

ABBAY FIRE & SECURITY LTD TERMS AND CONDITIONS OF BUSINESS

SECTION A: CONDITIONS APPLYING TO ALL GOODS AND SERVICES SUPPLIED:

DEFINITIONS AND INTERPRETATION

Definitions

In these Conditions, the following words and phrases have the following meanings:

Business Day: a day other than a Saturday, Sunday or public holiday in England.

Conditions: these terms and conditions as amended from time to time in accordance with Clause 15.8, including Sections A, B and C (as applicable) and any additional terms set out in a Quotation. In the event of any conflict or ambiguity between the terms set out below and any additional terms set out in a Quotation, the Quotation shall take priority.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or Services in accordance with these Conditions.

Customer: the person or firm which purchases the Goods and/or Services from the Supplier.

Deliverables: the deliverables set out in the Order (if applicable).

Force Majeure Event: any event or circumstance which is beyond the reasonable control of the affected party, including, but not limited to, flood, lightning, subsidence, terrorist act, fire or war, failure or shortage of power supplies, industrial action of any kind (not involving the employees of the affected party), the actions of any governmental, regulatory, judicial or statutory authority or the actions of any of the emergency services.

Goods: the goods (or any part of them) set out in the Order or any other goods (including spare parts) which are provided by the Supplier to the Customer in the course of providing the Services.

Goods Specification: the specification for the Goods (if any) that is provided by the Supplier to the Customer in the Quotation.

Order: the Customer's order for the Goods and/or Services, as set out in a purchase order form or as evidenced by the Customer's written acceptance of the Quotation.

Quotation: the quotation provided by the Supplier to the Customer setting out the details of the Goods and/or Services to be provided under the Contract and the charges payable by the Customer for such Goods and/or Services.

Services: the services, including any Deliverables, to be supplied by the Supplier to the Customer as set out in the Service Specification. **Service Specification:** the description or specification for the Services (if any) that is provided by the Supplier to the Customer in the Quotation. **Supplier:** Abbey Fire & Security Ltd registered in England and Wales with company number 7045599 and/or any of its subsidiaries.

Interpretation

1.2.1 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 A reference to a statute or statutory provision is a reference to it as amended or reenacted. A reference to a statute or statutory provision includes all

1.2.3 subordinate legislation made under that statute or statutory provision.

A reference to one gender shall include a reference to all genders.

BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Supplier communicates acceptance to the Customer. The Supplier may communicate its acceptance by either: (i) issuing written acceptance of the Order; or (ii) commencing the supply of the Goods and/or Services, at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 No Order which has been accepted by the Supplier may be cancelled by the Customer except with the agreement in writing of the Supplier and on the condition that the Customer shall indemnify the Supplier in full against all loss, costs, damages, charges and expenses incurred by the Supplier as a result of the cancellation.

2.4 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any illustrations or descriptions of the Services contained in the Supplier's catalogues or brochures or on its website are issued or published for the sole purpose of giving an approximate idea of the Services and/or Goods described in them. They shall not form part of the Contract or have any contractual force.

2.5 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade, custom, practice or course of dealing.

2.6 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 30 Business Days from its date of issue. Quotations given that are not subject to a survey may alter in cost.

3 These Conditions shall apply to the supply of both Goods and Services except where application to one or the other is specified.

GOODS

The Goods are described in the Goods Specification. The Supplier, acting reasonably, reserves the right to amend the Goods Specification if required by any applicable statutory or regulatory requirement, and the Supplier shall notify the Customer in any such event.

DELIVERY OF GOODS

4.1 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree (**Delivery Location**).

4.2 Delivery of the Goods shall be completed on the unloading of the Goods at the Delivery Location or, if the Supplier is providing installation services in respect of the Goods as part of the Services, upon their installation.

4.3 Any dates quoted for delivery and/or installation of the Goods are approximate only and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate delivery instructions. If the Customer fails to accept delivery of the Goods within five Business Days of the Supplier notifying the Customer that the Goods are ready then, except where such failure or delay is caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under the Contract:

4.4.1 delivery of the Goods shall be deemed to have been completed at 9.00 am on the fifth Business Day following the day on which the Supplier notified

4.4.2 the Customer that the Goods were ready; and

the Supplier shall store the Goods until delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

4.5 If ten Business Days after the Supplier notified the Customer that the Goods were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, charge the Customer for any shortfall.

QUALITY OF GOODS

5.1 The Supplier warrants that on delivery, and for a period of 12 months from the date of delivery (**Warranty Period**), the Goods shall:

5.1.1 conform in all material respects with the Goods Specification;

5.1.2 be free from material defects in design, material and workmanship; and

5.1.3 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979).

5.2 Subject to Clause 5.3, the Supplier shall, at its option, repair or replace defective Goods, or refund the price of defective Goods in full if:

5.2.1 the Customer gives notice in writing during the Warranty Period and within a reasonable time of discovery (and is then able to demonstrate to the

5.2.2 Supplier's reasonable satisfaction) that any Goods do not comply with the warranties set out in Clause 5.1;

5.2.3 the Supplier is given a reasonable opportunity of examining such Goods; and

the Customer (if asked to do so by the Supplier) returns such Goods to the Supplier's place of business at the Supplier's cost.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranties in Clause 5.1 if:

5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with Clause 5.2;

5.3.2 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning,

5.3.3 use or maintenance of the Goods or (if there are none) good trade practice;

5.3.4 the Customer interferes, alters or repairs or permits any third party to interfere, alter or repair such Goods without the written consent of the Supplier; or

the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions.

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- 5.4** Except as provided in this Clause 5, the Supplier shall have no liability to the Customer in respect of the Goods' failure to comply with the warranties in Clause 5.1. The Customer acknowledges that the Goods are not for resale and any resale of the Goods by or on behalf of the Customer shall immediately invalidate the warranties in Clause 5.1.
- 6** **TITLE AND RISK**
- 6.1** Risk in the Goods shall pass to the Customer on completion of delivery in accordance with Clause 4.2.
- 6.2** Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for the Goods.
- 6.3** Until title to the Goods has passed to the Customer, the Customer shall:
- 6.3.1 not remove, deface or obscure any identifying mark relating to the Goods;
- 6.3.2 maintain the Goods in satisfactory condition and keep them insured against all risks for their full price on the Supplier's behalf from the date of delivery.
- 7** **SUPPLY OF SERVICES**
- 7.1** The Supplier shall supply the Services to the Customer in accordance with the Service Specification in all material respects.
- 7.2** Provision of the Services by the Supplier is conditional upon the Contract being in place.
- 7.3** The Customer acknowledges and accepts that the Supplier may replace the Goods when providing the Services as necessary to ensure continued compliance with any applicable law or regulatory requirement, including then current British Standards. The Service provision shall be deemed as done and chargeable for the planned service visit if the Supplier has made three attempts to contact the Customer and gain access in relation to a planned service visit. The Supplier shall use reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services. The Supplier reserves the right to amend the Service Specification when providing the Services if necessary to comply with then current British Standards, any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the Services. The Supplier shall comply with all applicable laws, including but not limited to, the Data Protection Act 2018 or any successor legislation, as well as the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (**UK GDPR**) and any other directly applicable European Union regulation relating to data protection and privacy (for so long as and to the extent that the law of the European Union has legal effect in the UK). The Supplier warrants to the Customer that the Services will be provided using reasonable care and skill. **CUSTOMER'S OBLIGATIONS** The Customer shall:
- 7.8**
- 8**
- 8.1**
- 8.1.1 ensure that the terms of the Order are complete and accurate;
- 8.1.2 co-operate with the Supplier in all matters relating to the Services;
- 8.1.3 provide the Supplier, its employees and subcontractors, with access to the Customer's premises and other facilities as reasonably required by the Supplier to provide the Services;
- 8.1.4 provide the Supplier with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
- 8.1.5 prepare the Customer's premises for the supply of the Services in accordance with the instructions of the Supplier;
- 8.1.6 not make changes to, or attempt to repair or extend the fire and security systems (**System**) or allow any other person to do so, which may result in the integrity of the System being compromised in meeting its required standards;
- 8.1.7 inform the Supplier of any changes to the use of the System and/or changes to the infrastructure, fabric or use of the building, so as not to compromise the integrity of the System;
- 8.1.8 ensure that the Customer's premises are operated and maintained in accordance with any applicable laws and regulations, including the current British Standards;
- 8.1.9 telephone (and not email) the Supplier's customer service team for emergency call outs;
- 8.1.10 obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
- 8.1.11 comply with all applicable laws, including health and safety laws;
- 8.1.12 comply with any additional obligations as set out in the Service Specification and/or the Goods Specification (if applicable); and
- 8.1.13 comply with any instructions of the Supplier regarding the inspection and maintenance of its fire safety equipment.
- 8.2** If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):
- 8.2.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays the Supplier's performance of any of its obligations;
- 8.2.2 the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as set out in this Clause 8.2; and
- 8.2.3 the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.
- 9** **CHARGES AND PAYMENT**
- 9.1** The price for Goods and Services shall be the price set out in the Quotation or, if no price is quoted, the price will be charged at the Suppliers standard rates as at the date of delivery. A deposit, advanced billing and direct debit payment may be required as set out on the Quotation.
- 9.2** The Supplier, acting reasonably, reserves the right to vary its prices for the Services prevailing from time to time to reflect any material increase in external costs incurred by the Supplier or in its own overheads, or to meet new legislation standards and compliance. The Supplier shall provide the Customer with as much advance notice of any such variations as is reasonably practicable in the circumstances. Without prejudice to the foregoing, the prices for the Services shall increase on an annual basis with effect from each anniversary of the Commencement Date in line with the Supplier's increased costs and investment needs and the first such increase shall take effect on the first anniversary of the Commencement Date.
- 9.3** The Supplier's daily fee rates for each individual (where applicable) are calculated on the basis of an 8-hour day from 9.00am to 5.00pm worked on Business Days and the Supplier shall be entitled to charge an overtime rate of 50% of the daily rate fee on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside of these hours.
- 9.4** The Supplier shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 9.5** In respect of Goods and Services, the Supplier shall invoice the Customer in accordance with the Purchase Order.
- 9.6** The Customer shall pay each invoice submitted by the Supplier:
- 9.6.1 within 30 days of the date of the invoice or in accordance with any alternative payment terms agreed by the Supplier and confirmed in writing to the Customer;
- 9.6.2 in full and in cleared funds to the bank account nominated in writing by the Supplier; and time for payment shall be of the essence of the Contract.
- 9.7** The Supplier reserves the right to claim interest, compensation and reasonable costs under the Late Payment of Commercial Debts (Interest) Act 1998 as amended ("**1998 Act**") and it is agreed that the term implied by the 1998 Act shall apply after any judgement as well as before. If for any reason the 1998 Act does not apply interest shall be payable on overdue amounts at 8% over the Bank of England base rate from time to time.
- 9.8** Without prejudice to our right to claim costs under the 1998 Act, if for any reason any payment is not made when due the Supplier reserves the right to be paid on an indemnity basis any costs it incurs in recovering any money due under the Contract (and the costs of recovering such costs) including

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its administrative costs and any costs incurred with lawyers or debt collection agencies. The Supplier's administrative costs may include the cost of employing the staff involved and the overheads attributable to them for the time spent. In calculating the Supplier's administrative costs credit will be given for any compensation due under the 1998 Act. All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax or any other applicable sales tax or duty chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods. All amounts due under the Contract shall be paid in full without any setoff, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

9.9

9.10

10 **CONFIDENTIALITY**

10.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 10.2.

10.2 Each party may disclose the other party's confidential information:

- 10.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 10; or as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 10.2.2

10.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

11 **LIMITATION OF LIABILITY**

11.1 The provisions of this Clause 11 set out the entire liability of the Supplier (including its employees, agents, consultants and subcontractors) to the Customer and any member of its group, whether such liability arises in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise.

11.2 Subject to Clause 11.5, the Supplier shall not be liable for:

- 11.2.1 loss of profits, loss of business, loss or depletion of goodwill, loss of anticipated savings or any special, indirect or consequential loss of any nature
- 11.2.2 howsoever arising; losses arising due to the acts or omissions of any person other than the Supplier or any of its employees, agents, consultants and subcontractors, including (without limitation) the Customer and the members of its group and their respective employees, agents, consultants and subcontractors, any emergency service or another service provider; or
- 11.2.3 any other losses arising as a result of circumstances beyond the Supplier's reasonable control.

11.3 Subject to Clause 11.5, the Supplier's total liability to the Customer in respect of all breaches of duty occurring within any contract year shall not exceed the cap.

11.4 In Clause 11.3:

- 11.4.1 **cap:** the cap is 100% of the total charges in the contract year in which the breaches occurred.
- 11.4.2 **contract year.** A contract year means a 12-month period commencing with the Commencement Date or any anniversary of it; and
- 11.4.3 **total charges.** The total charges means all sums paid by the Customer and all sums payable under the Contract in respect of Goods and Services actually supplied by the Supplier, whether or not invoiced to the Customer.

11.5 Nothing in the Contract limits or excludes the liability of the Supplier for death or personal injury resulting from the Supplier's negligence, for fraud or fraudulent misrepresentation or for any other liability which cannot be excluded or limited by law.

11.6 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

11.7 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event within the notice period, the Supplier shall have no liability for that event. The **notice period** for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail. This Clause 11 shall survive termination of the Contract.

12 **DURATION AND TERMINATION**

12.1 The Contract is for a minimum fixed term of 3 years (unless otherwise specified and agreed – in writing) and shall continue, unless terminated earlier in accordance with this clause 12, until either party gives to the other party 3 months' written notice to terminate, expiring on or after the **third** anniversary of the Commencement Date.

12.2 In the event that the Customer purports to terminate the Contract in breach of clause 12.1, it shall be required to pay the Supplier all charges which would have been due and payable under the Contract had such breach not taken place.

12.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

- 12.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment and then fails to make such payment within seven (7) days after receipt in writing from the Supplier requiring it to do so which shall contain a warning notice to the effect that non-payment shall lead to discontinuation of the Services;
- 12.3.2 the Customer's financial position deteriorates to such an extent that in the Supplier's reasonable opinion the Customer's capability to adequately
- 12.3.3 fulfil its obligations under the Contract has been placed in jeopardy;
- 12.3.4 the Customer is no longer in occupation or control of the supervised premises (i.e. tenure has changed hands);
- 12.3.5 in the Supplier's reasonable opinion, the Customer has acted unreasonably in connection with the Services and/or made unreasonable demands on the Supplier; or
- the Supplier has agreed with the Customer for the provision of the Services to be transferred to another NSI approved company.

12.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of Goods and/or Services under the Contract or any other contract between the parties, if the Customer fails to pay any amount due under the Contract on the due date for payment or the Customer becomes subject to any of the circumstances and/or events listed in either clause 12.3.2, 12.5.2 or 12.5.3.

12.5 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

- 12.5.1 the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within seven (7) days after receipt of notice in writing requiring it to do so;
- 12.5.2 the other party or any of its holding companies takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
- 12.5.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

13 **CONSEQUENCES OF TERMINATION**

13.1 On termination of the Contract, the Customer shall immediately pay to the Supplier in full and cleared funds all of the Supplier's outstanding unpaid invoices (together with any interest due) and any sums due to third parties incurred on the Customer's behalf. In respect of Goods and Services supplied for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer immediately on receipt. The Customer shall return all of the Supplier's materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

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- 13.2** Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination,
13.3 including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
14 Any provision of the Contract that expressly or by implication is intended to have effect after termination shall continue in full force and effect.

FORCE MAJEURE

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to perform, any of its obligations under the Contract if such delay or failure results from a Force Majeure Event.

15 GENERAL

15.1 Assignment and other dealings

- 15.1.1** The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its
15.1.2 rights and obligations under the Contract.
The Customer shall not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Supplier, which shall not be unreasonably withheld.

15.2 Notices

- 15.2.1** Any formal notice given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class
15.2.2 post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
15.2.3 Any formal notice shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
15.2.4 Any communication other than a formal notice given to a party under or in connection with the Contract shall be in writing and may be via email.

15.3 Severance

If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

15.4 Waiver

A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

15.5 No partnership or agency

Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, represent either party as the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

Entire agreement

15.6

- 15.6.1** The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances,
15.6.2 warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.
15.6.3 Nothing in this clause shall limit or exclude any liability for fraud.

15.7 Third parties rights

15.8 The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

Variation

- 15.8.1** **15.8.2** Except as set out in these Conditions, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).
From time to time, the Supplier may need to make changes to these Conditions to reflect current market practice for the fire safety industry. Such changes shall not require the consent of the Customer but shall be notified by the Supplier to the Customer in writing.

15.9 Governing law

The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

15.10 Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

SECTION B: SPECIFIC TERMS APPLYING TO THE INSTALLATION OF NEW SYSTEMS BY THE SUPPLIER OR THE MAINTENANCE AND MONITORING OF LEGACY SYSTEMS BY THE SUPPLIER:

16 SECTION B DEFINITIONS

16.1 Definitions

In this Section B, the following words and phrases have the following meanings:

Alarm Receiving Centre: means the place to which signals are transmitted from the System or Legacy System and are monitored.

Handover Date: means the date of installation for new Systems and for Legacy Systems this is the date the Supplier agrees to recommission the Legacy System or conducts a satisfactory Take Over.

Legacy System: means all equipment (and any part of it) which has previously been installed for the Customer by a third party.

System: means all equipment (and any part of it) which the Supplier installs for the Customer at any time.

Take Over: means where the Supplier carried out an initial test of a Legacy System to ensure all equipment is operating correctly.

16.2 Installation and maintenance

- 16.2.1** The Supplier shall endeavour to conceal the cabling within the fabric of the building. Where this is not possible, the Supplier shall endeavour to use suitable plastic or metal containment and surface clipping. The Supplier is unable to confirm that any wiring installed underground or concealed within the fabric of the building comply with the relevant standards.
16.2.2 The Supplier will carry out all routine inspection visits during normal working hours. The Supplier may also carry out routine maintenance or service on the occasion of an emergency call out/breakdown/installation visit.
16.2.3 The Supplier shall inspect and test part of the System during each maintenance visit and therefore all parts of the System will not be inspected until
16.2.4 12 months have elapsed from the Commencement Date.
16.2.5 The Supplier's employees or agents may stop work if they are of the view that the Customer's site is unsafe and they are at risk of death or personal injury. For the avoidance of doubt, this shall not excuse the Customer from any payment obligations under the Contract.
Where a System or Legacy System is maintained by the Supplier:
16.2.5.1 the Supplier will provide preventative maintenance inspection and testing including labour costs only. Replacement parts, equipment, emergency call outs or labour other than that required to carry out preventative maintenance are not included, unless specifically stated in the service level stated on the Quotation;
16.2.5.2 the Supplier shall provide a 24 hour emergency call out service but reserves the right to only attend a reported fault where the Customer cannot set the System or Legacy System or stop the sounders.

16.3 Legacy Systems

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- 16.3.1 Where a manufacturer operates a closed protocol the Supplier shall require full access codes and may have to liaise with the manufacturer to service a Legacy System. The Customer must ascertain all user and engineer codes before commencement, otherwise the Supplier reserves the right to default the Legacy System or to require attendance of the manufacturer or installer and additional charges may apply. Unless the Customer advises otherwise, the Supplier is entitled to assume that the Legacy System and its associated wiring and cabling, already comply with all applicable laws, regulations and standards and is in full working order (**Installation Standard**). If a Takeover is not carried out, the Supplier:

- 16.3.3.1 cannot confirm that all parts of the Legacy System are in full working order;
 16.3.3.2 reserves the right to carry out a full test of the Legacy System at any time and to give the Customer a quotation as set out in 16.3.4.1 below;
 16.3.3.3 is only required to inspect part of the Legacy System during each routine inspection visit; as a result, all parts of the Legacy System shall not be inspected until 12 months have elapsed from the Handover Date, unless a Take Over is carried out; and
 16.3.3.4 cannot confirm whether cables and wiring installed within the fabric of the site or buried underground by a third party conforms to Installation Standard.

- 16.3.4 If the Customer requires the Supplier to carry out a Take Over of a Legacy System and additional works are required to ensure the Legacy System meets the Installation Standard:

- 16.3.4.1 the Supplier shall give the Customer a separate quotation detailing the work needed and applicable charges; and
 16.3.4.2 the Takeover shall only be complete when the recommended works have been completed to the satisfaction of the Supplier.

- 16.3.5 The Supplier shall not be responsible for inherent defects in a Legacy System which it has not maintained or monitored.

- 16.3.6 The warranty given above in clause 5.1, shall not apply to Legacy Systems.

16.4 Monitoring

- 16.4.1 Where the System or Legacy System is monitored by the Supplier, there may be a delay in the Handover Date while:
 16.4.1.1 the telecommunication links between the Customer's site and the Alarm Receiving Centre are set up and activated; and the test period
 16.4.1.2 set by the police or another authority is completed to their satisfaction. During this period, the Supplier's ability to respond to signals the Supplier receives from the System at the Alarm Receiving Centre will be limited and the Supplier shall not be responsible for any part of the Services which it is not able to provide. Thereafter the Supplier will monitor the signals from the System or the Legacy System at the Alarm Receiving Centre.
- 16.4.2 Keyholder forms are provided which must be completed and returned to the Supplier as soon as possible. In the absence of keyholder details the police, fire service or other authority will refuse to allocate a unique reference number to the System or Legacy System and consequently, the Alarm Receiving Centre will be unable to transmit alarm activation signals from the System or Legacy System to the relevant authority.
- 16.4.3 The Customer must keep keyholder information up to date and must inform keyholders that the Supplier will contact them.
- 16.4.4 If the Customer does not have/keep the approval of the police, fire service or other authority, the Supplier shall only provide that part of the Services which does not require such approval. The Customer must also:
 16.4.4.1 make any necessary agreement with these authorities;
 16.4.4.2 provide any information they require and advise of any changes;
 16.4.4.3 pay for the relevant approval or permission;
 16.4.4.4 meet the requirements of any of these authorities at all time to maintain their approval; and
 16.4.4.5 write to the Supplier immediately if any approval is amended or ends.
- 16.4.5 Where the System or the Legacy System is monitored by the Supplier it is recommended that the Customer uses an enhanced signalling system which is designed to detect telephone line faults, cuts or tampering. Where the System or Legacy System is not monitored by the Supplier, the System or Legacy System will sound upon the triggering of the alarm but no signal will be transmitted to the Alarm Receiving Centre. In the event of discontinuation of maintenance service (due to termination of the Contract, or otherwise) the Supplier shall inform the Customer immediately in writing at the Customer's last known address and shall cease monitoring the Customer's system within 30 days of such discontinuation.

16.5 Extra Charges

- 16.5.1 The Customer shall be responsible for the following:
 16.5.1.1 any additional charges from third parties for work done or time spent, including but not limited to, telecommunications agencies
 16.5.1.2 and police and/or fire authorities, in connection with the installation or operation of the System or Legacy System;
 16.5.1.3 installation and rental charges for connection facilities between the System or Legacy System and the Alarm Receiving Centre, where the System or Legacy System is being monitored by the Supplier;
 the Supplier's extra charges at the Supplier's standard rates for labour and materials where additional work is required outside of the scope of the Quotation.
- 16.5.2 In the event that installation of the System is not completed within a 3 month period of the date of the Contract, the Supplier reserves the right to increase its charges where its material and labour costs have increased.
- 16.5.3 Where installation of the System takes more than one month, the Supplier reserves the right to submit interim invoices, based on the amount of work completed and/or amount of equipment delivered to the Customer's site.
- 16.5.4 If the Supplier holds materials for the Customer, it reserves the right to invoice the Customer for the full amount prior to supply.

SECTION C: SPECIFIC TERMS APPLYING TO FIRE RISK ASSESSMENTS BY THE SUPPLIER:

17 Liability under the Regulatory Reform (Fire Safety) Order 2005 ("the FSO")

17.1 The Responsible Person

The Customer acknowledges that at no time the Supplier is the 'Responsible Person' as defined by Article 3 of the FSO. Unless expressly stated otherwise in writing the Customer is to be regarded as the Responsible Person.

17.2 Article 5(3) of the FSO – 'Person with control'

The Supplier acknowledges that under Article 5 (3) of the FSO those responsibilities and duties imposed by the FSO on the Responsible Person are also to be imposed on any other person, who has, to any extent, control of those premises so far as the requirements relate to matters within his or its control.

17.3 Extent of the Supplier's control, duties and obligations

The Supplier shall only be considered be liable under Article 5(3) of the FSO in relation to matters that fall under its control pursuant to the terms of the Contract between the Customer and the Supplier. The extent of the Supplier's control and the duties and obligations imposed upon the Supplier shall be specified in the Order.

17.4 The Premises

The 'Premises' (or part there of) must be clearly defined within the Order in order to highlight the extent of the area which fall under the Supplier's control.

17.5 Fire Risk Assessment drafts

The Fire Risk Assessment drafts will be marked as drafts, both on the file name and the Fire Risk Assessment itself.

17.6 Inception Date of the Fire Risk Assessment The Fire Risk Assessment should not be considered to be valid and should not be relied upon until signed by both the Supplier and the Customer and paid for in full by the Customer.

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- 17.7 On-going management** Responsibility for the on-going management of the premises and even, if necessary, the decision to allow the premises to be used for its present purpose, remains with the Responsible Person, not the Supplier unless the Order stipulates otherwise. **Notification of relevant fire safety details** The Supplier should be notified of any fire safety details that the Customer deems relevant to the conducting of the Fire Risk Assessment, including but not limited to:-
- 17.8** 17.8.1 17.8.2 17.8.3 17.8.4
17.8.5
17.8.6
17.8.7 Plans for the premises;
17.8.8 Fire Strategy Documents;
Details of any correspondence with the Fire Authority, (or any other Enforcing Authority) i.e. audits, Enforcement/Prohibition Notices, or Notices of Deficiencies;
Records of testing and maintenance of any fire safety provisions within the premises;
Records of Fire Evacuation drills (where applicable);
Records of staff Fire Training;
Records of portable electrical appliance testing and electrical installation/wiring tests or service schedules, and
Records of servicing of lifts, boilers or other plants or equipment located within the premises
- Such details are imperative to the Supplier in drafting its suitable and sufficient Fire Risk Assessment, as such failing to provide these details will invalidate the Fire Risk Assessment.
- 17.9 Period of Validation**
The Fire Risk Assessment is only valid for a period of 12 months from the date of inception discussed in clause 10.6. Under Article 9(3)(b) of the FSO the Responsible Person is under a duty to review the Fire Risk Assessment.
- 17.10 Revision of the Fire Risk Assessment**
17.10.1 If the Customer believes that the Fire Risk Assessment may require revision, the Supplier must be given the opportunity to alter/amend/review its original Assessment. If the Supplier is not given such an opportunity then it can no longer be regarded as having an obligation in respect of the Fire Risk Assessment as it does not have the necessary control.
17.10.2 If there is a change in the structure of the premises/building, number of employees, layout or any other aspect that could impact upon fire safety the Responsible Person should ensure that no revision to the Assessment is required.
- 17.11 Significant Findings/Action Plan Summary**
The Supplier's recommendations are outlined in its Significant Findings/Action Plan Summary. The Customer is responsible for the implementation of the recommendations unless the Contract stipulates otherwise.
- 17.12 Co-operation and Co-ordination**
Both the Supplier and the Customer will co-operate and co-ordinate in order to comply with their respective obligations as per the Contract in order to satisfy the FSO. Where the Customer requires the Supplier's co-operation and co-ordination in accordance to Article 22 the Customer must request confirmation in writing and allow the Supplier the opportunity to respond.
- 17.13 The Supplier's obligations do not extend to the following: -**
17.13.1 Knowledge or Control those areas of the premises to which the Supplier was not given access;
17.13.2 Knowledge or Control over any subsequent changes made to the premises;
17.13.3 Knowledge or Control over any subsequent faults in the equipment, including any equipment checked by the Supplier at the time of the preparation of the Fire Risk Assessment, but not subsequently;
17.13.4 Knowledge or control over any subsequent deterioration in the premises or equipment;
17.13.5 Knowledge or control over any ongoing management of the premises or of persons within the premises;
17.13.6 Knowledge or control over the moveable items brought into the premises subsequent to the preparation of the Fire Risk Assessment;
17.13.7 Knowledge or control over the level of staffing and or training that the Customer gives to their staff;
17.13.8 Knowledge or control over the implementation of any recommendations made by the Supplier in the course of an Assessment and the Fire Risk Assessment Action Plan;
17.13.9 The Fire Risk Assessment and/or Action Plan is not to be relied upon by anybody else other than the Customer named on the Contract;
17.13.10 The Supplier's Services and advice do not extend to advice in respect of building materials, fixtures and fittings or design or use of the premises, whether internal or external.
- 17.14 Identification of clear and obvious risks**
If the Supplier identifies clear and obvious risks at a premises that pose a danger to relevant persons, the Supplier may highlight these to the Customer in writing. However, the Supplier is under no contractual obligation to do so, therefore, this does not represent an obligation as defined under Article 5(3). Furthermore the Supplier is in no way liable or responsible for rectifying/remedying such risks.
- 17.15 The Supplier's reliance upon information provided by the Customer**
The Supplier is relying partially upon the information provided to it by the Customer, including but not limited to:-
17.15.1 Cladding
17.15.2 Fire Glazing
17.15.3 Fire Door Compliance