

## TERMS AND CONDITIONS

### 1. Definitions, etc.

- (i) “Applicable Standards” means those adopted by any approvals or regulatory organisation by which the Installer is for the time being recognised or any modification or replacement thereof, current at the date of this Contract.
- (ii) “Authority” means any private or public organisation, body or association which provides response service in relation to security or alarm systems, or which is otherwise involved in the monitoring of security or alarm systems.
- (iii) “Corrective Maintenance” means the diagnosis and repair of faults and defects including defects discovered during Preventative Maintenance work or as a result of emergency call-out.
- (iv) “Contract” means the contract for the installation, maintenance, and/or monitoring of the Installation between the Customer and the Installer.
- (v) The “Customer” means any company, company or individual or agent thereof to whom the Installer’s Quotation or Contract is addressed.
- (vi) The “Installation” means that fire precaution systems and items of associated equipment described in the system design specification and which is the subject of this Contract.
- (vii) The “Installer” means the person, partnership or company which is undertaking to install, maintain, and/or monitor the Installation which is the subject of this Contract.
- (viii) “Maintenance Contract” means the Contract between the Customer and the Installer for the maintenance of the Installation for the duration of the Maintenance Contract Period
- (ix) The “Maintenance Contract Period” is that period quoted in Section I of the Contract and accepted by the Customer and commences initially on the date of issue by the Installer of a Certificate of Compliance for the Installation or may commence on any anniversary of that date thereafter.
- (x) The “Maintenance Contract Price” is that price payable by the Customer in Section I of the Contract, and may be subject to reasonable increase (based on the Retail Price Index or other suitable measure) on an annual basis, during the Maintenance Contract Period, to cover increases in wages, rates, travelling costs, and any other relevant prevailing factors since the date of the Contract.





- (xi) "Preventive Maintenance" means inspection, testing and adjustment of the Installation to confirm satisfactory operation or to identify any faulty items or processes to the Customer.
- (xii) The "Quotation Price" is that price accepted by the Customer in Section E of the Contract and is not subject to revision except by agreement in writing of both parties.

## 2. General

- (ii) Acceptance of the Quotation includes acceptance of the following terms and conditions as well as any which may have been added in the system design specification, which may specifically override these Terms and Conditions of trading and will take precedence if necessary for purposes of interpretation. -
- (iii) Nothing in these Conditions will reduce your statutory rights relating to faulty and mis-described goods. For further information about your statutory rights you can contact your local authority Trading Standards Department or Citizens Advice Bureau.

## 3. Basis of Quotation for Installation

- (i) Installing work is to be done during normal working hours, i.e. Monday to Friday 9.00 a.m. to 5.00 p.m. (statutory holidays accepted). Any extension of such hours or period directly or indirectly caused by the Customer shall entitle the Installer to charge any reasonable extra costs resulting.
- (ii) Variation or additional work ordered by the Customer shall be charged on the basis of reasonable time and materials at rates and costs current at the time of such work (unless separately agreed in writing prior to the variations/additional work starting).
- (iii) Unless otherwise specifically agreed, the Quotation Price does not include any extraneous work, making good, re-decoration, carpet laying, building or carpentry work etc. and is contingent on engineers having unhindered access to doors, windows, cable runs and all other areas where work has to be carried out.
- (iv) Any item of equipment not actually sold to the Customer shall be denoted as such in the system design specification and shall be subject to separate rental and/or maintenance terms as may be appropriate.



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#### 4. Terms of Payment

- 4.1 Unless otherwise agreed, the specified deposit shall be due and payable by the Customer on acceptance of the Quotation. For Maintenance & Monitoring contracts this shall be payable in advance at the start of the contract.
- 4.2 Maintenance & Monitoring contracts with our (ARC) Alarm receiving centre will be automatically rolled forward at each anniversary renewal. This is to allow for un-interruption of service/s. This agreement can be ceased by either party given 30 days' notice.
- 4.3 The outstanding balance of the Quotation Price shall be due on completion of the Installation ("the Final Date for Payment") and prior to handover of the keys or keypad combination codes to the Customer. The standard payment terms are 30 days from invoice date, Payment dates are clearly defined on Invoices sent, should invoices remain outstanding after this date the Company reserves the right to charge additional costs where accounts remain unpaid after the due term.
- 4.4 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Seller, the Seller shall be entitled to:
- 4.4.1.1 Cancel the order or suspend any further deliveries to the Buyer;
- 4.4.1.2 Appropriate any payment made by the Buyer to such of the Goods (or the goods supplied under any other contract between the Buyer and the Seller) as the Seller may think fit (notwithstanding any purported appropriation by the Buyer); and
- 4.4.1.3 Charge the Buyer interest (both before and after any judgement) on the amount unpaid, at the rate of 3.5% per annum above the Bank of England base 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).
- 4.4.1.4 This condition applies if:
- 4.4.1.5 The Buyer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract;
- 4.5 The Installation shall remain the property of the Installer until all sums due and payable by virtue of this paragraph have been received by the Installer, but the Customer shall nevertheless at all times be responsible for loss of and damage to the Installation unless such loss and/or damage arises from the neglect of the Installer, its employees or agents.



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- 4.6 *This paragraph only applies to contracts which are subject to the Housing Grants, Construction and Regeneration Act 1996.*

Payment as required above may not be withheld by the Customer after the Final Date for Payment unless effective notice to withhold payment has been given specifying:

- (i) The amount of the payment made or proposed to be made.
- (ii) The basis upon which that account was calculated.
- (iii) The ground or grounds for withholding payment and if more than one, the amount attributable to each ground.

## 5. Completion

The Installer will use its best endeavours to effect completion of the Installation by the agreed completion date but it cannot be held liable for any loss or damage resulting from delay or non-delivery due to causes beyond its control.

## 6. Liability for Loss or Damage

- (i) The Installer does not know, and shall not be deemed to know, the true value of the Customer's property or premises, and is not the insurer thereof.
- (ii) Apart from death or personal injury, the aggregate liability of the Installer and its staff for any breach of contract, breach of statutory duty or negligence arising out of this contract, or presence at the Customer's premises shall be limited to **£7,000,000:00** for any kind of loss or damage whatsoever. The Customer shall notify the Installer of any claims within 30 days of the occurrence giving grounds for such claims.
- (iii) Although the Installation is designed to the best of the Installer's skill and knowledge to reduce the risks of loss or damage or to deter intruders (as the case may be) the Installer does not represent or warrant that the Installation may not be neutralised, circumvented or otherwise rendered ineffective by the Customer, intruders or other unauthorised persons, and in such event it shall not be liable for direct or indirect loss or damage suffered by the Customer, intruders or other unauthorised persons.
- (iv) In view of the previous sub-paragraphs (i) to (iii) inclusive, the Customer acknowledges that he, she or it should effect separate insurance cover.

## Guarantees

For one year from the date of handover the Installer shall carry out replacement or repair of parts and rectification of faults free of charge (including call out) and to the Applicable Standards except for any such things made necessary by wilful or negligent act of any person (other than the Installer, its employees, and agents), or by some other cause or peril beyond the Installer's control.



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## 7. Ownership

Until full payment is received as referred to in Section 4 above, every part of the Installation and associated equipment shall remain the property of the Installer and the Customer irrevocably grants license in the event of his, her or its default, to enter upon his, her or its premises to recover the same whether fixed or unfixed provided the Installer shall first obtain an Order from a Court of Law permitting entry into the Customer's premises. Until recovery of the Installer's property, the Customer shall take reasonable care of same and shall pay the Installer's reasonable costs of replacing or repairing the same.

## 8. Installer's Obligations

- (i) In consideration of the Quotation Price specified and paid or to be paid by the Customer, the Installer undertakes to install the Installation in accordance with the Applicable Standards adopted by the approvals or regulatory organisation by which the Installer is for the time being recognised, to the best of its ability and that such equipment used in the Installation shall be fit for the purpose intended.
- (ii) In consideration of the Maintenance Contract Price specified and paid or to be paid by the Customer before the renewal date due and annually thereafter in advance on the anniversary of that date to the Installer, the Installer will, for the duration of the Maintenance Contract Period specified, carry out maintenance inspections of the Customer's installation together with other services where applicable as specified in para. 9(iv) below.
- (iii) This Combined Quotation/Sale and Maintenance Contract document relates only to the Installation described in the system design specification which is the subject of that document, and the maintenance provisions shall only apply if agreed between Customer and Installer.
- (iv) When the Contract document provides for maintenance service, the Installer agrees, subject to reasonable access to the site and installation being available, periodically to inspect, test and adjust the Installation and to carry out all necessary maintenance thereto on the number of visits set out in the Maintenance Contract document in accordance with the Applicable Standards during normal weekday working hours (except where otherwise stated), viz Monday to Friday 9.00 a.m. to 5.00 p.m., upon giving reasonable notice to the Customer of any visit for this purpose. Additional services such as various monitoring services and Key holding shall also be supplied on a 24-hour basis if included within the Maintenance contract Price and accepted by the Customer.



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## 9. Customer Obligations

- (i) The Customer agrees to pay in addition to the Quotation Price and the Maintenance Contract Price (if any) for the cost of any works from time to time required upgrading the Installation to a state which complies with the relevant Applicable Standards.
- (ii) To pay for all necessary repairs and replacements to the Installation unless these are covered by guarantees or extended guarantees of the Maintenance Contract or where they are necessary due to the neglect of the Installer, its employees and or agents.
- (iii) Where the Installation has been installed so as to be linked with any Authority or monitoring service and where it has operated so as to register with such Authority or monitoring service then the Customer or his agent shall immediately after being aware of the event notify the Installer.
- (iv) Not to permit anyone (including the Customer himself) other than the Installer to test, adjust or reset or interfere with the Installation or any part thereof. In the event of a breach of this provision the Installer shall be entitled to terminate the Maintenance Contract forthwith upon its discovery.
- (v) To permit the Installer's staff and agents (and Inspectors representing any approvals or regulatory organisation by which the Installer is for the time being recognised) from time to time to have access to the Customer's premises at all reasonable times.
- (vi) Not to charge, pledge or otherwise deal with any of the Installer's equipment or installation which has not already been sold to the Customer nor part with possession of the same or remove or permit it to be removed from the Customer's premises.
- (vii) To notify the Installer of any proposed structural alteration to the premises or any other modification which may affect the existing Installation or system to which it may be linked. Any extension to or alteration of the Installation which may thereby become necessary shall be carried out by the Installer at the additional expense of the Customer.
- (viii) To notify the Installer as soon as practical (and preferably at once) after the appearance of any defect in the Installation, and to permit the Installer to take such steps as it thinks fit to remedy such a defect.
- (ix) To ensure that if an external alarm bell is fitted it does not cause a nuisance as defined by current Noise Pollution legislation from time to time. Arrangements must include an automatic device, limiting bell noise to 15 minutes and for two key holders to be available within this time [current legislation includes London Local Authorities Act 1991, Environmental Protection Act 1990, Control of Pollution Act 1974 Scotland, Noise and Statutory Nuisance Act 1993].
- (x) The Customer is to obtain and pay for the telephone line or other telephone company apparatus required for monitoring or remote signalling (if any) as well as other necessary facilities, consents, permits, licenses, way leaves or approvals required for installing the system. However the Installer will assist by putting the telephone company in touch with the Customer for provision of the requisite type of service.



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## 10. Termination of Maintenance Contract

- (i) Either party may terminate the Maintenance Contract (if applicable) by not less than one months' notice in writing to that effect to expire upon the day before any anniversary of such Maintenance Contract.
- (ii) Either party may terminate the Maintenance Contract after the Maintenance Contract Period by serving a notice in writing on the other party of not less than one month.
- (iii) In the event of such termination the Customer shall forthwith return to the Installer any part of the Installation and any other equipment which is rented by the Customer from the Installer. The Customer shall thereafter be responsible for making his, her or its own arrangements in regard to any monitoring or other continuing services which may be required, it being a condition that monitoring services will only be provided by the Installer or his agent when a current Maintenance Contract exists between the Installer and the Customer.
- (iv) Even though the Contract may be terminated the Installer and his, her or its agents shall have the right upon reasonable notice to enter the Customer's premises (subject to obtaining prior approval from a Court of Law) to remove any equipment belonging to the Installer and subject to reasonable disturbance only shall not be liable for any loss or damage occasioned thereby.

## 11. Force Majeure

Any failure by the Installer to perform any of its obligations by reason of any cause beyond the control of the Installer shall be deemed not to be a breach of this Contract.

## 12. Right to Refer Disputes to Adjudication in Contracts which are subject to the Housing Grants, Construction and Regeneration Act 1996

If this contract is a contract to which the Housing Grants, Construction and Regeneration Act 1996 applies then:-

- 12.1 If any dispute or difference arises out of or in connection with this contract, any party ("the referring party") may by notice given to every other party to the agreement at any time refer the said dispute or difference to adjudication to be conducted in accordance with the Adjudication Provisions of the Scheme for Construction Contracts prescribed under the Housing Grants, Construction and Regeneration Act 1996.

13. The said adjudication shall be conducted by an adjudicator appointed by agreement between the parties or in default of agreement, the referring party shall request the Centre for Dispute Resolution being a nominating body under Clause 2.1(b) of the said Scheme for these purposes to select a person to act as adjudicator.

## 14. Mediation

Subject always to the right of any party at any time in a contract to which the Housing Grants, Construction and Regeneration Act 1996 applies, to refer a dispute or difference arising out of or in connection with this agreement to adjudication as above, either party may request by notice in writing, with record of posting, that the dispute be referred to mediation by a person agreed between the parties. Should the parties agree to mediation but fail to agree upon the person to mediate within seven days of such a request being made, then either party may apply to NSI for the appointment of a Mediator and such mediation will be conducted in accordance with guidelines for mediation published by the Academy of Experts.



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(Note: Mediation does not result in a resolution being imposed or enforceable upon any party. It aims to assist the parties in reaching a mutually agreed resolution of their dispute or differences).

## 15. Applicable Law and Category of Jurisdiction

This Contract is subject to the Laws of England and Wales and the parties shall submit to the jurisdiction of the Courts thereof.

## 16. Call out Charges

### Maintained Customers

Call out travel and or 1 <sup>st</sup> hour in site =	£100:00
Subsequent hours or part thereof =	£50:00
Out of normal hours 17:01-08:59 =	£75:00
Saturdays =	£75:00
Sundays =	£100:00
Parking =	£10.00 – Per Hour
Congestion Charge =	£11.50

Where calls are placed on the out of office emergency call line “out of normal office hours” these calls will be subject to a minimum call out period of 4 hours. The above charge will include all travelling and parking charges where applicable.

### Non- Maintained Customers

Call out travel and or 1 <sup>st</sup> hour in site =	£150:00
Subsequent hours or part thereof =	£75:00
Out of normal hours 17:01-08:59 =	£120:00
Saturdays =	£120:00
Sundays =	£150:00
Parking =	£10.00 – Per Hour
Congestion Charge =	£11.50



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