

SERVICE PLAN AGREEMENT

Terms & Conditions

INTERPRETATION

1.1 In these conditions, the following words have the following meanings:

“Commencement Date”: the date(s) specified in the Service Plan Agreement in respect of each of the Services as the date(s) on which those Services shall commence;

“Customer”: the person, firm or company for whom the Supplier has agreed to provide the Services;

“Minimum Contract Period”: in respect of each of the Services, the minimum contract period specified in the Service Plan Agreement;

“Normal Working Hours”: means the hours of 9 am to 5 pm (inclusive) on any day [other than Saturday or Sunday or a Bank or Public Holiday];

“Premises”: the premises at which the System is installed, as specified in the Service Plan Agreement or otherwise agreed in writing by the Supplier;

“Service Plan Agreement”: the contract between the Supplier and the Customer, which incorporates these conditions;

“Services”: preventative and corrective repair and maintenance services, security monitoring and any associated services specified (where applicable) in the Service Plan Agreement;

“Supplier”: Crime Prevention Services;

“System”: the system for which the description and location are specified in the Service Plan Agreement.

1.2 The headings in this agreement are for convenience only and shall not affect its interpretation.

2 SERVICES TO BE PROVIDED

2.1 During the period of the Service Plan Agreement the Supplier shall provide the Customer with the Services in respect of the System.

2.2 Preventative maintenance and corrective maintenance will be provided in accordance with the frequency and number of visits specified in the Service Plan Agreement (with an allowance of 30 days either way) which will depend upon the level of service selected. If the Service Plan Agreement does not specify the frequency and/or number of visits, routine maintenance visits will be provided at such intervals as the Supplier may reasonably determine to be necessary in order to keep the System in good working order. This may include a maximum of 1 preventative maintenance per 12 month period being undertaken remotely by a competent operative

2.3 Preventative maintenance shall comprise: (a) The routine inspection and testing by the Supplier of each part of the System in accordance with the manufacturer’s recommendations; which may be completed remotely by a suitably competent operative, and (b) The carrying out by the Supplier of such repairs, replacement of parts, cleaning or adjustment of each part of the System as the Supplier shall judge necessary as a result of the said inspection and testing.

2.4 Corrective maintenance shall comprise: (a) Upon receipt of a request from the Customer, the inspection, testing and diagnosis by the Supplier of any fault reported in the System; and (b) The carrying out by the Supplier of such repairs, replacement of parts, cleaning or adjustment as the Supplier shall judge necessary to remedy the fault.

2.5 Preventative maintenance and corrective maintenance shall not include the correction of any fault due to: (i) Wilful damage or negligence (other than by the Supplier); (ii) Abnormal working conditions; (iii) Failure to follow the Supplier’s instructions (whether oral or in writing); (iv) Misuse, alteration, repair or interference with the System or the Services without the Supplier’s approval; (v) Relocation or removal of the System (including any part of it) by the Customer; (vi) Structural alterations to the Premises or changes to the telephone line (or other signalling path) to which the System is connected; (vii) Interference with or blockage by the Customer of beams from the System; (viii) Insufficient lighting at the Premises; or (ix) Any accident or disaster affecting the System including, without limitation, fire, flood, water, wind, lightning, storm, acts of God, insects, animals or vermin, or vandalism.

2.6 With the agreement of the Supplier, the Customer may elect for a visit or visits within condition 2.5 to be substituted for a contracted visit included within condition 2.2.

2.7 Corrective maintenance and preventative maintenance shall not include the correction of any fault which is not notified to the Supplier within 28 days of the date when it came to the notice of or ought reasonably to have been noticed by the Customer.

2.8 If the Supplier makes any visits or provides any services which are not included under the Service Plan Agreement, including any visits which are not substituted for a contracted visit under condition 2.6, the Supplier shall be entitled to charge for the same on a time and materials basis at its then prevailing rates.

2.9 The monitoring service (where applicable under the Service Plan Agreement and ARC Summary of Service) shall comprise: Processing of successfully transmitted signals received by the Supplier’s Alarm Receiving Centre, but shall not include: (a) Responsibility for identifying whether people on site are employees or intruders; (b) Responsibility for any non-attendance of the emergency service(s); (c) Responsibility for keyholder contact beyond the Supplier’s Summary of Service parameters; (d) Consequential responsibility for any unsuccessful setting operation of the System; (e) Responsibility for any misoperation of third party or auxiliary inter-connecting equipment; (f) Responsibility, in the case of video transmission systems, for identifying any incident or event where the scene illumination is inadequate or where obstruction to any field of detection or view is impaired through the actions of others at the Premises.

2.10 Routine maintenance of the System shall be carried out by one of the Supplier’s suitably qualified and duly authorised representatives at such times during Normal Working Hours as may be agreed in advance between the Supplier and the Customer from time to time. The routine maintenance may be undertaken remotely where deemed appropriate by the Supplier.

2.11 Except as expressly provided in the Service Plan Agreement or as agreed between the parties in writing, the Supplier shall have no obligation to provide any services to the Customer outside Normal Working Hours.

3 SPARE PARTS AND REPLACEMENTS

3.1 The Supplier shall use all reasonable endeavours to supply spare parts and replacement components required to maintain the System in good working order. Where the Service Plan Agreement specifies free replacement of defective parts, no extra charge will be made for the supply. If, however, the System is damaged otherwise than by fair wear and tear (which shall be judged by the Supplier) or the Service Plan Agreement does not specify free replacement of defective parts, the Supplier reserves the right to charge the Customer for the supply. Where the Service Plan Agreement specifies free replacement of defective spare parts, the Customer shall be entitled to free replacement in accordance with these conditions for the first 12 months immediately following the date of the System’s installation.

3.2 All spare parts and replacement components supplied by the Supplier shall become part of the System and any parts and components removed from it shall become the Supplier’s property, unless otherwise agreed in writing between the parties.

4 CUSTOMER’S OBLIGATIONS

4.1 The Customer shall:

4.1.1 at all times keep the System in the environmental conditions recommended by the manufacturer of the System and/or by the Supplier;

4.1.2 not move the System from the Premises without obtaining the prior written consent of the Supplier;

4.1.3 use the System only in accordance with such instructions and recommendations relating to the care and operation of the System as may be issued by the manufacturer of the System or as may from time to time be advised in writing by the Supplier, including without limitation, ensuring there is sufficient lighting at the Premises and that there is no interference with or blockage of beams from the System; and

4.1.4 not allow any person other than the Supplier’s representatives to adjust, maintain, repair, replace or remove any part of the System.

4.2 The Customer shall ensure that the Supplier's representatives have full and free access to the System and to any records of its use kept by the Customer to enable the Supplier to perform its duties.

4.3 The Customer shall provide adequate power, lighting, heating, water, telephone lines and/or communication paths and other such facilities or supplies as the Supplier shall reasonably require in order to perform the Services.

4.4 The Customer shall provide the Supplier with such information concerning the System, its application, use, location and environment as the Supplier may reasonably request to enable it to carry out its duties.

4.5 The Customer shall take all such steps as may be necessary to ensure the safety of any of the Supplier's representatives who visit the Premises.

5 CHARGES

5.1 In consideration of the Services, the Customer shall pay to the Supplier the charges set out in the Service Plan Agreement. Such charges shall be payable on the dates and at the frequency specified in the Service Plan Agreement. If the Customer opts for payments in monthly instalments, the Customer must agree to the Supplier's payment terms of monthly instalments only being available via monthly direct debit.

5.2 The Customer shall pay for any services provided by the Supplier, which are not included in the Services within 30 days after the receipt of the Supplier's invoice in respect of such additional services.

5.3 If the Service Plan Agreement provides for payments in instalments and the Customer cancels its direct debit instruction or the direct debit instruction is otherwise withdrawn, payment of the charges in respect of the Services shall become due and payable annually in advance, and the Customer shall immediately upon request pay any outstanding charges in respect of the Services for the current year.

5.4 If the Customer requests the Supplier's services without any reasonable justification, or requires the Supplier to repair a defect in or malfunction of the System which is due to causes not covered under the Service Plan Agreement, the Customer shall be liable to pay the Supplier's standard charges from time to time in force for such services.

5.5 The Supplier's charges shall be increased annually by a percentage equivalent to the increase (if any) for the 12 months preceding that anniversary shown by the General Index of Retail Prices published by the Office for National Statistics.

5.6 The Supplier's charges shall be reviewed by the Supplier from time to time and may (in addition to any increases under condition 5.5) be increased by the Supplier by giving not less than 30 days' notice in writing to the Customer to reflect any increases in the cost to the Supplier of providing the Services, such as, without limitation, increases in network charges, or legislative charges.

5.7 The Supplier's monitoring fees may be increased from time to time if the level of activity or associated service levels increase or exceed the service levels anticipated at commencement of the Services, including (without limitation) as a result of regulatory changes introduced by the police or by the Supplier's industry regulators.

5.8 All charges and other sums payable by the Customer under the Service Plan Agreement are exclusive of any applicable value added tax, which shall be additionally payable by the Customer together with the charge or the sum in question.

5.9 If the Customer fails to pay on the due date any amount which is payable to the Supplier pursuant to the Service Plan Agreement then, without limiting the Supplier's other rights and remedies under these conditions, that amount shall bear interest from the due date until payment is made to the Supplier (both before and after any judgment) at 3% per annum above the base lending rate from the Bank of England or Lloyds TSB plc from time to time.

5.9.1.1 Other Charges - Supplier hereby advises its entitlement to apply, under Section 5.5 above, its annual price increase on other charges (network charges excluded) under this Agreement, being 5 % or the Retail Price Index, whichever is the higher.

6 SUPPLIER'S WARRANTY

6.1 The Supplier warrants and undertakes to the Customer to perform the Services with reasonable care and skill.

6.2 The Supplier shall use its reasonable endeavours to extend to the customer the benefit of any warranty or guarantee, which has been given by the manufacturer to the Supplier in respect of any replacement parts supplied under the Service Plan Agreement.

6.3 The Supplier does not warrant that the Services will cause the System to operate without interruption or error.

6.4 If the Customer establishes to the Supplier's reasonable satisfaction that any part of the Services has not been performed with reasonable care and skill, then the Supplier shall within a reasonable time re-perform such services.

6.5 The Warranties set out in these conditions are the only warranties which shall be given by the Supplier and except where the Customer is dealing as a consumer (as defined in the Unfair Contract Terms Act 1977 and/or the Consumer Rights Act 2015) all warranties conditions and other terms implied by statute or common law in respect of the performance by the Supplier of the Services are to the fullest extent permitted by law excluded from the Service Plan Agreement. Where the Customer is dealing as a consumer, nothing in these terms and conditions shall affect the Customer's statutory rights.

6.6 Nothing in this condition 6 or in condition 3.1 shall prejudice the terms of any express written extended warranty provided by the Supplier to the Customer in respect of the System in return for additional payment.

7 LIMITATION OF LIABILITY

7.1 The following provisions set out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of: (a) Any breach of these conditions; and (b) Any representation, statement or tortious act or omission including negligence arising under or in connection with the Service Plan Agreement.

7.2 Nothing in these conditions excludes or limits the liability of the Supplier for death or personal injury caused by the Supplier's negligence or fraudulent misrepresentation.

7.3 Subject to condition 7.2: (a) The Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Service Plan Agreement shall be limited in respect of any one event or series of connected events to the charges payable by the Customer for the affected Services for that year; and (b) The Supplier shall not be liable to the Customer for any indirect or consequential loss or damage (whether for loss of profit, loss of business, loss of data, depletion of goodwill or otherwise), costs, expenses or other claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with the Service Plan Agreement.

7.4 It shall be the Customer's responsibility to insure the Premises and the Customer's property in respect of any loss or damage caused in the course of performance of the Services, and to maintain public liability insurance in respect of any loss, damage or injury caused to the Supplier and/or its employees and sub-contractors whilst performing the Services at the Premises.

7.5 The Customer acknowledges that the System and/or Services provided by the Supplier are, at most, an aid to security. The Customer further acknowledges that the Supplier does not give any warranty or guarantee that the System and/or Services will deter, prevent or restrict the incidents or criminal acts against the Premises. Although the monitoring service, where provided, is designed to the best of the Supplier's skill and knowledge to reduce the risk of loss or damage or to deter intruders the Supplier does not represent or warrant that the monitoring service and/or System will be incapable of being neutralised circumvented or otherwise rendered ineffective by the Customer intruders or other unauthorised persons.

7.6 The Customer acknowledges in instances where the System and monitoring services relate to external security surveillance that the detection devices may have blind spots and do not guarantee full cover of every single activity at the Premises and that there are circumstances when the detection device may miss activities particularly at night given shadow and low lighting and the Supplier shall not be liable for such failure. The Customer further acknowledges that the activation of detection devices does not necessarily mean that the cause of activation can be seen and that the effectiveness of the monitoring service is limited

7.7 by the configuration of the System and any associated equipment on the Premises.

8 DURATION AND TERMINATION

8.1 The Service Plan Agreement shall apply to each of the Services from the respective Commencement Dates, and subject to conditions 8.2 and 8.3 shall continue in respect of each of the Services for the Minimum Contract Period from the relevant Commencement Date. Upon the expiry of the Minimum Contract Period, the Service Plan Agreement shall automatically revert to a Maintenance Only C Type Service Plan Agreement and will continue in respect of the relevant Services on a rolling 12-monthly basis unless or until terminated by either party giving to the other not less than 3 months' prior written notice of termination expiring at the end of the Minimum Contract Period or at the end of any subsequent period of 12 months.

8.2 The Supplier shall be entitled to suspend and/or terminate the Service Plan Agreement (or any part of the Services under it) forthwith by giving written notice to the Customer if any sum payable under the Service Plan Agreement is not paid on the due date.

8.3 The Supplier may forthwith terminate the Service Plan Agreement by giving written notice to the Customer if:

8.3.1 the Customer commits any continuing or material breach of any of the provisions of the Service Plan Agreement and, if a breach is capable remedy, fails to remedy the breach within 14 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

8.3.2 an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Customer an order is made for the appointment of an administrator to manage the affairs, business and property of the Customer or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

8.3.3 the Customer makes any voluntary arrangement with its creditors;

8.3.4 the Customer goes into liquidation (except for the purposes of an amalgamation, reconstruction or other reorganisation and in such manner that the company resulting from the reorganisation effectively agrees to be bound by or to assume the obligations imposed on the Customer under the Service Plan Agreement); or

8.3.5 the Customer ceases, or threatens to cease, to carry on business.

8.4 The rights to terminate the Service Plan Agreement (or any part of the Services) given by these conditions shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

8.5 On the termination of the Service Plan Agreement (or any part of the Services) for any reason, neither party shall have any further obligation to the other under the Service Plan Agreement in respect of those Services terminated except as otherwise provided in these conditions except for rights which have accrued prior to termination.

8.6 On any termination of the Service Plan Agreement (or any part of the Services) pursuant to condition 8.2 or 8.3 prior to the expiry of the Minimum Contract Period, the Customer shall immediately upon demand pay to the Supplier an amount equivalent to one full year's charges for that part of the Services terminated plus 50% of the balance of the total aggregate charges for those Services for the remainder of the Minimum Contract Period.

8.7 Title to all delivered goods remains with the Seller until the Buyer has paid all sums owing to the Seller in connection with the respective Contract and all other obligations of the Buyer towards the Seller arising under or in connection with the respective Contract have been fulfilled.

9 ASSIGNMENT AND SUB-CONTRACTING

9.1 The Customer shall not be entitled to assign, nor shall it purport to assign, the Service Plan Agreement or any of its rights under it without the prior written consent of the Supplier nor shall it sub-contract any or all of its obligations under the Service Plan Agreement without the prior written consent of the Supplier.

9.2 The Supplier may at any time assign the Service Plan Agreement or any of its rights under it to any person, firm or company or sub-contract all or any of its obligations under it.

10 FORCE MAJEURE

The Supplier reserves the right to defer the date of delivery or to cancel the Service Plan Agreement (without liability to the Customer) if it is prevented from or delayed in the carrying on of its business due to circumstances beyond its reasonable control including, without limitation, acts of God, governmental actions, war or national emergency, acts of terrorism, protests, riot, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies from the manufacturer.

11 GENERAL

11.1 Each right or remedy of the Supplier under Service Plan Agreement is without prejudice to any other right or remedy of the Supplier whether under the Service Plan Agreement or not.

11.2 If any provision of the Service Plan Agreement is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Service Plan Agreement and the remainder of such provision shall continue in full force and effect.

11.3 Failure or delay by the Supplier in enforcing or partially enforcing any provision of the Service Plan Agreement will not be construed as a waiver of any of its rights under the Agreement.

11.4 Any waiver by the Supplier of any breach of, or any default under, any provision of the Service Plan Agreement by the Customer will not be deemed a waiver of any subsequent breach of default and will in no way affect to other terms of the Service Plan Agreement.

11.5 The Parties to the Service Plan Agreement do not intend that any term of the Service Plan Agreement will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

11.6 English law shall govern the formation, existence, construction, performance, validity and all aspects of the Contract and the parties submit to the exclusive jurisdiction of the English courts.

12 COMMUNICATIONS

12.1 All communications between the parties about the Service Plan Agreement must be in writing: (a) (In case of communications to the Supplier) to its registered office or official email address as shall be notified to the Customer by the Supplier; or (b) (In the case of the communications to the Customer) to the registered office of the addressee (if it is a company) or (in any other case) to any address of the Customer set out in any document which forms part of the Service Plan Agreement or such other address as shall be notified to the Supplier by the Customer.

12.2 Communications shall be deemed to have been received: (a) If sent by pre-paid first class post, 2 days (excluding Saturdays, Sundays and bank and public holidays) after posting (exclusive of the day of posting); (b) If delivered by hand, on the day of delivery; (c) If sent by email on a working day prior to 4.00 pm, at the time of transmission and otherwise on the next working day.

13 GDPR & DATA PROTECTION

The UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.