

SPECTRUM FIRE PROTECTION (UK) LIMITED

TERMS AND CONDITIONS OF SALE AND SUPPLY

1 GENERAL

SPECTRUM FIRE PROTECTION (UK) LIMITED (the “**Supplier**”) sells its Goods and supplies its Services (as defined below) in accordance with the following terms and conditions which shall apply to every such sale and supply, except to the extent stated and/or as varied in writing by a Director of the Supplier, and to the exclusion of any conflicting terms and conditions submitted by the Customer (as defined below), and superseding any other offers, representations, agreements (written or oral) related to or in connection with its subject matter.

2 INTERPRETATION

2.1 The headings in these Terms are for guidance only and shall not be used in any way in the interpretation of their meanings.

2.2 Within these terms and conditions of sale and supply (these ‘**Terms**’) the following expressions shall have the following meanings:

‘**CDPA**’: the Copyright Designs and Patents Act 1988 as the same may be amended, extended or re-enacted from time to time.

‘**Commissioning Services**’: the commissioning services which the Supplier agrees to supply to the order of the Customer in relation to setting to work the Goods.

‘**Contract**’: the agreement between the Supplier and the Customer for the sale of Goods and/or supply of Services, which such agreement shall include these Terms.

‘**Customer**’: the person firm or company who has requested the Supplier to provide Goods and/or Services or with whom the Supplier Contracts for the sale of Goods and/or supply of Services.

‘**Force Majeure**’: an event beyond the Supplier’s reasonable control including but not limited to:

- act of God, explosion, flood, tempest, fire or accident;
- war or threat of war, act of terrorism, malicious damage, sabotage, insurrection, civil commotion, disturbance or requisition;
- compliance with any acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;
- import or export regulations or embargoes;



- strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Supplier or of a third party);
- difficulties in obtaining raw materials, labour, fuel, parts or machinery (including default of suppliers or sub-contractors);
- power or other utility service or transport network failure or breakdown in machinery;
- exhaustion of stock.

'Goods': the apparatus, materials or equipment (including any part thereof, or any installation of the Goods or any parts for them provided by the Supplier), which the Supplier agrees to supply to or to the order of the Customer.

'Group': in respect of either the Customer or the Supplier, that party's group composed of that party, its holding company (if any), and all subsidiary companies of that party and of that party's holding company (if any).

'Group Company': any company in the Supplier's Group.

'Incoterms': the international rules for the interpretation of trade terms of the International Chamber of Commerce, 2000 edition (ICC publication no. 560).

'Installation Services': the installation services which the Supplier agrees to supply to the order of the Customer in relation to the installation of the Goods.

'Intellectual Property Rights': patents, registered and unregistered designs, copyright, trade marks, trade names, database rights and all other industrial or intellectual property protection wherever in the world enforceable.

'Know-how': all inventions, discoveries, improvements and processes (whether patentable or non-patentable), copyright works (including without limitation computer programs), designs (whether or not registered or registrable) and all other technical information of whatever nature.

'Maintenance Services': the maintenance services which the Supplier agrees to supply to the order of the Customer in relation to the maintenance of the Goods.

'Proposal/Maintenance Agreement': the quotation, proposal or maintenance agreement (as appropriate) which sets out the Services.

'Sale of Goods': the sale of Goods which the Supplier agrees to supply to the order of the Customer, pursuant to a Purchase Order.

'Services': the services which the Supplier agrees to supply to or to the order of the Customer, including the Installation Services, Commissioning Service and Maintenance Services, pursuant to a Proposal/Maintenance Agreement).

'Supplier': Spectrum Fire Protection (UK) Limited, which expression shall include its successors in title, permitted assigns (and, where applicable, its personnel and authorised representatives).



'Terms' shall mean these Terms and Conditions of Sale and Supply.

3 WARRANTY AND LIABILITY

- 3.1 All Goods manufactured by the Supplier are carefully examined and tested before leaving its works. The Supplier, therefore, gives the following warranty (the "**Warranty**") which (to the fullest extent permitted by law) supersedes and is in substitution for any conditions or warranty implied by statute, common law or otherwise in relation to the quality, condition or specification of the Goods, or any remedy for their breach:
- 3.1.1 If, within twelve months from the date of Commissioning Services (or supply of Goods if no Services were performed), any defect or fault is discovered in any Goods manufactured by the Supplier, due, in the Supplier's sole opinion (acting reasonably), to faulty material or sub-standard workmanship, the Supplier warrants to the Customer that it will make good the defect by, at its discretion, repair or replacement, without charge to the Customer PROVIDED that notice is given to the Supplier by the Customer immediately on the Customer's discovery of any defect, by the Customer telephoning and forwarding full written detail of the claim to the appropriate regional office of the Supplier, for the attention of the Customer Services Manager, together with the defective Goods or parts thereof (where no Services were performed and the Contract relates to supply of Goods only), carriage paid and suitably packed.
- 3.1.2 If, within that twelve month period, the Supplier discovers a defect in or malfunction of the Goods in the course of routine maintenance, the Supplier will use reasonable endeavours to repair the Goods at the Customer's premises, provided that the Customer has complied with its obligations under the Contract. If such repair is not reasonably practicable in the time available (being the Supplier's normal business hours), the Supplier will seek to make suitable arrangements with the Customer for a further visit to the Customer's premises in accordance with the time scales specified in the Proposal/Maintenance Agreement (or if none are so specified then as soon as reasonably practicable).
- 3.1.3 If the Customer reports a defect in or malfunction of the Goods outside of Spectrum's normal business hours on any day, then the report shall be deemed to be made at the beginning of normal business hours on the next business day). The Supplier will seek to make suitable arrangements with the Customer for a visit to the Customer's premises in accordance with the time scales specified in the Proposal/Maintenance Agreement (or if none are so specified then as soon as reasonably practicable).
- 3.1.4 The Warranty period may be extended for a commensurate period to the 'Maintenance Period' set out in the Proposal/Maintenance Agreement and signed by a Director of the Supplier.
- 3.1.5 Where the Supplier complies with its Warranty under this clause the Supplier shall have no further liability to the Customer in respect of the defect or defects concerned.
- 3.2 The Warranty does not apply to defects arising from ordinary wear and tear, misuse, neglect, failure to follow the Supplier's instructions (whether oral or in writing), alteration or repair of



the Goods without the Supplier's approval, abnormal working conditions, or wilful damage, or from circumstances over which the Supplier has no control, or from any drawing, design or specification supplied by the Customer.

- 3.3 Any Services under this Contract shall include periodic inspection of all relevant Goods and the rectification of all ordinary faults due to fair wear and tear but such maintenance does not include renewal or replacement or charging of batteries, material in respect of missing, worn out or broken parts, or repairs and renewals of any line wiring. In the event that the Goods require such work which is outside the scope of the Proposal/Maintenance Agreement and the Warranty, the Customer shall be responsible for payment to the Supplier for the additional Services.
- 3.4 In the case of line wiring it shall be the Customer's responsibility to:
- 3.4.1 obtain and retain any necessary licenses, way-leaves or permission for attachment for supporting such wiring;
 - 3.4.2 pay any rent and expenses in connection with the same; and,
 - 3.4.3 be responsible for any liability or damage caused to property or person by such wiring.
- 3.5 The Supplier's responsibility in the case of any defect is limited to the cost of making good such defect in its workshops, or, at its discretion replacing the affected Goods or parts thereof, in accordance with the terms of the Warranty.
- 3.6 In the case of Goods which are not of the Supplier's manufacture, it will pass on only those terms of warranty or guarantee passed to it by the manufacturer of such Goods, if any.
- 3.7 All Goods supplied under these Terms which are not installed by the Supplier shall, upon their installation by the Customer or by the ultimate user, be tested to ensure that they are installed correctly and in working order. In the case of installation by the Customer, the Customer shall keep records of such tests on an appropriate test report as prescribed by the relevant British standards and/or recommended by the manufacturer of the Goods; in the case of installation by the end user who is not the Customer, the Customer shall ensure as far as possible that such records are kept by the end user. The Supplier shall not be liable for any defects or damage arising out of incorrect installation or bad workmanship by any party other than itself.
- 3.8 Except to the extent that the Goods constitute electrical apparatus that is not digitally signalled, the Warranty shall only apply when the Supplier carries out Commissioning Services in respect of the Goods supplied to the Customer.
- 3.9 It is a condition of the Warranty that the Goods:
- 3.9.1 have been properly kept, used, cared for and operated by the Customer in accordance with the conditions recommended by the manufacturer, instructions given by the Supplier, this Contract and generally accepted practices;
 - 3.9.2 have not been interfered with or tampered with in any way;



- 3.9.3 have not been misused, neglected or wilfully damaged;
- 3.9.4 shall have been serviced in accordance with the manufacturer's/Supplier's recommendations. The Customer shall not, without the written consent of the Supplier, allow any person other than the Supplier to adjust, move, maintain, repair, replace or remove the Goods or any part thereof.
- 3.10 The Supplier shall be under no liability under the Warranty (or any other warranty, condition or guarantee) if the total price for the Goods and/or Services has not been paid by the due date for payment.
- 3.11 Subject as expressly provided in these Terms, and except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 3.12 Where the Goods are sold under a consumer transaction (as defined by the Consumer Transactions (Restrictions on Statements) Order 1976) the statutory rights of the Customer are not affected by these Terms.
- 3.13 Except in respect of death or personal injury caused by the Supplier's negligence, or liability for defective products under the Consumer Protection Act 1987, the Supplier shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for loss of profit, loss of opportunity, loss of Contract or for any indirect, special or consequential loss or damage, costs, expenses or other claims for compensation whatsoever (whether caused by the negligence of the Supplier, its employees or agents or otherwise) which arise out of or in connection with the manufacture, modification, supply, installation, maintenance, repair or inspection of the Goods and/or Services (including any delay in supplying or any failure to supply the Goods and/or Services in accordance with the Contract or at all) or their use or resale by the Customer.
- 3.14 The entire liability of the Supplier under or in connection with the Contract for the supply of the Goods/Services (whether in Contract, tort or otherwise) shall not exceed the price of the Goods and Services the subject of the Contract, except as expressly provided in these Terms. The maximum liability of the Supplier for damage to property arising directly from the Supplier's negligence (or that of its employees, agents or sub-Contractors) in relation to the Contract for the supply of the Goods and/or Services shall be £1,000,000.00, where the other provisions of clause 3.13 and this clause 3.14 do not, or are held not to apply to limit such liability.

The Supplier shall not be liable to the Customer or be deemed to be in breach of the Contract or be liable for any loss or damage to the Supplier by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations in relation to the Goods and/or Services, if the delay, failure, loss or damage was directly or indirectly by reason or in consequence of Force Majeure.



3.15 Nothing in these Terms shall be taken to exclude or limit or purports to exclude or limit any liability of the Supplier for death or personal injury caused by the Supplier's negligence or for fraudulent misrepresentation of the Supplier.

4 CARRIAGE AND PACKING

4.1 Carriage and packing will be excluded from the price of the Goods. The Customer shall be liable to pay the Supplier's charges for transport, packaging and insurance in all cases.

4.2 All orders will normally be consigned by road or rail carriage paid at goods rates for a three day delivery.

4.3 When Goods are despatched by passenger-train, Securicor, or special carrier at the Customer's request, or in accordance with any other special instructions of the Customer, any costs of such carriage incurred by the Supplier will be charged on invoice to the Customer irrespective of the value of the order. The Supplier will use its best endeavours to meet any special request for early special delivery but accepts no liability whatsoever in this respect.

4.4 The Supplier shall replace or repair free of charge any Goods lost or damaged in transit (where the Goods are at the Supplier's risk during transit) provided both the carrier and the Supplier are advised in writing (otherwise than upon carrier's documents) within seven days of issue of advice note or invoice in case of non-delivery or within three days of delivery in case of damaged Goods. The Supplier is free to use the most economical means of delivering the goods. For goods valued at £20 or less the Supplier will use the Royal Mail for which no proof of delivery will be available.

5 EXPORT TERMS

5.1 Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Terms, but if there is any conflict between the provisions of Incoterms and these Terms, the latter shall prevail.

5.2 Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 5 shall (subject to any special terms agreed in writing between the Client and the Supplier) apply notwithstanding any other provision of these Terms.

5.3 The Client shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.

5.4 Unless otherwise agreed in writing between the Client and the Supplier, the Goods shall be supplied on an ex works basis and the Supplier shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979.

5.5 The Client shall be responsible for arranging for testing and inspection of the Goods at the Supplier's premises before shipment. The Supplier shall have no liability for any claim in respect of any defect in the Goods which would be apparent on inspection and which is made after shipment, or in respect of any damage during transit.



- 5.6 Payment of all amounts due to the Supplier shall be made by irrevocable letter of credit opened by the Client in favour of the Supplier and confirmed by a UK bank acceptable to the Supplier or, if the Supplier has agreed in Writing on or before acceptance of the Client's order to waive this requirement, by acceptance by the Client and delivery to the Supplier of a bill of exchange drawn on the Client payable sixty days after sight to the order of the Supplier at such branch of Barclays Bank Plc in England as may be specified in the bill of exchange.

6 PRICES

- 6.1 The Supplier's prices for Goods/Services are subject to change without notice as follows: Subject to clause 6.3, the actual price to be paid for the Goods will be as the current list price ruling at the time of despatch (plus the charges for carriage, packing and insurance which are payable in accordance with clause 4).
- 6.2 All prices and other charges payable hereunder are exclusive of Value Added Tax, which shall be payable by the Customer at the applicable rate.
- 6.3 The Supplier reserves the right, by giving written notice to the Customer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (such as, without limitation, any change in relevant legislation, foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions.

7 CREDIT

- 7.1 Any Customer order is accepted subject to the Customer's credit and/or that of its key personnel, representatives, or individual partners ("Key Individuals") as determined by the Supplier being approved by the Supplier. The Supplier may transfer personal information provided by or on behalf of the Customer about it or any Key Individual, to the Supplier's bankers/financiers and credit reference agencies, for the following purposes:
- 7.1.1 obtaining credit insurance;
 - 7.1.2 making credit reference agency searches;
 - 7.1.3 credit control;
 - 7.1.4 assessment and analysis (including credit scoring, market, product and statistical analysis);
 - 7.1.5 securitisation;
 - 7.1.6 protecting the Supplier's interests.
- 7.2 The Supplier shall provide the Customer and/or the Key Individual concerned with details of the Supplier's bankers/financiers and those of any credit reference agencies used by the Supplier in relation to the Customer or that Key Individual, upon request. The Supplier will



also process the personal data referred to above for the purposes of generally running the Customer's account and providing the Goods and/or Services.

- 7.3 The Supplier may in its absolute discretion at any time prior to delivery require payment of the price in whole or in part before making delivery to the Customer. In all other cases the Supplier shall invoice the Customer for the price of the Goods/Services on or at any time after their delivery, unless the Customer wrongfully fails to take delivery, in which event the Supplier shall be entitled to invoice the Customer at any time after the Supplier has tendered delivery.
- 7.4 The Supplier shall only deliver Goods and Services to the Customer after satisfactory credit approval has been received by the Supplier or pro-forma payment has been received in cash or cleared funds.

8 PAYMENT

- 8.1 The Supplier shall submit to the Customer invoices in respect of the Goods or Services supplied. Payment shall become due five days after the invoice was submitted by way of 'payment notice'. Thereafter, the Customer shall pay such invoice sum within twenty-five days thereafter (the 'final date for payment' being thirty days from the date of invoice submission in total).
- 8.2 Payment of the Supplier's charges for Goods or Services shall be made less any discount to which the Customer is entitled and which has been agreed by the Supplier, but without any other deduction, withholding, set off or counterclaim whatsoever except as required by law. The Supplier may, however, without limiting its rights or remedies, set off any amount owing to it by the Customer against any amount payable by the Supplier to the Customer. The Supplier shall be entitled to recover the price notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract.
- 8.3 If the Customer intends to pay less than the sum stated in the invoice and subject to clause 8.2, it shall serve a written 'pay less notice' specifying the sum it considers due (and related calculations) no later than ten days before the final date for payment.
- 8.4 Any quoted discount shall not be applicable unless payment is made in strict accordance with these Terms.
- 8.5 Should prompt payment not be made by the final date for payment, in the absence of a pay less notice, the Supplier reserves the right (without prejudice to any other rights and remedies it may have) to charge the Customer interest (both before and after any judgment) on all overdue monies at four per cent per annum over Lloyds Bank plc Base Lending Rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest). The Supplier reserves the right to charge the Customer for any costs in obtaining payment of monies overdue, which may include but are not limited to professional fees, solicitors fees, court costs, employment of a collection agency, bailiffs etc. Interest shall also apply in accordance with the foregoing to the cost to the Supplier of collection of the monies due.



- 8.6 At the discretion of and upon request by the Supplier, the Customer shall pay the amount requested by the Supplier on pro-forma invoice prior to the issue of Goods or Services to the Customer.
- 8.7 Where the Supplier is engaged to carry out work or Services over a period exceeding four weeks it may, at its discretion, instead of VAT invoices, issue applications for payment to the Customer at periodic intervals which shall fall due for payment five days after the application for payment was submitted by way of 'payment notice'. Thereafter, the Customer shall pay such application for payment sum within twenty-five days thereafter (the 'final date for payment' being thirty days from the date of issue of the application for payment in total, subject to clause 8.6, but which otherwise shall be subject to all of the payment terms in these Terms.
- 8.8 If the Customer intends to pay less than the sum stated in the application for payment and subject to clause 8.2, it shall serve a written 'pay less notice' specifying the sum it considers due (and related calculations) no later than ten days before the final date for payment.
- 8.9 Upon its receipt of an application for payment from the Supplier, the Customer shall:
- 8.9.1 pay the charges the subject of the application including the VAT payable in respect thereof within thirty days of the date of the application (the 'final date for payment'); or
 - 8.9.2 forthwith provide a payment certificate in respect of the charges (including the VAT element) to the Supplier. In this event the Supplier shall issue a VAT invoice to the Customer in respect of such charges, which the Customer shall pay in full within thirty days of the date of the invoice, to the extent it has not already paid such charges; or
 - 8.9.3 pay the amount of the charges the subject of the application exclusive of VAT within thirty days of the date of the application. In this event the Supplier shall issue a VAT invoice in respect of the charges and the Customer shall pay the VAT the subject of the VAT invoice to the Supplier within thirty days of the date of the invoice.
- 8.10 The Supplier agrees to sign and return any payment certificate issued to it by the Customer, provided it has received payment in full of the charges including VAT the subject of the payment certificate and the Supplier has not issued or does not intend to issue a VAT invoice in respect of such charges. The Supplier will receipt paid VAT invoices upon request.

9 SUSPENSION OR CANCELLATION OF DELIVERY

- 9.1 The Supplier reserves the right to suspend delay or cancel the delivery of some or all the Goods/Services or require advance payment for them if the Customer is or reasonably appears unable to pay its debts and in those circumstances the Supplier shall also retain any other rights it has against the Customer. The Supplier shall further be entitled to cancel the Customer's order by notice to the Customer and without liability to the Customer in the event of any change (after acceptance by the Supplier of such order) to any instrument or measures referred to in clause 3.12.3, which affects the Supplier's ability to perform the Contract in accordance with the order and these Terms (including without limitation where the change results in increased costs to the Supplier).



- 9.2 The Supplier shall be entitled to postpone any commissioning activities until full payment for the relevant Goods and Services has been received by the Supplier, in accordance with these Terms.
- 9.3 The Supplier shall be entitled to postpone the issue of any certification, manuals, drawings or the like until full payment has been received by the Supplier, in accordance with these Terms.
- 9.4 If the Customer fails to make any payment on the due date then, without limiting any other right or remedy available to the Supplier, the Supplier may cancel the Contract or suspend any further deliveries to the Customer.
- 9.5 Cancellation of any Contract by the Customer shall be permitted by express agreement of the Supplier only. In the event of any such cancellation the Customer shall indemnify the Supplier in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Supplier as a result of cancellation.
- 9.6 Should the Customer as a result of actions set out in Clauses 9.1 to 9.5 incur penalties or damages through any subsequent third party arrangements or agreements, the Supplier shall not be held responsible or liable nor shall the Supplier accept any charges resulting from any such penalties or damages.

10 FITNESS FOR PURPOSE

- 10.1 The Customer must satisfy itself that the Goods supplied are fit for its purpose, as this is not guaranteed by the Supplier, and all warranties save those expressly set out in these Terms are hereby excluded to the fullest extent permitted by law.
- 10.2 The Customer shall also be responsible to the Supplier for ensuring the accuracy of all items contained in the Goods order (including any applicable specification) and for giving the Supplier any necessary information relating to the Goods, its application, use, location and environment within a sufficient time to enable the Supplier to perform the Contract in accordance with its terms. This includes any specific details or information relating to delivery of the Goods.
- 10.3 The Customer shall ensure that the Supplier has full and free access to the Goods and to any records of its use kept by the Customer to enable the Supplier to perform the Services.
- 10.4 The Customer shall take all steps as may be necessary to ensure the safety of any of the Supplier personnel who visit any premises of the Customer.

11 PASSING OF PROPERTY AND RISK

- 11.1 All Goods supplied by the Supplier shall remain the Supplier's absolute property until all amounts owing to the Supplier for the relevant Goods and any other Goods and/or Services agreed to be supplied by the Supplier to the Customer, have been paid in full in cash or cleared funds.
- 11.2 Risk passes to the Customer:



- 11.2.1 in the case of Goods being delivered, on delivery to the delivery address nominated by the Customer or the Customer's agent, or where the Customer wrongfully fails to take delivery of the Goods, upon the Supplier's tendering delivery; or
- 11.2.2 in the case of Goods to be collected by the Customer or the Customer's agent, when the Goods are loaded on the vehicles collecting them; or
- 11.2.3 in the case of Services, when the Goods are delivered or installed as part of the Services.
- 11.3 Should the Customer resell the Goods without having paid all amounts outstanding to the Supplier then the Customer agrees to hold any proceeds of sale or sufficient part thereof to pay all amounts outstanding to the Supplier, as trustee for the Supplier.
- 11.4 Until such time as the property in the Goods passes to the Customer, the Customer shall hold the Goods as the Supplier's fiduciary agent and bailee, and shall keep the Goods separate from those of the Customer and third parties and properly stored, protected and insured (to full replacement value) and identified as the Supplier's property, but the Customer may resell or use the Goods in the ordinary course of its business.
- 12 The Supplier shall be entitled at any time to repossession where payment for Goods or Services is overdue or the Customer suffers distress or execution to be levied against his or its effects, makes an arrangement or composition with creditors or, being a corporate body, enters into liquidation (otherwise than for the purpose of amalgamation or reconstruction where the corporate body, as amalgamated or reconstructed, accepts in full the Customer's liability to pay for the Goods, Equipment or Services), or has a receiver appointed for the whole or any part of its undertaking or, being an individual, has a receiving order in bankruptcy made against him.
- 12.1 The Supplier shall be entitled to enter upon the Customer's premises, or such other place where the Goods are (or the Supplier reasonably believes them to be) stored, and with such transport as may be necessary, recover, repossess, take, sell or otherwise deal with and/or dispose of any relevant Goods which remain the Supplier's property.
- 12.2 Nothing in these Terms shall confer any right upon the Customer to return any Goods sold or to refuse or delay payment therefor unless otherwise agreed by the Supplier.
- 12.3 Where Goods or products in which the Supplier has property are attached to or stored within any premises other than the Customer's premises the Customer will secure from the owners or occupiers of such premises the Customer's right of entry to such premises and preserve notwithstanding termination of the Customer's right of entry to such premises, the Supplier's right to enter those premises for the purpose of repossession of the Goods and products still in the Supplier's ownership.

13 TIME OF DESPATCH

Orders will be executed as expeditiously as possible but where a date for delivery despatch or the provision of Services is quoted time shall not be deemed to be of the essence of the Contract and no liability will be accepted by the Supplier for any loss including economic or



consequential loss or damages arising from delay in delivery or failure to supply or deliver by a quoted date.

14 DELIVERY

- 14.1 Delivery of Goods shall be made to the address stated within the Goods order and the point of delivery shall be the nearest suitable and reasonable off load point for any heavy goods vehicle. The Supplier shall provide to the Customer an estimated delivery date for the Goods upon confirmation of the Goods order and, where applicable, upon receipt of all other necessary information required to provide the Goods. Dates for delivery are estimates given in good faith and are not guaranteed. The Supplier may deliver the Goods/Services by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
- 14.2 If the Supplier fails to deliver the Goods (or any installation) or any of the Services for any reason other than any cause beyond the Supplier's reasonable control or the Customer's fault, and the Supplier is accordingly liable to the Customer, the Supplier's liability shall be limited to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods to replace those not delivered over the price of the Goods.

15 INSPECTION

Although there would normally be permission for the Customer's representative to visit the Supplier's premises, such permission is not automatic.

16 STATUTORY REQUIREMENTS AND INTELLECTUAL PROPERTY

- 16.1 Whilst every effort is made by the Supplier not to infringe any Intellectual Property Rights belonging to any third party, and whilst the Supplier is not aware that the supply to the Customer of the Goods, or the possession or intended use by the Customer of the Goods, would infringe any Intellectual Property Right of a third party, the Supplier takes no responsibility for the existence of such third party rights which may be so infringed and the Customer must assume the risk of infringement of the same. The Supplier reserves the right to make any changes in the specification of the Goods and/or Services which are required to conform with any applicable statutory or E.U. requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance. Any software supplied, including any firmware embedded in microcontrollers, and that whose Intellectual Property Rights are owned by an original developer or contributor shall be subject to that developer or contributor's terms and conditions. Due to the nature of software the Supplier will not accept any claim for damages nor warrant, that any software supplied or used or embedded in its products or any operating system will be free from defects and therefore does not accept any responsibility for any defects but will use its best endeavours to remedy any such defect within a reasonable timescale of the defect being brought to its attention.
- 16.2 The Supplier has developed and is the beneficial owner of the Intellectual Property Rights in all product designs and all software programmes which are incorporated in and operate its



Voice Alarm, PA, CCTV, Fire & Life Safety and Lighting systems. Save solely for the purposes expressly permitted by and in accordance with s. 296A(1) CDPA or s. 50B(2) CDPA, no part of these product designs or programmes or of any other software comprised in any Goods may be copied, reproduced, reverse compiled, modified or adapted by any user without the Supplier's express licence in writing. This clause 16.2 and clause 16.3 are without prejudice to each other.

16.3 The Customer acknowledges that all of the Intellectual Property Rights subsisting in or relating in any way to:

16.3.1 any drawings, reports, specifications and other similar documents ("the Documents") provided or prepared by the Supplier in connection with the sale and supply of the Goods and/or the Services, whether in hard copy or electronic form; and

16.3.2 the Goods, and all Know-how embodied in, or used in connection with, any of the foregoing are and shall remain vested in and the sole property of the Supplier or its licensors and that the Customer shall acquire no further interest in the same than is expressly granted by these Terms.

16.4 In consideration of the Customer's purchase of and payment for Goods incorporating the Supplier's software the Supplier grants a non-exclusive licence to the Customer to use the basic user functions comprised in the Goods without any further charge to cover Level 1 (Access Silence Alarm Re-set and Test) and Level 2 (by means of which parts of systems may be isolated) provided that the 'Equipment Data' and 'Identifiable Labels' remain attached to the Goods and are not interfered with. As regards all other Intellectual Property Rights and Know-how referred to in clause 16.3, in consideration of the Customer's purchase of and payment for the Goods, the Supplier grants to the Customer a non-exclusive licence of the same only to the extent necessary for the use of the Goods intended under these Terms.

16.5 No software licence is granted by the Supplier for the reconfiguration or commissioning of the Goods/the software comprised in the Goods by the Customer or any third party. This use may only be licensed by separate agreement signed by a Director of the Supplier on payment of the appropriate fee.

16.6 Know-how and Intellectual Property Rights evolved, generated from or arising in the performance of, or as a result of the supply of the Goods and/or Services to or to the order of the Customer, shall (to the extent that they are not already vested in the Supplier) vest in and be the absolute property of the Supplier.

16.7 Each of the Supplier and the Customer shall keep confidential and shall not without the other's prior written consent disclose to any third party any information (whether of a commercial or technical nature) concerning the business or affairs of the other which was acquired from the other pursuant to or as a result of the Contract of sale between them.

17 CONDITIONS OF CUSTOMER'S ORDERS

17.1 The Supplier shall only accept the Customer's order subject to these Terms, except as otherwise agreed in writing by a Director of the Supplier. For Contractual purposes, you consent to receive communications from us electronically and you agree that all agreements,



notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing

17.2 Acceptance of an order shall be by means of any written acknowledgment by an authorised representative of the Supplier, or delivery of the Goods/Services. No order submitted by the Customer shall be deemed to be accepted by the Supplier otherwise than in accordance with this clause 17.2.

17.3 The Customer shall be responsible to the Supplier for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving the Supplier any necessary information relating to the Goods/Services within a sufficient time to enable the Supplier to perform the Contract in accordance with its terms.

18 DESIGN

18.1 Any design undertaken by the Supplier which is associated with the Goods is based upon information and details provided by the Customer and is carried out in good faith.

18.2 Details of documentation and details provided by the Customer upon which any design is based are set out in the Supplier's Proposal/Maintenance Agreement.

18.3 In the event of the Customer failing to provide the Supplier with all details necessary to provide an accurate design the Supplier shall incur no responsibility or penalty for any failure associated with or arising from any design produced nor shall the Supplier be liable for any damages arising whether in Contract or tort, except as otherwise provided under these Terms.

18.4 The Customer is responsible for all design approvals including without limitation Fire Officer Licensing Public and Local Authority approvals.

18.4.1 Any drawings or designs issued by the Supplier to the Customer for approval shall be deemed to have been approved without reservation by the Customer if no comment is made in respect thereof in writing within a period of fourteen days from the date of issue to the Customer.

18.4.2 Responsibility for any failure of any design to meet any criteria shall rest with the Customer or other person approving (or deemed to approve in accordance with clause 18.4.1) any design.

18.5 The Supplier upon receipt of written instructions from the Customer will submit any of its designs for a system to the relevant Fire Officer Licensing Public or Local Authority for approval upon behalf of the Customer, without prejudice to the provisions of clause 18.4.

18.6 Siting of field devices on any design drawing of the Supplier is expected to give the audibility or intelligibility levels required by B.S.5839. The Supplier cannot however guarantee the attainment of such levels and upon completion of any installation and audibility/ intelligibility tests it may be found that additional field devices may be required to meet the levels required. In the event that additional field devices are required to enable any installation to meet a



particular standard the Supplier will supply them at prices ruling at date of dispatch upon receipt of the Customer's supplemental order and upon and subject to these Terms.

- 18.7 The Supplier shall not incur any liability for non conformance or non compliance in the event that the performance of the Goods is affected by circumstances not made known to the Supplier at the time of issuing any design including without limitation the acoustic qualities of any structure, the siting of machinery, plant, furniture, or fittings or the interior qualities or structure of any building.
- 18.8 In the event that additional work and/or materials are required to any installation to achieve any particular standard in consequence of any circumstance not made known to the Supplier at the date of its quotation, the Supplier shall be entitled to charge for all such additional work and/or materials, which charges shall be payable by the Customer in accordance with the payment terms set out in these Terms.
- 18.9 If the Goods are to be manufactured or any process is to be applied to the Goods by the Supplier in accordance with a specification submitted by the Customer, the Customer shall indemnify the Supplier against all loss, damages, costs and expenses awarded against or incurred by the Supplier in connection with, or paid or agreed to be paid by the Supplier in settlement of, any claim for infringement of any Intellectual Property Rights of any other person which results from the Supplier's use of the Customer's specification.

19 INSTALLATION

- 19.1 The time required to enable the Supplier to provide its Goods and Services to the Customer is set out with the Supplier's Proposal/Maintenance Agreement.
- 19.2 Any additional works required by the Customer must be instructed to the Supplier in writing at a cost to be agreed in writing. Such additional works shall be fully chargeable by the Supplier and provided upon and subject to these Terms, and the Customer shall pay such additional costs in accordance with Clause 8.
- 19.3 In the event that the Customer fails to instruct the Supplier in accordance with clause 19.2 above then the Supplier shall incur no responsibility for penalties or damages howsoever arising in consequence of such additional works either not being undertaken or their not being undertaken at any particular time.
- 19.4 The Customer shall be responsible for providing the Supplier with unimpeded access to any premises where the Goods/Services are to be delivered or provided with all services available to the Supplier to enable it to discharge its responsibilities effectively and on time.
- 19.5 The Supplier's quotation for any installation is prepared upon the basis of the following requirements namely that:
- 19.5.1 electrical power and lighting to and for any works to be undertaken by the Supplier will be provided to the Supplier free of charge;
- 19.5.2 scaffolding as necessary will be provided for the Supplier free of charge;



- 19.5.3 use of welfare storage and administration facilities on sites away from the Supplier's Head Office will be provided to the Supplier free of charge;
 - 19.5.4 builders' work in connection with any of the Supplier's Goods and Services will be provided free of charge by the Customer including the costs of making good;
 - 19.5.5 containment equipment such as cable trays trunking channels and the like will be provided free of charge by the Customer for the Supplier's wiring, cables and equipment; and
 - 19.5.6 the Supplier will only provide to the Customer the documents stated within the Supplier's Proposal/Maintenance Agreement.
- 19.6 In the event that the Customer fails to issue to the Supplier a Practical Completion Certificate when any installation works are completed then the date of practical completion shall be deemed to be the date of setting to work the Goods supplied (being completion of the Commissioning Services).
- 19.7 The Customer shall witness that any installation by the Supplier works correctly and in accordance with the Customer's requirements and that the installation is fit for the purpose required by the Customer.

20 COMMISSIONING

- 20.1 Where the Customer is to fix Goods provided by the Supplier and the Supplier is to Commission the Goods:
- 20.1.1 the Customer shall complete, sign and deliver to the Supplier not less than fourteen days before commissioning is required the Supplier's form of application for Commissioning;
 - 20.1.2 the Customer shall ensure that the whole of the works to be commissioned are available to the Supplier to enable the Supplier to carry out the Commissioning Services in one continuous operation; and
 - 20.1.3 the Supplier shall be entitled to charge and the Customer shall pay the Supplier standing time and additional costs at the Supplier's stated daily commissioning rate or multiples thereof incurred if the works to be commissioned are incomplete or not available to the Supplier on the date stated for commissioning or if the Commissioning Services are delayed or interrupted due to the fault of the Customer.
- 20.2 The Supplier will carry out Commissioning Services during any normal working hours, being 9 hours on weekdays between 0800 hours and 1700 hours Monday to Friday inclusive.
- 20.3 In the event that the Customer requires Commissioning Services outside normal working hours it must issue to the Supplier an amendment to the 'Application for Commissioning'. Commissioning Services that take place outside the hours stipulated in clause 20.2 above, shall be chargeable at the Supplier's premium rate table.



- 20.4 The Supplier's quotation for Commissioning Services is prepared upon the basis that there shall be provided by the Customer free of charge to the Supplier for use by the Supplier's Commissioning Engineer:
- 20.4.1 mains and temporary power;
 - 20.4.2 scaffolding and access equipment;
 - 20.4.3 storage and welfare facilities;
 - 20.4.4 as fitted installation drawing/installation schematic drawings; and
 - 20.4.5 installer's test sheets and attendance by a representative of the installer.
- 20.5 The Supplier shall not be required to complete any Commissioning Services unless there is a representative of the installer present during the process of commissioning.
- 20.6 The Customer shall be responsible for witnessing the works of commissioning and signature on completion certifying that he/she/its authorised representative has witnessed the satisfactory operation of the Goods. In the event that the Customer fails to do so, the Warranty in clause 3 shall not be available or apply in respect of the Goods.
- 20.7 Service and maintenance orders accepted by the Supplier are carried out as detailed in the Suppliers quotation are for an initial 36 month period unless otherwise stated from the date of the Customer's order (the "**Initial Period**"). Fees are due annually (from the date of the Customer's order) in advance for the duration of the Contract. Prices may be reviewed at any time at the sole discretion of the Supplier. The Contract may be cancelled by either party giving the other party 3 months advance written notice prior to the annual anniversary of the Contract (the "**Notice Period**"). If no written notice is served in accordance with this clause 20.7 during the Initial Period, the Contract will be renewed automatically following the last day of the Initial Period for successive periods of 36 months unless otherwise stated (the "**Renewal Period**") until such time as either party cancels the Contract in accordance with this clause 20.7. For the avoidance of doubt, during the Renewal Period the same terms and conditions of this Contract will apply unless otherwise agreed in writing by both the Supplier and Customer. In the event that the Customer terminates the Contract in accordance with this clause 20.7, the Supplier will issue an invoice for any outstanding sums due under this Contract (including during the Notice Period) which the Customer must pay in full in accordance with clause 8.

21 COPYRIGHT

- 21.1 The Supplier notifies the Customer that in the event that any Goods supplied by the Supplier are used in any public performance, playing, displaying or showing of any copyright material in circumstances where the Customer or any person authorised by it does not hold the appropriate licence of the copyright owner then they may infringe copyright and become liable for so doing including damages.
- 21.2 The Customer represents and warrants to the Supplier that it will by accepting delivery of the Goods from the Supplier have, hold or obtain the appropriate licence for any such



performance, playing, displaying or showing referred to in clause 20.1 prior to using the Goods for such purpose.

- 21.3 In the event that the Supplier becomes aware that any Goods supplied by it is or may in its opinion be used in any way which infringes copyright it shall be entitled to notify the copyright owners or other responsible body of such use.

22 THIRD PARTY

- 22.1 The Supplier shall not be responsible for nor shall it accept any penalties, costs or damages as a result of any undertakings from a third party.

- 22.2 The Supplier shall not accept or be required to accept any undertakings or conditions offered

23 NON-SOLICITATION

- 23.1 The Customer shall not during the continuance of the Contract for the supply of Goods/Services or of the provision by, on behalf of, or (directly or indirectly) through the Supplier of any engineering, maintenance or servicing services in relation to the Goods ("the Maintenance Services"), or in each case within 18 months thereafter, whether by itself or with or through any third party and whether for its own account or for any third party, directly or indirectly either:

23.1.1 solicit, approach or canvass away from the Supplier or any Group Company; or

23.1.2 engage,

any employee or Contractor of the Supplier or of any Group Company which in the previous 18 months had been engaged by the Supplier or any Group Company in the supply of the Goods/Services or any of the Maintenance Services, with a view to the specific knowledge or skills of any such employee or Contractor which were utilised in such supply being used by or for the benefit of the Customer, any company in its Group, or any party in competition with the Supplier, nor shall the Customer suffer or permit any third party to do any of the above acts.

24 SET OFF

The Customer shall not be entitled to set off any amounts due from the Supplier against any one Contract or against any other Contract made with the Supplier.

25 PROPER LAW

These Terms and any Contract of which they form part shall be governed and construed in accordance with English Law and the Customer and the Supplier submit to the non exclusive jurisdiction of the English Courts.

26 ERRORS – OMISSIONS

In the event that any quotation by the Supplier is found to contain an error or omission then the Supplier reserves the right to amend the same without any liability.



27 WAIVER

No waiver by the Supplier of any breach of these Terms/the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

28 SEVERABILITY AND WITHDRAWAL

28.1 If any provision of these Terms/the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

28.2 The Supplier may withdraw the Services by notice in writing at any time and disconnect the Goods if the police, fire, telecommunications or other statutory or similar authority withdraws permission for connection of the equipment to their services or formally requires the Supplier to do so.

28.3 Any modification, withdrawal from or additions to the Services required by the police, fire or other authority will be paid for by the Customer.

29 THIRD PARTY RIGHTS

No party who is not a party to the Contract shall be entitled by virtue of the Contracts (Rights of Third Parties) Act 1999 to enforce any provision of these Terms/the Contract.