equipment details of which are set out in the Order Form;

“Monitoring Services” means the services to be provided by us to you of an alarm receiving centre and/or monitoring station, details of which are set out in the Order Form;

“Operational Procedures” means the administrative and operational procedures and specifications of the Systems we install and the Services provided by us;

“Order Form” means the quotation or other order form issued by us relating to the Equipment or Services, together with any associated documentation provided by us that expressly relates to and is incorporated within the quotation or other order form;

“Price” means the agreed price of the Equipment and/or the Services as stated in the Order Form;

“Service Charge” means the charge payable in advance as set out in the Order Form;



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“Services” means the services to be provided by us to you, including (where applicable) Data Services and/or Monitoring Services, together with the service level agreement, as both the services and the service level agreement are described in the Order Form;

“Specification” means the specification in respect of the Equipment and/or the Services;

“System” means:

- (a) a CCTV, Access Control, External Deterrent, Intruder or Fire Alarm & Fire Detection system;
- (b) any other system that is monitored by us;
- (c) any other system from which data is hosted, managed and/or stored by us; or
- (d) any other system provided by us to you as such system is specified in the Order Form

“virus” means any thing or device (including any software, code, file or program) which may:

- (a) prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any Communication Links or other telecommunications service, equipment or network or any other service or device;
- (b) prevent, impair or otherwise adversely affect access to or the operation of any program or data including the reliability of any program or data (whether by re-arranging, altering or erasing the program or data in whole or part of otherwise); or
- (c) adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices;

“we” and **“us”** means AlertSystems Limited, a company incorporated in England under number 3127248 and whose registered office is at Alert House, One Willowside Park, Canal Road, Trowbridge, Wiltshire BA14 8RH, United Kingdom;

“you” means the person, or organisation to whom we have agreed to sell/lease the Equipment and/or supply the Services.

2. Our Obligations

- 2.1 The initial term for this Agreement for the Services shall be either the period specified as the term in the relevant Order Form or, if no term is so specified, shall be the period of 12 months from the Effective Date and thereafter it shall continue unless and until this Agreement is terminated by either party in accordance with its terms.
- 2.2 During the term, we will provide Services to you with reasonable care and skill and, as far as reasonably possible, in accordance with each Order Form and any other timetable agreed. If the Order Form sets out installation responsibilities on our and your part, our responsibilities shall, subject to clause 3.2.2 below, be limited to those responsibilities set out for AlertSystems in that Order Form.
- 2.3 If not so reasonably possible (as provided in clause 2.2), we will, at our expense, use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach. We:
 - 2.3.1 do not warrant that your use of the Services will be uninterrupted or error-free; or that the Services and/or the information obtained by you through the Services will meet your requirements; and



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- 2.3.2 are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over Communication Links or other communication networks and facilities, including the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such Communication Links or communication networks and facilities.
- 2.4 We shall sell or lease you the Equipment (and, if agreed, install it for you) in accordance with these terms.
- 2.5 However, where we supply to you any Equipment supplied to us by a third party, we do not give any warranty, guarantee or other term as to its quality, or otherwise, but shall, where possible, assign to you the benefit of any warranty, guarantee or indemnity given by the business supplying such Equipment to us.
- 2.6 We may need to amend this Agreement once a pre-installation survey has been carried out. Any such changes will only be with your approval (not to be unreasonably withheld or delayed).
- 2.7 Any time stated by us for the delivery or installation of the Equipment or the completion of the Services is an estimate given in good faith. However, we shall not be liable for any loss suffered by you as a result of any delay in such delivery, installation or completion.
- 2.8 In respect of Data Services:
 - 2.8.1 We shall use commercially reasonable endeavours to make the Data Services available 24 hours a day, seven days a week, except for:
 - 2.8.1.1 planned maintenance which will be notified in advance to you and carried out outside of normal working hours;
 - 2.8.1.2 unplanned maintenance which will normally be carried out outside normal working hours, and in respect of which we will use our reasonable efforts to try to give you reasonable notice in advance; and
 - 2.8.1.3 emergency maintenance which may be conducted at any time and without notice.
 - 2.8.2 We will, as part of the Data Services and at no additional cost to you, provide you with our standard customer managed support services during normal business hours in accordance with our support services policy in effect at the time that the Data Services are provided. We may amend the support services policy in our sole and absolute discretion from time to time. You may purchase enhanced support services separately at our then current rates.
 - 2.8.3 We shall, in providing the Data Services, comply with our Privacy and Security Policy relating to the privacy and security of your data. Such document may be amended from time to time by us in our sole discretion.

3. Your Obligations

- 3.1 You will:
 - 3.1.1 provide us with and ensure that your staff provide us with all necessary co-operation in relation to the provision of the Services and/or delivery and installation of the Equipment;
 - 3.1.2 perform in a timely and professional manner those matters set out in the Order Form as your installation responsibilities;
 - 3.1.3 promptly give us such information as we may reasonably need to provide the Services and/or delivery and installation of the Equipment (including but not limited, where applicable, to your data, security access information and configuration services) and you shall be responsible to us for the accuracy of such information;



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- 3.1.4 at your own expense keep copies of all information provided to us (and therefore we shall not be liable for any loss of such information);
 - 3.1.5 allow us access to your premises, data or personnel and use of such equipment which may be necessary for us to deliver the Services and/or delivery and installation of the Equipment.
 - 3.1.6 ensure that your premises are safe for us to enter and work within when delivering the Services and/or delivering and installing the Equipment;
 - 3.1.7 comply with all applicable laws and regulations with respect to your activities under this Agreement;
 - 3.1.8 ensure that the Authorised Users use the Data Services in accordance with the terms of this Agreement and shall be responsible for any Authorised User's breach of this Agreement;
 - 3.1.9 obtain and shall maintain all necessary licences, consents, and permissions necessary for us, our contractors and agents to perform their obligations under this Agreement, including without limitation the Data Services;
 - 3.1.10 ensure that your network and systems comply with the relevant specifications provided to you by us from time to time;
 - 3.1.11 be solely responsible for procuring and maintaining its network connections and Communication Links, and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to your network connections or Communication Links or caused by the internet;
 - 3.1.12 acknowledge that we and/or our licensors own all intellectual property rights in the Data Services. Except as expressly stated this Agreement does not grant you any rights to, or in, patents, copyright, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the Data Services;
 - 3.1.13 perform a full test of the System not less frequently than fortnightly, and promptly notify us of any issues that arise from such a test.
- 3.2 You shall be responsible for ensuring the accuracy of the terms of any order and that any specifications shall meet all your requirements and shall be suitable for any purpose for which the Equipment and/or Services are required by you. You shall also be responsible for giving us necessary information relating to the Equipment and/or Services within a sufficient time to enable us to perform this Agreement in accordance with its terms. The time for delivery shall be extended by a reasonable period if delay is caused to us by instructions or lack of instructions from you, or by any delay by you in performing all or any of your responsibilities as set out in the Order Form. We shall be entitled to make additional charges to the Price:
- 3.2.1 if it is necessary to make modifications to the specifications provided by you to us; and/or
 - 3.2.2 if we in our discretion deliver any element of your responsibilities as set out in the Order Form where you have not delivered such responsibilities either properly or timely, and we shall tell you of the additional charges that you shall be required to pay.



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3.3 In respect of Data Services:

- 3.3.1 You shall neither access, store, distribute or transmit any Viruses, nor any material during the course of your use of the Data Services that:
- 3.3.1.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;
 - 3.3.1.2 facilitates illegal activity;
 - 3.3.1.3 depicts sexually explicit images;
 - 3.3.1.4 promotes unlawful violence;
 - 3.3.1.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or
 - 3.3.1.6 is in a manner that is otherwise illegal or causes damage or injury to any person or property;
- and we reserve the right, without liability or prejudice to our other rights, to disable your access to any material that breaches the provisions of this clause.
- 3.3.2 You shall not except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:
- 3.3.2.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of any software provided by us (as applicable) in any form or media or by any means;
 - 3.3.2.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of such software;
 - 3.3.2.3 access all or any part of the Data Services in order to build a product or service which competes with the Data Services;
 - 3.3.2.4 use the Data Services to provide services to third parties;
 - 3.3.2.5 licence, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Data Services available to any third party except the Authorised Users, or
 - 3.3.2.6 attempt to obtain, or assist third parties in obtaining, access to the Data Services.
- 3.3.3 You shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Data Services and, in the event of any such unauthorised access or use, promptly notify us.
- 3.3.4 You are solely responsible for assessing and determining the suitability of the Data Services for your purposes, including in respect of the type of data stored on the Data Services, and the actions that are appropriate for maintaining the security, protection and back-up that you wish to achieve. We shall maintain appropriate physical security controls at our premises in respect of the storage of your data.



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- 3.3.5 Without limiting the provisions of clause 3.3.4, we shall have no obligation in respect of:
 - 3.3.5.1 the provision of security controls or back-ups of your data other than as expressly stated in this Agreement;
 - 3.3.5.2 the encryption of any of your data; and/or
 - 3.3.5.3 any checks, periodic or otherwise, on the integrity of your data or back-up data.
- 3.3.6 You shall not perform any form of penetration testing on your environment without obtaining our prior approval.
- 3.3.7 You shall own all right, title and interest in and to all of your data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of your data.
- 3.3.8 If there is any loss or damage to your data, your sole and exclusive remedy shall be for us to use reasonable commercial endeavours to restore the lost or damaged data from the latest back-up of such data maintained by us. We shall not be responsible for any loss, destruction, alteration or disclosure of your data caused by any third party (except those third parties sub-contracted by us to perform services related to your data maintenance and back-up).
- 3.4 We will ask you from time to time to confirm your acceptance of the Services and/or Equipment (or elements of either) by completing the relevant "satisfaction acceptance" form provided by us. You agree to respond to such request promptly. If you do not confirm your acceptance as requested or raise in writing any issues with us within 7 days' of the date of our written request, acceptance of the relevant Services and/or Equipment to which such request relates shall be deemed given by you.

4. Price and Payment

4.1 Payment

- 4.1.1 You must pay our charges for the Services and Equipment as agreed in writing between us. Unless otherwise expressly agreed in writing between us, or as varied in accordance with the terms of this Agreement (including under clauses 3.2 or 4.7), the charges and times for payment will be as specified in the Order Form. If no time for payment is specified in the Order Form, payment shall be due within 30 days of the date of our invoice.
- 4.1.2 If you enter into (or intend to enter into) a Lease Agreement for all or part of the Equipment and/or Services, you shall promptly and fully comply with all obligations on your part in respect of the creation and commencement of such Lease Agreement.
- 4.1.3 If such Lease Agreement does not commence within 5 working days of our completion of installation of any Equipment, the payment terms as set out in the Order Form shall be varied and the full amount shall be immediately due and payable by you for the Equipment so installed and our Services provided to that date.
- 4.1.4 Unless agreed otherwise, all our charges are exclusive of any applicable value added or other tax.
- 4.1.5 We reserve the right to suspend the Services if our charges are overdue for payment by you.

4.2 The Price is subject to you

- 4.2.1 providing us with reasonable unimpeded access and media and/or power supply to allow us to perform our responsibilities under this Agreement;
- 4.2.2 using the Equipment properly and in accordance with its instructions.



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- 4.3 You are responsible for all our call out and labour charges in respect of the Services where attendance at your premises is:
- 4.3.1 on Bank or public holidays or outside our working hours of 8.30am to 5.00pm Monday to Friday (you may also be responsible for such charges at other times, where otherwise agreed);
 - 4.3.2 due to force majeure, misuse, malicious damage or neglect of the Equipment;
 - 4.3.3 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;
 - 4.3.4 caused by the need for specialist access and lifting equipment to carry out the Equipment installation or provide the Services; and/or
 - 4.3.5 caused by damage to the Equipment by third parties.
- 4.4 You shall be responsible for all charges relating to specialist access lifting equipment including Mobile Elevated Work Platforms (MEWP).
- 4.5 You shall ensure that promptly and fully all payments payable under any Lease Agreement (where applicable) are paid, and all other obligations and terms under the Lease Agreement are performed and complied with by you.
- 4.6 Unless we have expressly agreed with you to the contrary for a defined period of time, we reserve the right to increase all payments due under this Agreement in respect of the Services at any time by giving to you not less than 30 days' written notice.
- If as a result of such increase you wish to terminate the Agreement, and you give notice to terminate within 30 days of the date of our notice of increase, then throughout that notice period the current level of charges shall apply and the increase shall not take effect
- 4.7 We reserve the right to increase the Price to reflect any increase in our cost due to any change in delivery dates, quantities or specifications of the Equipment, the Services or any delay caused by your instructions or your failure to give us adequate information or instructions (as the case may be). You shall also be liable for any additional costs incurred by us in order to deliver the Services or install or deliver the Equipment that were not explained by you to us when we fixed the price (e.g. mandatory on-site health and safety training).
- 4.8 If there shall be any problem with a part of the installation or Equipment you may only withhold payment in respect of that part only and not withhold payment of the whole price.

4.9 Fixed Term Service Agreements

- 4.9.1 Where we agree in our Order Form to provide Services for a fixed term at a fixed price, we shall only be entitled to increase the charges for such Services during that fixed term as expressly provided for in the Order Form. For the avoidance of doubt, this shall exclude any increase as a result of changes in value added or other applicable tax, or changes in any third party costs payable by us for any element(s) of the Services.
- 4.9.2 If a fixed price is agreed by us, you accept and agree that we shall be entitled to increase that fixed price to remove the agreed discount to our standard charges (or if no discount was quoted, to increase the prices to our standard charges) if this Agreement for the Services is terminated before the end of the fixed term for any reason. In the event of such an early termination, we shall immediately recalculate the charges paid or payable from the Effective Date and invoice you for the shortfall between the fixed price and the undiscounted or standard charges. You shall pay such invoice within 30 days of its date.



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- 4.9.3 The right to increase the charges due from you under clause 4.9.2 shall not apply if the early termination of a fixed term is due to termination by you under clause 11.2 as a result of our material breach.

5. Services

- 5.1 Unless otherwise agreed the Services do not cover malfunctions of parts or attachments which are not supplied by us or which are supplied by us but have been altered or modified by you or a third party.
- 5.2 The Services do not cover consumable items which will be charged at our prevailing prices.
- 5.3 The Services explicitly do not cover the replacement of network video recorder (NVR) servers, work stations or pro cameras, beyond the manufacturer's standard warranty period (unless you have valid All Inclusive Service Agreement cover with us, in which case the terms of the All Inclusive Service Agreement will prevail in this regard).
- 5.4 It is your responsibility to tell us that you wish to change the location of the Equipment and/or your receipt of our Services, and you must obtain our consent to any such change of location. Any necessary alterations may require a change in our charges, and we will tell you of the changes. Any costs arising from the change of location will be charged at our prevailing rates.
- 5.5 We shall in providing the Monitoring Services comply with the relevant requirements of any NSI codes of practice for System monitoring and the current NPCC policy.
- 5.6 We shall take reasonable steps to notify you of a signal received from a System in respect of which we are providing Monitoring Services.

6. Service Dependencies

- 6.1 The Communication Links are provided by independent organisations which are not under our control. We do not accept responsibility for any signal or transmission failing to reach us, the monitoring station, the alarm receiving centre, Emergency Services or you because of a failure or other problem with any Communication Link or any liability for any resulting non-performance of the Services.
- 6.2 We shall ensure that all Systems will be compatible with the alarm receiving centre or monitoring station's equipment and be configured to meet its requirements. On receipt of such notice, we shall advise you accordingly. We reserve the right to charge you for any costs involved for any necessary alteration to the configuration of a System.
- 6.3 If there is to be a direct link to the Emergency Services, it is your responsibility to procure and enter into a contract with the Emergency Services in relation to the System. Where the Emergency Service issues a unique reference number (URN) to the System, we shall be under no obligation to alert the Emergency Service to signals from places where the URN has not been supplied or where the URN has later been withdrawn.
- 6.4 Neither we nor the alarm receiving centre nor the monitoring station guarantees to you that the Emergency Services will respond promptly or at all to any notifications received from the alarm receiving centre or monitoring station or other signal from us. None of us shall have any liability to you if the Emergency Services fail to respond. If we, the alarm receiving centre or monitoring station is advised by Emergency Services that they may not pass signals from a System to the Emergency Services, then we, the alarm receiving centre or monitoring station will have no obligation to you to notify the Emergency Services.
- 6.5 You shall ensure that the use of the System is in accordance with all applicable laws.
- 6.6 For the avoidance of doubt, we can only advise you or the Emergency Services of an incident; we cannot prevent such incident from taking place. Furthermore, we are not responsible for the interpretation of what is happening in an incident.



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- 6.7 Our engineers must have unobstructed access to all relevant working areas and be allowed continuous and uninterrupted working. Whilst we will make all reasonable efforts to coordinate and work with other suppliers and you, any delays or interruptions caused by you or such third parties may result in additional charges being made by us to you.
- 6.8 We do 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 us. If extra work arises because additional items of equipment are needed or re-cabling is required, then we reserve the right to charge you accordingly.

7. Intellectual Property

- 7.1 We warrant to you that no material will be provided by us as part of the Services which infringes any third-party Intellectual Property rights. You warrant to us that no material will be provided by you to us for use in the Services which infringes any third-party Intellectual Property rights.
- 7.2 If a claim for the infringement of third-party Intellectual Property Rights is made or threatened against either party in connection with material provided by it under this Agreement, the other party shall indemnify such party against any and all costs, expenses, damages or other losses suffered or payments made by it in connection with the claim and any associated judgment or settlement.

8. Extent of Liability

- 8.1 Nothing in this Agreement shall be construed as restricting or excluding the liability of either party for death or personal injury resulting from its negligence or for fraud or fraudulent misrepresentation.
- 8.2 Subject to the immediately preceding sub-clause, we shall be liable to you under this Agreement in respect of all direct loss or damage caused by our acts or omissions or those of our employees, agents or sub-contractors, other than Excluded Loss (whether or not the possibility of such loss arising on a particular breach of contract or duty has been brought to our attention at the time of making this Agreement). In this clause the expression "**Excluded Loss**" means all special loss and all third-party claims, lost management time, economic loss or other loss of business, production, revenue, profit, goodwill or anticipated savings, anticipated tax mitigation, or loss of data, in each case whether arising in contract, tort (including negligence), breach of statutory duty or otherwise.
- 8.3 Our liability to you under this Agreement, whether in respect of breach of contract, tort (including negligence), breach of statutory duty or otherwise, shall in no event exceed in total the greater of 100% of the sums paid by you in the preceding 12 months or £100,000.
- 8.4 For the avoidance of doubt, in no event shall either party be liable to the other for any indirect or consequential loss of any nature and howsoever caused.
- 8.5 The price for the Order and the Services has been quoted and agreed commercially on the basis of our liability to you as set out in these terms. We do not guarantee that the Equipment and Services will prevent or protect against occurrences of criminal and malicious intent.

9. Risk and Property

- 9.1 Risk of damage to, or loss of, the Equipment shall pass to you at the time of its delivery to you.
- 9.2 Notwithstanding installation and the passing of risk in the Equipment to you the ownership of the Equipment shall not pass to you until we have received payment of the Price in full together with payment which is due for any other equipment or services agreed to be supplied by us to you.
- 9.3 Until such time as the property in the Equipment passes to you, you shall hold the Equipment as bailee for us and shall keep it properly protected and identified as our property.



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- 9.4 Until such time as the ownership of the Equipment passes to you and provided the Equipment is still in existence and has not been resold, we shall be entitled at any time to require you to deliver up the Equipment to us. If you fail to do so immediately, we can enter upon your premises or any of a third party where the Equipment is stored and repossess it.

10. Warranties and Liabilities

- 10.1 Except where you are dealing as a consumer (as defined in the Unfair Agreement Terms Act 1977 section 12) all warranties, terms relating to satisfactory quality or condition of the Equipment and whether implied by statute or common law or otherwise are excluded.
- 10.2 We may from time to time make changes to the Specification to ensure compliance with any applicable safety or statutory requirements.
- 10.3 Where the Equipment (or any part of it) is shown to our reasonable satisfaction to be defective by reason of faulty materials (other than those supplied by you), workmanship or design (other than a design made furnished or specified by you) we shall at its sole discretion:

10.3.1 refund to you the price of such Equipment; and/or

10.3.2 require you to retain the Equipment and grant to you a reasonable allowance in respect of such defects; provided that you notify us in writing detailing the alleged defects within seven days of the date when you reasonably became aware of it and in any event within a period of twelve calendar months from the date the Equipment was installed.

We 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.

- 10.4 We 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 our instructions (whether oral or in writing), misuse, alteration or repair of the Equipment without our approval.

11. Termination

- 11.1 Other than in respect of installation services, either we or you shall be entitled to terminate this Agreement at any time by giving to the other not less than 3 months' written notice, provided that where the Services are maintenance services only, the period of notice shall be not less than 1 month. For the avoidance of doubt, no notice of termination may be given in respect of installation services under this clause 11.1.
- 11.2 Either we or you shall be entitled to terminate this Agreement immediately by written notice to the other if the other commits any material breach of this Agreement and, in the case of a breach capable of remedy, fails to remedy it within 21 days after receipt of a written notice giving full details of the breach and requiring it to be remedied.
- 11.3 Either of us can also terminate this Agreement if the other is the subject of a bankruptcy order (or the equivalent in any other jurisdiction) or the other becomes insolvent or make any arrangement or composition with, or an assignment for the benefit of, its creditors or if any of its assets are the subject of any form of seizure. If either of us is a company, the other can terminate this contract forthwith if the first party goes into liquidation, either voluntary or compulsory, or if a receiver or administrative receiver or administrator is appointed.
- 11.4 For the avoidance of doubt, termination shall at all times remain subject to the provisions of clause 4.9 above.



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12. Confidentiality

- 12.1 Each party shall keep secret and treat as confidential all information obtained from the other which is either stated to be confidential or could reasonably be regarded as confidential and shall not disclose such information to any person other than its employees, agents or sub-contractors where such disclosure is required for the performance of the party's obligations under this Agreement.
- 12.2 This clause shall not extend to information which was already in the lawful possession of a party before this Agreement or which is already in the lawful possession of a party before this Agreement or which is already public knowledge or becomes so subsequently (other than as a result of a breach of this clause) or which is trivial or obvious. The obligations of confidentiality under this clause shall continue after the end of this Agreement.

13. Data Protection

13.1 Definitions

"Data Protection Legislation" means all legislation and regulatory requirements in force from time to time applicable to the parties and relating to the use of personal data and the privacy of electronic communications, including, without limitation:

- (i) the Data Protection Act 2018; and
- (ii) the UK General Data Protection Regulation (UK GDPR); and
- (iii) any successor legislation to either the DPA or the UK GDPR and any other applicable laws and regulations relating to the processing of personal data and privacy. Union has legal effect in the UK).

"Personal Data", **"Data Controller"**, **"Data Processor"**, **"Data Subject"** and **"Process"** are as defined in the Data Protection Legislation.

- 13.2 We shall both at all times during the term of this Agreement comply with all applicable requirements of the Data Protection Legislation in relation to the Processing of Personal Data.
- 13.3 You will ensure that you have all necessary appropriate consents and notices in place to enable the lawful transfer of the Personal Data to us and the Processing of the Personal Data by us (or any of our authorised sub-processors) for the purposes of this Agreement.
- 13.4 Where we are acting as a Processor for you, the following clauses 13.5 to 13.17 shall apply.
- 13.5 Where we are Processing Personal Data on your behalf in performing the obligations under this Agreement, you shall be the Data Controller and we shall be the Data Processor. You shall be solely responsible for determining the purposes for which and the manner in which such Personal Data is Processed. However, we shall further be authorised to Process the Personal Data if it is required so to do by the laws of the UK ("Applicable Laws"). Where we rely on laws of the UK as the basis for Processing Personal Data, we shall promptly notify you of this before performing the Processing required by the Applicable Laws unless those Applicable Laws prohibit us from so notifying you.
- 13.6 Where required to do so by Data Protection Legislation, we will maintain a written log of all Processing of Personal Data performed by us on your behalf and provide you with a copy of such log on request.

The written log shall include the following information:

- 13.6.1 the categories of recipients to whom Personal Data have been or will be disclosed;
- 13.6.2 a list of any transfers of Personal Data to a third party outside the UK (including the name of the relevant non-UK country and organisation), and documentation of the suitable safeguards in place for such transfers. For the avoidance of doubt, all such transfers are subject always to your consent in accordance with this Agreement; and



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13.6.3 a general description of the technical and organisational security measures referred to in this Agreement.

13.7 Where we Process Personal Data on your behalf, we shall, in respect of such Personal Data:

13.7.1 not access or use Personal Data except as necessary to provide the Services, and then only as reasonably necessary for the performance of this Agreement;

13.7.2 act strictly in accordance with this Agreement and on your written instructions received from time to time;

13.7.3 comply promptly with any request from you to amend, delete or transfer Personal Data;

13.7.4 not disclose Personal Data to any employee, director, agent, contractor or affiliate of ours ("our Personnel"), or any third party, except as necessary for the performance of the Services, or to comply with applicable laws, or with your prior written consent;

13.7.5 implement and maintain appropriate technical and organisational measures:

13.7.5.1 to protect the security and confidentiality of Personal Data Processed by us in providing the Services;

13.7.5.2 to protect Personal Data at all times against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure, access or Processing; or

13.7.5.3 as required under Data Protection Legislation.

13.7.6 notify you of any request made by a Data Subject under Data Protection Legislation in relation to or in connection with Personal Data Processed by us on your behalf and will at all times cooperate with and assist you to execute your obligations under the Data Protection Legislation in relation to such Data Subject requests;

13.7.7 Process the Personal Data in accordance with the specified duration, purpose, type and categories of Data Subjects as notified by you to us.

13.8 We shall within 24 hours, or earlier if reasonably practicable, of becoming aware, notify you in writing of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data. The notice provided must specify:

13.8.1 the categories and number of the individuals and the records concerned;

13.8.2 the likely consequences of the breach;

13.8.3 any steps taken to mitigate and address the breach;

13.8.4 specify an appropriate point of contact within our company who you can contact about the breach.

We must promptly give you the detail you request to allow you to understand the impact of the breach. We will promptly comply with any instructions provided by you, and cooperate with you, in relation to the data breach.



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- 13.9 If we wish to use for or permit a third party to Process Personal Data, we shall tell you of that proposed appointment, including details of the relevant Processing. If within 5 working days you tell us in writing of any objection to that appointment, we shall take reasonable steps to address the objections raised by you. If you have been provided with a reasonable explanation of the steps taken to address the objection or why the objections are unfounded, we shall be entitled to proceed with such appointment. We will ensure that there is a written contract with the third party which contains terms for the protection of Personal Data which are no less protective than the terms set out in this Agreement.
- 13.10 We shall not, and shall procure that our subcontractors shall not, transfer or Process, any Personal Data outside the UK without your prior written consent. You shall notify us of the reasonable terms you would require for your consent to be given.
- 13.11 We shall provide you with such reasonable assistance as you require in relation to any complaints made by Data Subjects or investigations or enquiries made by any regulator or supervisory authority relating to you or our obligations under the Data Protection Legislation.
- 13.12 In relation to Personal Data Processed by us under this Agreement, we shall co-operate with you to the extent reasonably necessary to enable you to adequately discharge your responsibility as a data controller under Data Protection Legislation (including in respect of the preparation of data protection impact assessments).
- 13.13 You shall have the right to audit us and relevant records and materials as necessary to demonstrate our compliance with our obligations under this Agreement and Data Protection Legislation. At any time we will co-operate fully to allow and assist such audits, including on-site inspections of our business premises or processing facilities, conducted by you or your auditor.
- 13.14 We will tell you immediately if we are asked to do something which might infringe the Data Protection Legislation.
- 13.15 We shall ensure that any of our Personnel with access to Personal Data are both bound by confidentiality obligations in respect of access, use or processing of such Personal Data, and have received appropriate training.
- 13.16 At your request, we shall provide a copy of all Personal Data held by us in the format and on the media reasonably specified by you.
- 13.17 On termination or expiry of this Agreement, at your request, we shall delete or return to you all Personal Data processed by us on your behalf, and we shall delete existing copies of such Personal Data except where necessary to retain such Personal Data strictly for the purposes of compliance with UK Laws applicable to us.
- 13.18 We shall each be responsible for bearing the costs of our obligations under this Agreement in relation to this clause 13.
- 13.19 We will each agree to any reasonable amendment to this Agreement required to bring it into line with any amendment to or re-enactment of any Data Protection Legislation, or to allow each of the Parties to comply with any requirement or recommendation of the Information Commissioner in relation to the Processing of Personal Data.

14. Force Majeure

Neither party shall be liable for any breach of this Agreement caused by matters beyond its reasonable control, including, but not limited to, Acts of God, fire, lightning, explosion, war, disorder, flood, industrial disputes (whether or not involving a party's employees), failures or interruptions of electricity supplies, weather of exceptional severity or acts of local or central government or other authorities.



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15. General

- 15.1 The terms of this Agreement represent the entire agreement between the parties and supersede any previous agreement (whether recorded in writing or otherwise).
- 15.2 Any notice required or permitted to be given by either party to the other under this Agreement shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may have been notified to the party giving the notice.
- 15.3 No waiver or any amendment to these terms shall be effective unless in writing and signed by both you and us.
- 15.4 A person who is not a party to these terms may not enforce any of them under this Agreements (Rights of Third Parties) Act 1999.
- 15.5 If any dispute arises out of these terms we will both attempt to settle it by negotiation in good faith. If the matter is not resolved by negotiation, the parties will refer it to mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure. (See www.cedr.co.uk). Unless otherwise agreed, the mediator shall be appointed by CEDR. If the parties fail to agree terms of settlement within 42 days of the start of the first meeting held under such procedure, the dispute may be referred to litigation by either party.
- 15.6 This Agreement shall be governed by the laws of England and we both agree to submit to the exclusive jurisdiction of the English Courts.