

The Customer hereby agrees to engage the Supplier and the Supplier hereby agrees to provide the Services to the Premises as an independent contractor on these terms and conditions and in accordance with the provisions of Advanced Signal Monitoring (ASM) Administration and Operational Booklet as may be updated from time to time.

TERMS AND CONDITIONS

Interpretation

- 1.1 The definitions and rules of interpretation in this condition apply in these Terms and Conditions (**Conditions**).
- "Agreement"** means the Agreement between the parties for the provision of the Services.
- "Alarm Receiving Centre"** means the Supplier's alarm and equipment monitoring centre utilised from time to time by the Supplier.
- "Authority"** means any public authority to whom there is an obligation to alert the alarms or other systems to activate at the premises.
- "CCTV"** means Closed Circuit Television.
- "Connection Form"** means a written request from the Customer for the provision of any Services, in such form as the Supplier shall specify or approve from time to time;
- "Charges"** means the Suppliers charges from time to time for any Services together with any charges for additional services agreed by the parties, as such charges are varied from time to time in accordance with the Agreement.
- "Communications Link"** means the electronic link provided by third parties between the alarm Site(s) and the Alarm Receiving Centre.
- "Customer"** means the person, firm or company who purchases Services from the Supplier whether on his own behalf or as agent for an End User.
- "Customer's Equipment"** means any equipment, systems, cabling or facilities provided by the Customer and or the End User used directly or indirectly in the supply of the Services.
- "Deliverables"** means all Documents, products and materials developed by the Supplier or its agents, subcontractors, consultants and employees in relation to the Services in any form, including but not limited to computer programs, data, reports and specifications.
- "Document"** includes, without limitation, in addition to any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form.
- "End User"** means the owner or occupier of the Site(s) or that part of the Site(s) where the Supplier is contracted to provide the Services.
- "In-put Material"** means all Documents, information and materials provided by or on behalf of the Customer and or the End User relating to the Services including (without limitation), computer programs, data, reports and specifications.
- "Intellectual Property Rights"** means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- "Operational Procedures"** means the written administrative and operational procedures and specifications of the Supplier relating to its Services as published from time to time.
- "Relevant Liability"** as defined in Clause 7 hereof.
- "Services"** means the service requirements of the Customer which the Supplier has contracted to provide from time to time.
- "Signal"** means the receipt at the Alarm Receiving Centre of an agreed transmission of an electronic message sent from the Customer's Equipment
- "Site" or "Sites"** means the site or sites to which the Supplier is contracted to provide the Services.
- "Supplier"** means Advanced Signal Monitoring Limited
- "Supplier's Equipment"** means any equipment, including tools, systems, cabling or facilities, provided by the Supplier or its subcontractors and used directly or indirectly in the supply of the Services which are not the subject of a separate agreement between the parties under which title passes to the Customer.
- "System"** means the alarm or other system or systems at the Site(s) which the Supplier has agreed to provide the Services.
- "URN"** means unique reference number issued by an Authority.
- "VAT"** value added tax chargeable under English law for the time being and any similar additional tax.
- 1.2 Headings in these conditions shall not affect their interpretation.

- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 In these Terms and Conditions the plural includes the singular and vice versa; a reference to any person includes a reference to any individual, partnership or company; words and expressions defined in the Companies Act 2006 shall bear the meanings assigned to them therein; and headings are for convenience only and shall not affect the construction or interpretation of these Terms and Conditions.
- 1.5 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.6 A reference to **writing** or **written** includes faxes and e-mails.
- 1.7 Any obligation in any agreement on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.8 These Conditions shall:
 - 1.8.1 Apply to and be incorporated into the Agreement; and
 - 1.8.2 Prevail over any inconsistent terms or conditions contained, or referred to, in the Customer's purchase order, confirmation of order, acceptance of a quotation, or specification or other Document supplied by the Customer, or implied by law, trade custom, practice or course of dealing.
- 1.9 The Customer's order is subject to these Terms and Conditions, and the Customer's acceptance of a quotation for Services by the Supplier, constitutes an offer by the Customer to purchase the Services specified in it on these Terms and Conditions. No offer placed by the Customer shall be accepted by the Supplier other than:
 - 1.9.1 By a written acknowledgement issued and executed by the Supplier; or
 - 1.9.2 (if earlier) by the Supplier starting to provide the Services,
 - 1.9.3 For the avoidance of doubt when the Agreement for the supply and purchase of the Services on these Terms and Conditions is established, that the Customer's standard terms and conditions (if any) attached to, enclosed with or referred to in any purchase order or other Document shall not govern the Agreement.
- 1.10 Quotations are given by the Supplier on the basis that no Agreement shall come into existence except in accordance with Clause 2. Any quotation is valid for a period of 30 days from its date, provided that the Supplier has not previously withdrawn it.
- 1.11 Either party may propose reasonable changes to the Operational Services by notice in writing to the other. The Supplier may make a reasonable adjustment to its charges for the Services as a result of any changes which are agreed and actioned in accordance with this Clause. No variation or waiver of or addition to the Agreement shall be binding upon the Supplier unless and until it is confirmed by the Supplier in writing

COMMENCEMENT AND DURATION

Subject to Clause 3.1, the Services to be supplied under the Agreement shall continue for the term and thereafter shall continue to be supplied unless the Agreement is terminated by one of the parties giving to the other not less than three months notice.

3. SUPPLIER'S obligations

3.1 SUBJECT TO THE FOLLOWING SERVICE DEPENDENCIES – NAMELY:

- 3.1.1 The Communications Links are provided by independent organisations which are not under the Suppliers control. The Supplier accepts no responsibility for any signal or transmission failing to reach the Alarm Receiving Centre because of a failure or other problem with any Communications Link or any liability for any resulting nonperformance of the Services.
- 3.1.2 That all System(s) to be monitored, are designed, installed, maintained and operated in accordance with, all applicable laws, regulations, codes of practice and industry standards including where applicable any European standards.
- 3.1.3 The Customer shall ensure that all System(s) will be compatible with the Suppliers monitoring equipment and be configured to meet any requirements of the Supplier. The Supplier reserves the right to change its requirements for configuration of a System by notice to the Customer where due to a change to any relevant law, standards or codes of practice applicable to the Services. On receipt of such notice the Customer shall promptly re-configure at its own cost any applicable System in accordance with the requirements of the Supplier.
- 3.1.4 The Supplier does not warrant or guarantee that the Authority will respond immediately or at all to any notifications received from the Supplier and shall have no liability to the Customer if the Authority fails to respond.

If the Supplier is informed by an Authority that it may not pass signals from a System to that Authority, then the Supplier will have no obligation to the Customer to notify it of such change.

- 3.1.5 Where any Authority adopts a URN in respect of the System, the Supplier is under no obligation to alert any Authority to any signals from any of the Site(s) where the URN has not been supplied or where the URN has subsequently been withdrawn.
- 3.2 That the Supplier shall use reasonable endeavours to provide the Services, and to deliver the Deliverables to the Customer, in accordance with its contractual obligations.
- 3.3 The Supplier shall use reasonable endeavours to meet any performance dates specified in the Agreement, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 3.4 The Supplier will provide the Services in accordance with the Operational Procedures, subject to any specific requirements of the Customer stated in the Agreement or otherwise agreed with the Customer from time to time.
- 3.5 The Supplier shall use reasonable endeavours to observe any reasonable security requirements that apply at any of the Site(s) that have been communicated in writing, provided that it shall not be liable under the Agreement if, as a result of such observation, it is in breach of any of its obligations under the Agreement.
- 3.6 In providing the Services the Supplier will use reasonable endeavours to ensure compliance with all relevant European Standards.
- 3.7 Any obligation of the Supplier to notify any person of a signal received from a System shall be an obligation only to take reasonable steps to notify that person, in accordance with any standards applicable to the Services.
- 3.8 Logging: The Supplier will keep audit records of all signals received by it from Systems and actions taken by it in performance of the Services, and will maintain these records in accordance with the relevant European Standards.

4. CUSTOMER'S OBLIGATIONS

- 4.1 The Customer shall:
 - 4.1.1 Comply with the Supplier's Operational Procedures as amended from time to time; and
 - 4.1.2 Co-operate with the Supplier in all matters relating to the Services; and
 - 4.1.3 Provide the Supplier, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the premises to the Site(s) and any other data and other facilities as may be reasonably required by the Supplier from time to time; and
 - 4.1.4 Provide to the Supplier, in a timely manner, such In-put Material and other information as the Supplier may require and ensure that it is accurate in all material respects; and
 - 4.1.5 Be responsible (at its own cost) for preparing and maintaining the relevant Site(s) for the supply of the Services, including identifying, monitoring, removing and disposing of any hazardous materials from any of its Sites(s) in accordance with all applicable laws, before and during the supply of the Services at the relevant Site(s); and
 - 4.1.6 Inform the Supplier from time to time of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Site(s); and
 - 4.1.7 Furnish equipment of a satisfactory standard and quality to ensure the transmission of signals from the Site(s) to the Alarm Receiving Centre; and
 - 4.1.8 Ensure that all systems connected to the Alarm Receiving Centre are installed, maintained and used in accordance with the current European Standards as applicable and suitable for the purposes for which they are used in relation to the provision of the Services; and
 - 4.1.9 Obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Supplier's Equipment, the use of In-put Material and the use of the Customer's Equipment in relation to the Supplier's Equipment insofar as such licences, consents and legislation relate to the Customer's business, premises, staff and equipment, in all cases before the date on which the Services are to start; and
 - 4.1.10 Provide the Supplier promptly on request with all such information which the Supplier requires to perform the Services and shall:-
 - 4.1.10.1 ensure that all information which it provides to the Supplier is true, complete, accurate, and adequate; and
 - 4.1.10.2 inform the Supplier immediately of any changes to any such information; and
 - 4.1.10.3 promptly provide any additional information which the Supplier may require; and 4.1.10.4 confirm the accuracy of any information held by the Supplier as soon as possible following any request; and
 - 4.1.10.5 The Customer shall provide to the Supplier with all rights of access to any Site, and any other facilities or assistance which the Supplier may reasonably require to enable it to perform the Services.

- 4.1.11 The Customer shall promptly enter into any agreement or indemnity required by any Authority in connection with any System; and
- 4.1.12 keep, maintain and insure the Supplier's Equipment in good condition and in accordance with the Supplier's instructions as notified in writing from time to time, and shall not dispose of or use the Supplier's Equipment other than in accordance with the Supplier's written instructions or authorisation.
- 4.1.13 Insure
- 4.1.13.1 Without prejudice to its obligations to indemnify the Supplier under Clause 8 the Customer shall take out and at all times during which the Services are provided maintain in effect suitable during the continuance of its contract Public and Product Liability Insurances against the risk of a claim for the loss or damage to the Site(s) or for the death or personal injury to third party with a limit of indemnity for each incident of at least £5,000,000.00 or such other sum that the Supplier may specify from time to time and shall produce to the Supplier documentary evidence from the Insurer that such insurance has been taken out and is being maintained; and
- 4.1.13.2 As and when the Customer is reasonably required to do so by the Supplier the Customer shall send to the Supplier for inspection by the Supplier documentary evidence from the insurer that the insurances required by clause 4.1.13 have been taken out and are being maintained.

5. CHARGES AND PAYMENT

- 5.1 The Customer shall pay the Supplier the Charges for the Services in accordance with the invoicing and payment terms specified in the Agreement.
- 5.2 Unless otherwise agreed, all amounts shall be payable by direct debit from the Customer's bank account to such bank account as the Supplier shall nominate from time to time. The Customer shall make arrangements with its bank to enable the Supplier to notify the bank of amounts payable by direct debit from time to time.
- 5.3 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:
- 5.3.1 Charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Customer shall pay the interest immediately on demand. The Supplier may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998; and
- 5.3.2 Suspend all Services until payment has been made in full.
- 5.4 All amounts payable by the Customer under the Agreement are exclusive of Value Added Tax which shall be payable in addition at the rate ruling from time to time.
- 5.5 All Charges and other amounts to be paid by the Customer under this Agreement shall be paid in full without deduction or withholding (other than as required by law) and the Customer shall not be entitled to assert any credit, set-off, or counterclaim against the Supplier in order to justify the withholding payment of such amounts.
- 5.6 The Supplier shall not be obliged or liable for any reason (including termination of the Agreement or any Services) to refund to the Customer any Charges which have been paid in advance by the Customer, except where the Customer was entitled to terminate this Agreement or any Services owing to breach by the Supplier.
- 5.7 Payment of the Charges and the time for payment of the Charges shall be of the essence to this Agreement.
- 5.8 The Customer shall pay to the Supplier on demand all costs and expenses (including legal costs) incurred by the Supplier in recovering or enforcing payment of any amounts payable by the Customer under this Agreement.
- 5.9 Where Services are provided for a fixed price, the total price for the Services shall be the amount set out in the Agreement. The total price shall be paid to the Supplier (without deduction or set-off) in instalments, as set out in the Agreement. At the end of a period specified in the Agreement, the Supplier shall invoice the Customer for the charges that are then payable, together with expenses, the costs of materials and VAT, where appropriate.
- 5.10 The parties agree that the Supplier may review and increase the charges set out in the Agreement, provided that such charges cannot be increased more than once in any 12 month period. The Supplier will give the Customer written notice of any such increase 3 months before the proposed date of the increase. If such increase is not acceptable to the Customer, it may, within 2 months of such notice being received or deemed to have been received, terminate the Agreement (by giving 3 months written notice to the Supplier).

- 5.11 All sums payable to the Supplier under the Agreement shall become due immediately on its termination, despite any other provision without prejudice to any right to claim for interest under the law, or any such right under the Agreement.
- 5.12 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

6. INTELLECTUAL PROPERTY RIGHTS

- 6.1 As between the Customer and the Supplier, all Intellectual Property Rights and all other rights in the Deliverables and the Pre-existing Materials shall be owned by the Supplier. The Supplier licenses all such rights to the Customer free of charge and on a non-exclusive, basis to such extent as is necessary to enable the Customer to make reasonable use of the Deliverables and the Services. If the Agreement terminates, this licence shall automatically terminate.
- 6.2 The Customer acknowledges that, where the Supplier does not own any Pre-existing Materials, the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written licence (or sublicense) from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.

LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY

DRAWN TO THIS CONDITION

7. Liability

It is agreed and understood by the parties that the Supplier is not an insurer and that provisions of Service will not obviate the necessity of the Customer and or the End Users obtaining and maintaining insurance in respect of potential claims. Moreover the Supplier is not and cannot be aware of the extent of any potential loss or damage to the Customer and/or the End User resulting from any fire or loss or damage at the Premises. Nor can the Supplier give any warranty, guarantee or other undertaking that the services will avert, prevent or protect against occurrences of which the service is intended to give warning.

- 7.1 In this Clause 7 "Relevant Liability" means the liability of the Supplier to the Customer and/or the End User for any loss, damage or liability suffered or incurred by the Customer and/or the End User which is caused by or arises out of:-
- 7.1.1 Any breach of the Agreement by the Supplier, or
- 7.1.2 Negligence of the Supplier in the course of or in connection with the performance of the Agreement or the Services, or
- 7.1.3 Any act or omission of the Suppliers officers, employees, agents, or contractors in the course of or in connection with the performance of the Agreement or the Services, or
- 7.1.4 Breach of any warranty or representation given by the Supplier in connection with this Agreement or the Services (in each case whether such liability is in Agreement, tort, statute or otherwise howsoever).
- 7.2 Limitation of Liability: Subject to Clause 7.1, the Relevant Liability of the Supplier to the Customer shall be limited to the liability of the Supplier for:-
- 7.2.1 Loss of or damage to the physical property of the Customer; and/or the End User; or
- 7.2.2 The liability of the Supplier to any other person including the End User for loss of or damage to the physical property of that person.
- 7.3 Notwithstanding any other provision of this Agreement, but subject to Clause 7.2, the Relevant Liability of the Supplier to the Customer and/or the End User shall be limited to £10,000 for any one incident or series of related incidents.
- 7.4 Notwithstanding any other provision of the Agreement, but subject to Clause 7.1, the Supplier excludes and shall not have any Relevant Liability to the Customer for:-
- 7.4.1 Any special, indirect or consequential loss; or
- 7.4.2 Any loss of profit, production, business, revenue, use, contract or goodwill; or
- 7.4.3 Any liability of the Customer and/or the End User to any other person for the types or loss or damage referred to in this Clause 7.
- 7.5 Nothing in the Agreement shall exclude or limit the liability of the Supplier for death or personal injury resulting from the negligence of the Supplier.
- 7.6 Each of Clauses 7.1 to 7.5 shall be construed as a separate and severable contractual term, and if one or more of each of such Clauses is held to be invalid, unlawful or otherwise unenforceable, the other or others of such Clauses shall remain in full force and effect and shall continue to bind the parties.

- 7.7 The Customer acknowledges and agrees that the benefit of Clauses 7.1 to 7.7 shall extend to the officers, employees, agents and contractors of the Supplier.
- 7.8 The Customer shall indemnify the Supplier in respect of any claim made or charge levied by any Authority in connection with any notifications made in good faith by the Supplier to that Authority pursuant to the Agreement.
- 7.9 The Customer agrees to obtain from its insurer a waiver of all subrogation rights the insurer may have against the supplier in respect of any claim against the Supplier in excess of the limits and restrictions set out in this clause 7.
- 7.10 For the avoidance of doubt this Clause 7 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:-
 - 7.10.1 Any breach of the Agreement including any deliberate breach of this Agreement by the Supplier, or its employees, agents or subcontractors; and
 - 7.10.2 Any use made by the Customer of the Services, the Deliverables or any part of them; and
 - 7.10.3 Any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.
- 7.11 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- 7.12 For the avoidance of doubt and subject to Clause 3
 - 7.12.1 the Supplier shall not be liable for:-
 - 7.12.1.1 loss of profits; or
 - 7.12.1.2 loss of business and/or revenue; or
 - 7.12.1.3 depletion of goodwill and/or similar losses; or
 - 7.12.1.4 loss of anticipated savings; or
 - 7.12.1.5 loss of goods; or
 - 7.12.1.6 loss of contract; or
 - 7.12.1.7 loss of use; or
 - 7.12.1.8 loss of corruption of data or information; or
 - 7.12.1.9 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - 7.13 If the Supplier's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees including the End User, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer and/or the End User arising directly or indirectly from such prevention or delay.
 - 7.14 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including, without limitation, any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy resources elsewhere) arising directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under the Agreement, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

8 Indemnity

- 8.1 The Customer shall indemnify the Supplier from and against any claim, action, proceedings or liability in respect of any loss, damage, injury or liability suffered or incurred by any person arising out of or in connection with the Agreement (whether or not any such loss, damage or liability is caused by breach of the Agreement, negligence, breach of statutory duty, or any other cause whatsoever), together with any costs and expenses (including legal costs) reasonably and properly incurred by the Supplier in settling or defending any such claim, action or proceedings, PROVIDED THAT this indemnity shall, in relation to any particular event or circumstances, only extend to any amount which exceeds that which the Customer would be entitled to recover from the Supplier under the Agreement (including without limitation, Clauses 9.1 to 9.7 hereof) on the assumption that the other person in question did not seek to recover against the Supplier in respect of such loss, damage or liability but instead sought to make such recovery against the Customer, and that the limitations and exclusions of liability in this Agreement were valid and enforceable.
- 8.2 The Customer shall on behalf of itself and/or any End User indemnify and keep the Supplier indemnified against:-
 - 8.2.1 All losses, damages, costs or expenses, howsoever arising, in respect of any damage or loss of every nature beyond the liability of the Supplier; and
 - 8.2.2 Against all losses, damages, costs and expenses which the Supplier may incur under the terms of any Supplier's licence with third parties arising out of the attendance at or entry onto the

Premises by any representative of any authority irrespective of whether such attendance or entry was required.

9. Extension of Protection to Employees and Agents

The Customer acknowledges and agrees that the provisions of Clause 8 above shall extend to and protect and indemnify the employees and agents of the Supplier and of the Authorities and Officers thereof and that such provisions have been entered into and shall be enforceable by the Supplier for itself and as trustee or agent for such employees and agents.

10. DATA PROTECTION

- 10.1 The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier in connection with the Services.
- 10.2 The Supplier may send to the Customer periodically its database of information held by it provided by the Customer, and the information contained in this database shall be presumed to be correct unless and until the Customer notifies the Supplier otherwise in writing.

11. TERMINATION

- 11.1 The Supplier may terminate this Agreement by notice to the Customer with immediate effect:-
- 11.1.1 If any payment due to the Supplier from the Customer is not be paid within 14 days of the date on which it should have been paid under the Agreement; or
- 11.1.2 Where the Customer is a company, if control (as defined in Section 840 of the Income and Corporation Taxes Act 1988) of the Customer shall pass out of the hands of the person or persons currently having such control, or there shall be substituted for the ultimate holding company of the Customer when the Agreement came into force a different ultimate holding company; or
- 11.1.3 If the Customer shall cease or threaten to cease to carry on business, or a substantial part thereof, or shall dispose or threaten to dispose of the whole or a substantial part of its undertaking, property or assets; or
- 11.1.4 If the Customer is at any time unable to obtain or retain the necessary rights, consents or permits for the transmission signals between the premises and the Alarm Receiving Centre; or
- 11.1.5 Should the authority terminate the licence to the premises; or
- 11.1.6 Without prejudice to Clause 5.10 that in addition the Supplier reserves the right to review and increase the charges set out in the Agreement if the premises are having an operational impact on the Alarm Receiving Centre based upon the number of false activations transmitted to the Alarm Receiving Centre.
- 11.2 Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement without liability to the other if:-
- 11.2.1 The other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or
- 11.2.2 The other party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- 11.2.3 The other party repeatedly breaches any of the terms of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Agreement; or
- 11.2.4 The other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or being a natural person is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986] or (being a partnership) has any partner to whom any of the foregoing apply; or
- 11.2.5 The other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
- 11.2.6 A petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
- 11.2.7 An application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or

- 11.2.8 A floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- 11.2.9 A person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
- 11.2.10 A creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days; or
- 11.2.11 The other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or
- 11.3 The parties acknowledge and agree that any breach of conditions 11.2.1 to 11.2.11 inclusive shall constitute a material breach for the purposes of this Clause 11.
- 11.4 Where the Supplier is entitled to terminate the Agreement under Clauses 11.1 to 11.2 or the Supplier has properly given a notice under Clause 11.1 the Supplier may elect to suspend the provision of the Services for such period as it may by notice specify to the Customer. If before the end of the suspension period the Customer demonstrates to the Supplier that it has remedied the circumstances giving rise to the right to terminate or any breach then the Services will resume, otherwise the supplier may exercise its rights to terminate the Agreement at the end of the suspension period.
- 11.5 On termination of the Agreement for any reason:-
- 11.5.1 The Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice, which shall be payable immediately on receipt; and
- 11.5.2 The Customer shall forthwith return all of the Supplier's Equipment, Pre-existing Materials and Deliverables. 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 or repossessed, the Customer shall be solely responsible for their safe keeping; and
- 11.5.3 The accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.
- 11.6 On termination of the Agreement (however arising), the following conditions shall survive and continue in full force and effect:
- (a) condition 4
 - (b) condition 5.11
 - (c) condition 6
 - (d) condition 7
 - (e) condition 8
- 11.7 The Supplier may terminate the Agreement or at its absolute discretion terminate the Services to one or more of the Site(s) forthwith without notice if:
- 11.7.1 The Supplier is at any time unable to obtain or retain the necessary rights, consents or permits for the transmission of signals between any or all of the Site(s) being monitored and the Alarm Receiving Centre or should any Authority terminate the licence;
- 11.7.2 **The Customer may not terminate the Service to one or more of the Site(s) within the Initial period unless solely due to the Ender User terminating his agreement with the Customer in part of total, such termination will be by written notice. The Company may at its sole discretion make a pro-rata refund to the Installer where the services have been paid in advance;**
- 11.7.2.1 **If either party terminates this Contract in accordance with these terms such termination shall be without prejudice to any right of either party in respect of this Contract which accrued prior to the date of such termination.**
- 11.7.2.2 **On the termination of the Contract:-**
- 11.7.2.2.1 **All rights and obligations of the parties under this Contract shall automatically terminate;**
- 11.7.2.2.2 **The Company shall not be obliged to refund the Customer any part of the fee.**
- 11.7.2.3 **A Volume Connection Move will NOT replace the need for the Installer to terminate the System(s) through the agreed written procedures.**

11.8 Suspension of Services

- 11.8.1 Where any payment due to the Supplier from the Customer is overdue by more than one month or where the Supplier has the right of termination under Clause 11, the Supplier may, without prejudice to its other rights on giving 7 days written notice suspend performance of any or all of the Services to that Customer for any or all of the Site(s) until the payment has been made or the breach rectified; and

11.8.2 In accordance with the current SSAIB guidelines the Supplier may as A DUTY OF CARE write to the End User informing them of its intention to terminate services to their premises.

12 FORCE MAJEURE

The Supplier shall have no liability to the Customer under the Agreement if it is prevented from, or delayed in performing, its obligations under the Agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including (without limitation) strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

13 GENERAL

13.1 Each party shall keep confidential any information of the other acquired by it in connection with the Agreement and shall only use or disclose such information where strictly necessary for the purposes of the Agreement and in any case only in strict confidence. The obligations contained in this Clause do not apply to any information which a party can establish to the reasonable satisfaction of the other is in the public domain otherwise than as a result of any breach of this Clause 13, or is required by law to be disclosed.

13.2 The Supplier may appoint an agent or sub-contractor to exercise its rights and perform its obligations under the Agreement.

14. VARIATION

14.1 The Supplier may, from time to time and without notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. If the Supplier requests a change to the scope of the Services for any other reason, the Customer shall not unreasonably withhold or delay consent to it.

14.2 Subject to condition 12, no variation of the Agreement or these Conditions or of any of the documents referred to in them shall be valid unless it is in writing and signed by or on behalf of each of the parties.

15 WAIVER

15.1 A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.

15.2 Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

16 SEVERANCE

16.1 If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Agreement shall not be affected.

16.2 If a provision of the Agreement (or part of any provision) is found illegal, invalid or unenforceable, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

17 ENTIRE AGREEMENT

17.1 The Agreement and the documents referred to in it including these Standard Terms and Conditions constitute the entire agreement between the parties and supercedes any previous agreement between the parties relating to the subject matter of the Agreement. Each of the parties acknowledges and agrees that in entering into the Agreement, and the documents referred to in the Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person other than as expressly set out in this Agreement as a warranty or

representation, and the only remedy available to a party for breach of any such warranties or representations shall be for breach of contract under the terms of this Agreement.

17.2 Each party acknowledges that, in entering into the Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) (other than for breach of contract), as expressly provided in the Agreement.

17.3 Nothing in this condition shall limit or exclude any liability for fraud.

18 ASSIGNMENT

18.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights or obligations under the Agreement.

18.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Agreement and may subcontract or delegate in any manner any or all of its obligations under the Agreement to any third party or agent.

18.3 **Each party that has rights under the Agreement is acting on its own behalf and not for the benefit of another person.**

19 NO PARTNERSHIP OR AGENCY

Nothing in the Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

20 RIGHTS OF THIRD PARTIES

20.1 **A person who is not a party to the Agreement shall not have any rights under or in connection with it.**

21 NOTICES

21.1 Any notice or other communication required to be given under the Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery or by commercial courier to the other party.

21.2 Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

21.3 This condition 21 shall not apply to the service of any in any proceedings or other documents in any legal action.

21.4 **A notice [or other communication] required to be given under [or in connection with] the Agreement shall not be validly served if sent by e-mail.**

22. GOVERNING LAW AND JURISDICTION

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

22.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter or formation (including non-contractual disputes or claims).

23 MEDIATION

23.1 If any dispute arises in connection with this Agreement, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the Mediator will be nominated by CEDR. To initiate the Mediation, a party must give notice in writing (ADR notice) to the other party, to the dispute requesting a mediation. A copy of the request should be sent to CEDR. The mediation will start not later than 14 days after the date of the ADR notice.

Complaints or Compliments

If you wish to make a complaint or compliment, please address these to;

Ian Rossiter - Operations Manager via email – ian.rossiter@asmuk.net ,
Or Cathie Flood – Technical Account Manager via email – cathie.flood@asmuk.net .

Or you may wish to write to ASM , Delta House , Wavell Road , Wythenshawe , Manchester M22 5QZ ,
telephone 0161 498 0343.