TERMS AND CONDITIONS

1. **Definitions and Interpretation**

1.1 **Definitions:**

Authorities: Fire Officer Licensing Public and Local Authority and such other authorities specified by the Supplier from time to time.

Business Day: a day (other than a Saturday, Sunday or public holiday) when banks in London are open for business.

Client: the person or firm who purchases the Goods and Services from the Supplier including Consumers.

Commencement Date: the date Services commence as set out in the Order

Commissioning Services or Commissioning Works: testing and programming of the installed equipment in accordance with the Regulations

Consumer: an individual client acting for purposes which are wholly or mainly outside that individual's trade, business, craft or profession.

Contract: the contract between the Supplier and the Client for the sale and purchase of the Goods and Services in accordance with these Terms and Conditions and pursuant to the Order, the schedule (if any), and any document the Supplier provides which is stated as being included in the Contract including contracts for Extra Services or Corrective Calls.

Cooling Off Period: a period of 14-days from the date of the Contract which applies to Consumer clients only.

Corrective Call: any unscheduled operational or maintenance visit requested by the Client, including for the provision of Extra Services

Data Controller: has the meaning set out in section 1(1) of the Data Protection Act 2018.

Design Services: Designing of a fire or security system in accordance with regulations

Data Subject: an individual who is the subject of Personal Data.

Design Specification: specifications for the Goods and Design Services to be supplied / provided pursuant to the Client's risk assessment and / or requirements

Extra Charges: The Supplier's charges at the list price current at the time any Extra Services need to be provided.

Extra Services: Any additional Services the Client requires, and which do not form part of the Services already contracted for as set out in the Order. Such services may be carried out during a Corrective Call and Extra Charges shall apply.

Force Majeure Event: an event or circumstance beyond a party's reasonable control, including without limitation: act of God, explosion, flood, tempest, fire or accident; war or threat of war, act of terrorism, sabotage, insurrection, civil disturbance or requisition; acts, pandemic or epidemic, 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; power failure or breakdown in machinery; or exhaustion of stock.

Goods: the goods (or any part of them) set out in the Order which includes any apparatus, field device, materials or equipment (including any part thereof or any instalment of them), which the Client orders and the Supplier agrees to supply.

Group: In respect of either the Client 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: shall mean any company in the Supplier's Group.

Installation Services: Installation of Goods in accordance with the relevant Regulations

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral

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rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Know-how: shall mean 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: inspecting, testing and servicing the Goods in accordance with Regulations

Normal Working Hours: 8.00 am to 5.00pm Monday to Friday, except public and bank holidays

Order: the Client's order for the Goods and / or Services as set out in the Client's purchase order form, the Client's written acceptance of the Supplier's Quotation, or by agreement between the Client and Supplier as the case may be.

Personal Data: has the meaning set out in section 1(1) of the Data Protection Act 1998 and relates only to personal data, or any part of such personal data, in respect of which the Client is the Data Controller and in relation to which the Supplier is providing services under the Contract.

Processing and **process**: have the meaning set out in section 1(1) of the Data Protection Act 1998.

Quotation: a statement issued by Supplier which includes details of the cost for Goods and Services and other costs relevant to the Order

Regulations: applicable British standards and regulations and / or the EU equivalent which govern the provision of Goods and Services

Services: the services, including Design Services, Installation Services, Commissioning Services and Maintenance Services (or any part of them) set out in the Order or any other services the Client orders and the Supplier agrees to supply pursuant to these Terms and Conditions (which include the Special Conditions for Services) and which may include Extra Services.

Service Specification: the description or specification for the Services provided in writing by the Supplier to the Client and usually set out in the Order.

Service Month: a month in a year during which it is agreed that the Supplier will provide the Services as agreed between the Supplier

and Client

Site: the Client's premises or the address shown in the Order where the Services are to be provided

Special Conditions for Services: the special conditions relating to the various Services as set out in Annex 1 which form part of these Terms and Conditions and the Contract.

Specialist Contractors: third-party contractors specialised in their area of service

Supplier: Cambridge Alarms Ltd

Term: the agreed minimum term of the Contract as set out in the Order signed by the Client.

Terms and Conditions: the terms and conditions set out in this document

Unauthorised use: using the Goods (or any part of them) incorrectly or for the wrong reason. The Supplier shall decide if the use is unauthorised.

1.2 **Interpretation:**

(a) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

(b) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed

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as illustrative and shall not limit the sense of the words preceding those terms.

(c) a reference to **writing** or **written** includes emails.

(d) Annex 1 forms part of these Terms and Conditions.

2. Basis of contract

2.1 These Terms and Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.2 The Order constitutes an offer by the Client to purchase the Goods and / or Services in accordance with these Terms and Conditions. The Client is responsible for ensuring that the terms of the Order are complete and accurate.

2.3 The Order shall only be deemed to be accepted when the Supplier accepts the Order either by writing or by verbal acceptance, at which point the Contract shall come into existence.

2.4 The Client waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Client that is inconsistent with these Terms and Conditions.

2.5 Any samples or drawings produced by the Supplier and any descriptions or illustrations contained in the Supplier's catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and Services referred to in them. They shall not form part of the Contract nor have any contractual force.

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

2.7 These Terms and Conditions shall apply to Clients except where the application to only a Consumer is specified.

2.8 The provision of Goods and Services under the Contract shall commence on the Commencement Date and the Term of the Contract is as set out in the Order.

2.9 At the end of the Term, the Contract shall automatically renew for a further term of the same duration as the Term unless the Client notifies the Supplier of its intention not to renew by giving the Supplier at least 90 days' written notice that it does not wish to renew in which case the Contract will expire at the end of the Term.

2.10 Any renewal of the Contract will be subject to these Terms and Conditions.

3. Goods

3.1 The Goods are described in the Supplier's catalogue as modified by any applicable Design Specification.

3.2 The Supplier reserves the right to amend the specification of the Goods if required by any Regulations or applicable statutory or legal requirements.

3.3 All Goods supplied under these Terms and Conditions may be supplied by the Supplier or its nominated sub-contractor.

3.4 All Goods supplied under these Terms and Conditions which are not installed by the Supplier or its nominated sub-contractors shall, upon their installation by the Client 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 Client, the Client shall keep records of such tests on an appropriate test report as prescribed by the Regulations and/or recommended by the manufacturer of the Goods. in the case of installation by the end user who is not the Client, the Client 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 of the Goods or bad workmanship of any works relating to the Goods by any party other than itself.

4. Delivery of Goods

4.1 The Supplier shall ensure that each delivery of the Goods is accompanied by a delivery note (if applicable) that shows the date of the Order, the relevant Client and Supplier reference numbers, the type and quantity of the Goods (including the code

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number of the Goods, where applicable), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree subject to the nearest suitable and reasonable off-load point for any heavy goods vehicle (Delivery Location) at any time after the Supplier notifies the Client that the Goods are ready.

4.3 Delivery, including carriage, packing and insurance if applicable, will be charged as set out in the Order

4.4 Delivery is completed on the completion of unloading of the Goods at the Delivery Location.

4.5 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the Client's failure to provide the Supplier with adequate delivery instructions or any other instructions or information that is relevant to the supply of the Goods.

4.6 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Goods. The Supplier shall have no liability for any failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or the Client's failure to provide the Supplier with adequate delivery instructions or any other instructions or information that is relevant to the supply of the Goods.

4.7 If the Client fails to take delivery of the Goods when the Supplier attempts delivery, then except where such failure or delay is caused by a Force Majeure Event or the Supplier's failure to comply with its obligations under the Contract:

(a) delivery of the Goods shall be deemed to have been completed on the date which the Supplier attempted to deliver the Goods; and

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

4.8 If ten (10) Business Days after the day on which the Supplier attempted to deliver the Goods the Client has not taken delivery of them, the Supplier may resell or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and selling costs, account to the Client for any excess over the price of the Goods or charge the Client for any shortfall below the price of the Goods.

4.9 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for separately in accordance with the Order. Any delay in delivery or defect in an instalment shall not entitle the Client to cancel any subsequent instalments.

4.10 The Supplier reserves the right to suspend, delay or cancel the delivery of some or all the Goods or require advance payment for them if the Client breaches the Contract or is or reasonably appears to be unable to pay its debts. In such circumstances, the Supplier shall also retain any other rights it has against the Client.

5. Quality

5.1 The Supplier warrants that subject to clause 5.3, on delivery or from the date Commissioning Works are complete (as applicable), and for a period of 12 months or for such period as the manufacturer's warranty for the Goods or part of the Goods apply (**warranty period**), the Goods shall:

(a) conform in all material respects with their description and any applicable specification; and

(b) be free from material defects in design, material and workmanship; and

(c) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979);

5.2 Subject to clause 5.3, if:

(a) the Client gives notice in writing to the Supplier during the warranty period within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 5.1;

(b) the Supplier is given a reasonable opportunity to examine such Goods; and

(c) the Client allows the Supplier to examine the Goods and pays the relevant Corrective Call charge (i.e. to cover the Supplier's costs to attend the Site),

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(d) the Supplier shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full.

5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty set out in clause 5.1 in any of the following events:

(a) The Goods are not installed, commissioned or maintained by the Supplier;

(b) the Client makes any further use of such Goods after giving notice in accordance with clause 5.2;

(c) the defect arises because of Unauthorised Use;

(d) the defect arises because the Client failed to follow the Supplier's oral or written instructions as to the storage, commissioning, installation, use and maintenance of the Goods or if there are none, good trade practice regarding the same;

(e) the defect arises as a result of the Supplier following any drawing, design or specification supplied by the Client;

(f) the Client alters or repairs such Goods without the written consent of the Supplier;

(g) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; and

(h) the Goods differ from their description or the Design Specification as a result of changes made to ensure they comply with applicable statutory or regulatory requirements / Regulations.

5.4 Except as provided in this clause 5, the Supplier shall have no liability to the Client in respect of the Goods' failure to comply with the warranty set out in clause 5.1.

5.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.

5.6 These Terms and Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

5.7 The Supplier shall be under no liability to the Client if title in the Goods has not passed to the Client, i.e. if the total price for the Goods have not been paid by the due date for payment.

6. Title and risk

6.1 The risk in the Goods shall pass to the Client on completion of delivery or where the Client wrongfully fails to take delivery of the Goods, upon the Supplier's tendering delivery.

6.2 Title to the Goods shall not pass to the Client until the Supplier receives payment in full (in cash or cleared funds) for the Goods and any other Goods and Services that the Supplier has supplied to the Client in respect of which payment has become due, in which case title to the Goods shall pass at the time of payment of all such sums.

6.3 Until title to the Goods has passed to the Client, the Client shall:

(a) at the Supplier's direction, store the Goods separately from all other goods held by the Client so that they remain readily identifiable as the Supplier's property;

(b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods unless pursuant to the Supplier's direction;

(c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;

(d) notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.5; and

(e) give the Supplier such information relating to the Goods as the Supplier may require from time to time.

6.4 Should the Client resell the Goods without having paid all amounts outstanding to the Supplier then the Client agrees to hold any proceeds of sale or sufficient parts thereof on behalf of the Supplier and pay all amounts outstanding to the Supplier. Further, if the Client does resell the Goods, it does so as a principal and not as the Supplier's agent, and title to the Goods shall pass from the Supplier to the Client immediately before the time at which resale by the Client occurs.

6.5 If before title to the Goods passes to the Client the Client becomes subject to any of the events listed in clause 13.5, then, without limiting any other right or remedy the Supplier may have:

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(a) the Client's right to resell the Goods or use them in the ordinary course of its business ceases immediately; and

(b) the Supplier may at any time:

(i) require the Client to deliver up all Goods in its possession that have not been resold, or irrevocably incorporated into another product; and

(ii) if the Client fails to do so promptly, enter any premises of the Client or of any third party where the Goods are stored in order to recover them.

7. Services

7.1 The Supplier shall supply the Services to the Client in accordance with the Service Specification or the Order as the case may be, in all material respects.

7.2 All Services supplied under these Terms and Conditions may be supplied by the Supplier or its nominated sub-contractors.

7.3 The Supplier shall use all reasonable endeavours to meet any performance dates for the Services specified in the Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.4 The Supplier reserves the right to amend the Service Specification or Order if necessary to comply with any applicable law or regulatory requirement, Regulations, or if the amendment will not materially affect the nature or quality of the Services, and the Supplier shall notify the Client in any such event.

7.5 The Supplier warrants to the Client that the Services will be provided using reasonable care and skill.

7.6 The supply of Services are subject to the Special Conditions for Services depending on the type of Service provided.

8. Client's obligations

8.1 The Client shall:

(a) ensure that the terms of the Order and any information it provides in the Service Specification and / or the Design Specification as the case may be are complete and accurate;

(b) co-operate with the Supplier (its employees, agents, consultants and subcontractors) in all matters relating to the Services;

(c) provide the Supplier (its employees, agents, consultants and subcontractors), with access to the Client's Site, premises, office accommodation and other facilities as reasonably required by the Supplier to provide the Services;

(d) provide the Supplier (its employees, agents, consultants and subcontractors) with such information and materials as the Supplier may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;

(e) prepare the Client's Site / premises for the supply of the Services as instructed by the Supplier (its employees, agents, consultants and subcontractors);

(f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

(g) comply with all applicable laws, including health and safety laws;

(h) keep all materials, equipment, documents and other property of the Supplier (its employees, agents, consultants and subcontractors) (**Supplier Materials**) at the Client's Site or premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorisation;

(i) comply with any additional obligations as set out in the Service Specification or Order; and

(j) comply with any Special Conditions for Services.

8.2 The Client acknowledges that Specialist Contractors may be required to complete certain services / works before the Supplier (its employees, agents, consultants and subcontractors) can continue and / or complete the Services contracted for. The Client understands that it is not always possible for the Supplier to anticipate whether Specialist Contractors will be required. If the Supplier notifies the Client that Specialist Contractors are required, the Supplier will provide the Client with details of preferred Specialist Contractors. The Client agrees to pay all the costs and fees associated with the Specialist Contractors.

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Failure by the Client to agree to the appointment of a Specialist Contractor will constitute a Client Default (as defined below) under these Terms and Conditions.

8.3 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

(a) without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations in each case to the extent the Client Default prevents or delays the Supplier's performance of any of its obligations;

(b) the Supplier shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations; and

(c) the Client shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Client Default.

8.4 If the Supplier's performance of the Services is affected by events outside of its control, including a Force Majeure Event, the Supplier will contact the Client as soon as reasonably possible and take steps to minimise the effect of the delay. Provided the Supplier does this, the Supplier will not be liable for delays caused by the event and will use reasonable endeavours to allocate a suitable date and time thereafter for performance of the Services.

8.5 Subject to clause 8.4, if the Supplier fails to provide any of the Services and the Supplier is accordingly liable to the Client, the Supplier's liability shall be limited to the excess (if any) of the cost to the Client (in the cheapest available market) of similar Services to replace those not delivered over the price of the Services.

8.6 The Supplier shall be entitled to suspend Services until full payment for the relevant Goods and Services has been received by the Supplier, in accordance with the Order and these Terms and Conditions.

8.7 The Supplier may provide the Services by instalments, which shall be invoiced and paid for as set out in the Order. Any delay in delivery of Services in an instalment shall not entitle the Client to cancel any other instalment.

9. Price and payment

9.1 The price of the Goods shall be the price set out in the Order, the Quotation or, if no price is quoted, the price communicated to the Client directly by the Supplier or as set out in the Supplier's published price list in force as at the date of delivery in addition to the Supplier's then current charges for carriage, packing, delivery and insurance.

9.2 The charges for Services shall be calculated on a time and materials basis as set out in the Order.

9.3 The Supplier shall be entitled to charge the Client Extra Charges for Extra Services or Corrective Calls and, (a) any expenses reasonably incurred by the individuals whom the Supplier engages in connection with the Services or Extra Services, including travelling expenses, hotel costs, subsistence and any associated expenses; (b) the cost of services provided by third parties and required by the Supplier for the performance of the Services or Extra Services; and (c) the cost of any materials.

9.4 The Supplier reserves the right to:

(a) increase the charges for the Services upon expiry and renewal of the Contract;

(b) increase the price of the Goods, by giving notice to the Client at any time before delivery, to reflect any increase in the cost of the Goods to the Supplier that is due to:

(i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);

(ii) any request by the Client to change the delivery date(s), quantities or types of Goods ordered, or the Design Specification; or

(iii) any delay caused by any instructions of the Client in respect of the Goods or failure of the Client to give the Supplier adequate or accurate information or instructions in respect of the Goods.

9.5 The price of the Goods and Services:

(a) excludes amounts in respect of value added tax (**VAT**), which the Client shall additionally be liable to pay to the

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Supplier at the prevailing rate, subject to the receipt of a valid VAT invoice; and

(b) excludes the costs and charges of packaging, insurance and transport of the Goods, which shall be invoiced to the Client.

9.6 The Supplier shall invoice the Client for the Goods and Services as specified in the Order.

9.7 Subject to any payment terms specified in the Order, the Client shall pay the invoice in full and in cleared funds within 30 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier. Time for payment is of the essence.

9.8 Where the Order sets out staged payments for Goods or Services, the Client shall pay the invoice in full and in cleared funds within 7 days of the date of the invoice. Payment shall be made to the bank account nominated in writing by the Supplier and set out in Order or in writing by the Supplier from time to time. Time for payment is of the essence.

9.9 The Client agrees to set up a direct debit for payment of the price / charges upon the request of the Supplier.

9.10 If the Client fails to make any payment due to the Supplier under the Contract by the due date for payment, then the Client shall pay interest on the overdue amount at the rate of 8% plus the Bank of England base rate. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount.

9.11 The Supplier reserves the right to charge the Client 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.

9.12 The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Supplier may at any time, without limiting any other rights or remedies it may have, set off any amount owing to it by the Client against any amount payable by the Supplier to the Client.

9.13 Any quoted discount shall not be applicable unless payment is made in strict accordance with these Terms and Conditions.

9.14 At the discretion of and upon request by the Supplier, the Client shall pay the amount requested by the Supplier on pro-forma invoice prior to the issue of Goods or Services to the Client.

10. Intellectual Property

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services (other than Intellectual Property Rights in any materials provided by the Client) shall be owned by the Supplier.

10.2 The Client grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Client to the Supplier for the term of the Contract for the purpose of providing the Services to the Client.

10.3 Any software supplied, including any firmware embedded in microcontrollers or other Goods, and that whose intellectual property is owned by an original developer or contributor (**Third Party Licensor**) shall be subject to that developer or contributor's terms and conditions and where required, the Client will acquire a license from the original Third Party Licensor. Due to the nature of software the Supplier will not accept any claim for damages nor warrant that any third-party software supplied or used or embedded in Goods or any operating system of the Supplier 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 bought to its attention.

10.4 The Client acknowledges that all of the Intellectual Property Rights subsisting in or relating in any way to: (a) 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 (b) 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 Client shall acquire no further interest in the same than is expressly granted by these Terms and Conditions.

10.5 Know-how and Intellectual Property Rights evolved, generated from or arising in the performance of, or as a result of the

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supply of the Goods and/or Services to or to the order of the Client, shall (to the extent that they are not already vested in the Supplier) vest in and be the absolute property of the Supplier.

10.6 The Supplier is not aware that the supply to the Client of the Goods, or the possession or intended use by the Client of the Goods, would infringe any Intellectual Property of a third party however, the Supplier takes no responsibility were such third-party rights infringed and makes no warranty that the Goods supplied will not infringe the Intellectual Property of a third party.

11. **Data protection and data processing**

11.1 The Client and the Supplier acknowledge that for the purposes of the Data Protection Act 1998, the Client is the Data Controller and the Supplier is the data processor in respect of any Personal Data.

11.2 The Supplier shall process the Personal Data only in accordance with the Client's instructions from time to time and shall not process the Personal Data for any purposes other than those expressly authorised by the Client.

11.3 The Supplier shall take reasonable steps to ensure the reliability of all its employees, agents, consultants and subcontractors who have (i) a necessary need to access the Personal Data for the provision of the Services, and (ii) access to the Personal Data. The Client hereby consents to the sharing of Personal Data by the Supplier with its employees, agents, consultants and subcontractors where this is for a legitimate purpose, i.e. necessary for the provision of the Services to the Client.

11.4 Each party warrants to the other that it will process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments as amended.

11.5 The Supplier warrants that, having regard to the state of technological development and the cost of implementing any measures, it will:

(a) take appropriate technical and organisational measures against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure a level of security appropriate to:

(i) the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage; and

(ii) the nature of the data to be protected; and

(b) take reasonable steps to ensure compliance with those measures.

11.6 Each party agrees to indemnify and keep indemnified and defend at its own expense the other party against all costs, claims, damages or expenses incurred by the other party or for which the other party may become liable due to any failure by the first party or its employees or agents to comply with any of its obligations under this *clause 11*.

11.7 The Client acknowledges that the Supplier is reliant on the Client for direction as to the extent to which the Supplier is entitled to use and process the Personal Data. Consequently, the Supplier will not be liable for any claim brought by a Data Subject arising from any action or omission by the Supplier, to the extent that such action or omission resulted directly from the Client's instructions.

11.8 The Supplier may authorise a third party (subcontractor) to process the Personal Data provided that the subcontractor's contract:

(a) is on terms which are substantially the same as those set out in this agreement; and

(b) terminates automatically on termination of this agreement for any reason.

11.9 Notwithstanding the above, with respect to the Personal Data of a Client or Customer or Personal Data for which the Supplier is a Data Controller, the Supplier shall only use such Personal Data to:

(i) provide the Goods and Services;

(ii) process payment for such Goods and Services; and

(iii) if agreed to during the order process, to inform the Client about similar goods and services provided by

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the Supplier, but the Client may stop receiving these communications at any time by contacting Supplier.

11.10 The Supplier may pass Personal Data to credit reference agencies where the Supplier extends credit to the Client for the Goods and Services.

11.11 The Supplier may share Personal Data with its employees, agents, consultants and subcontractors where this is for a legitimate purpose, i.e. necessary for the provision of the Services to the Client. The Supplier will not otherwise share Personal Data with other third parties except where the law either requires or allows the Supplier to do so.

12. Limitation of liability

12.1 Nothing in these Terms and Conditions shall limit or exclude the Supplier's liability for:

(a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);

(b) fraud or fraudulent misrepresentation;

(c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or

(d) with respect to Consumers only, defective products under the Consumer Protection Act 1987; or

(e) any matter in respect of which it would be unlawful for the Supplier to exclude or restrict liability.

12.2 Subject to clause 12.1:

(a) the Supplier shall under no circumstances whatsoever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and

(b) the Supplier's total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the price of the Goods or Services paid by the Client.

(c) 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/-, where the other provisions of clause 12.2(b) do not, or are held not to apply to limit such liability.

13. Termination

Cooling Off Period – for Consumers only

13.1 The Consumer may cancel the Contract at any time during the Cooling Off Period by requesting a cancellation form from the Supplier and submitting a completed cancellation form to the Supplier.

13.2 During the Cooling Off Period, the Supplier will not provide any Services and if the Supplier has supplied Goods to the Consumer without any Services, this may be subject to deductions and the Consumer will have to pay the costs of returning the Goods and / or allowing the Supplier reasonable access to the Site during Normal Working Hours to remove the Goods within thirty (30) days of cancellation. Failure to provide the Supplier with such access will result in the Consumer being invoiced for the cost of the Goods.

Client's right to terminate

13.3 The Client may terminate this Contract without cause at any time by giving the Supplier 90 days prior written notice, and subject to the payment of all sums due under the Contract for the remainder of the Term.

13.4 Without limiting its other rights or remedies, the Client may terminate this Contract with immediate effect by giving written notice to the Supplier if:

(a) the Supplier commits a material breach of any term of the Contract, and (if such a breach is remediable) fails to remedy that breach within 30 days of being notified in writing to do so, provided always that all outstanding amounts due by the Client under this Contract have been paid;

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(b) the Supplier takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or

(c) the Supplier suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business.

Supplier's right to terminate

13.5 Without limiting its other rights or remedies, the Supplier may terminate this Contract with immediate effect by giving written notice to the Client if:

(a) the Client commits a material breach of any term of the Contract, and (if such a breach is remediable) fails to remedy that breach within 14 days of being notified in writing to do so;

(b) the Client takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business;

(c) the Supplier is not satisfied with the result of a credit check on the Client;

(d) the Client suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or

(e) the Client's financial position deteriorates to such an extent that in the Supplier's opinion the Client's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

13.6 Without limiting its other rights or remedies, the Supplier may suspend provision of the Goods or Services under the Contract or any other contract between the Client and the Supplier if the Client becomes subject to any of the events listed in clause 13.5(a) to clause 13.5(e), or the Supplier reasonably believes that the Client is about to become subject to any of them, or if the Client fails to pay any amount due under this Contract on the due date for payment.

13.7 Without limiting its other rights or remedies, the Supplier may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under the Contract within 14 days of the Client being notified in writing to do so.

14. Consequences of termination

14.1 On termination of the Contract:

(a) the Client shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has been submitted, the Supplier shall submit an invoice, which shall be payable by the Client immediately on receipt;

(b) the Client shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Client fails to do so, then the Supplier may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract.

14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

14.3 Any provision of the Contract that expressly or by implication is intended to have effect after termination or expiry shall continue in full force and effect.

15. Force majeure

The Supplier shall not be in breach of this Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-

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performance continues for six (6) months, the Client may terminate this Contract by giving 5 Business Days written notice to the Supplier.

16. General

16.1 Assignment and other dealings.

(a) The Supplier may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(b) The Client may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of the Supplier.

16.2 Confidentiality.

(a) Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, Clients, clients or suppliers of the other party or of any member of the group to which the other party belongs, except as permitted by clause 16.2(b).

(b) Each party may disclose the other party's confidential information:

(i) to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 16.2; and

(ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(c) No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

16.3 Non-Solicitation. The Client shall not during the continuance of the Contract or for 6 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 solicit, approach or engage any employee or contractor of the Supplier or of any Group Company which in the previous 6 months had been engaged by the Supplier or any Group Company in the supply of the Goods / Services to the Client.

16.4 Agreement. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

16.5 Variation. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

16.6 Waiver. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

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

16.8 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

16.9 Notices.

(a) Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in the Order or writing in

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accordance with this clause, and shall be delivered personally, sent by pre-paid first class post or other next working day delivery service, commercial courier, or email.

(b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the proper

address; if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the next Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by email, on the next Business Day after transmission.

(c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

16.10 **Third party rights**. No one other than a party to this Contract and their permitted assignees shall have any right to enforce any of its terms.

16.11 **Set Off.** The Client 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.

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

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

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Annex 1: Special Conditions for Services

These special conditions are supplemental to the terms set out above and form part of the Terms and Conditions.

1. **Design Services**

1.1 The Client is responsible for ensuring that the terms of the Order and the Design Specification submitted by the Client are complete and accurate.

1.2 The Supplier shall incur no liability as a result of:

(a) any failure by the Client to provide the Supplier with information requested by the Supplier in order to provide the Design Services;

(b) any failure by the Client to provide the Supplier with accurate information; or

(c) a flawed or inaccurate Design Specification.

1.3 The Client is responsible for all design approvals for the designs produced by the Supplier in accordance with the Design Specification, including without limitation approvals from the Authorities. Nevertheless, where instructed to do so in writing, the Supplier will submit designs to the Authorities for approval on the Client's behalf but the Supplier takes no responsibility for failure to obtain approval.

1.4 Responsibility for any failure of any Design Specification to meet any Regulations shall rest with the Client.

1.5 Where the Client desires to appoint the Supplier to carry out additional Services (e.g. Installation Services, Commissioning Services or Maintenance Services), provision of such services shall be conditional on the Client accepting the designs produced by the Supplier as part of the Design Services.

1.6 Siting of field devices on any design drawing of the Supplier is expected to give the audibility, accessibility, intelligibility, visibility levels required by any applicable statutory requirements, British Standards or any other EU requirements or Regulations. The Supplier does not 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 such Goods at its then current prices upon receipt of the Client's supplemental order and upon and subject to these Terms and Conditions.

1.7 The Supplier shall not incur any liability for non-conformance or non-compliance in the event that the provision of the Goods or the designs (pursuant to the Design Services) 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.

1.8 Any Goods to be supplied in accordance with a Design Specification shall be supplied in accordance with terms set out in the Order and the Terms and Conditions.

1.9 The Supplier reserves the right to amend the Design Specification if required by any applicable statutory or regulatory requirement or Regulation, and the Supplier shall notify the Client in any such event.

2. **Installation Services**

2.1 The Installation Services are provided upon the basis of the following conditions and requirements namely that:

(a) electrical power and lighting to and for any works to be undertaken by the Supplier will be provided to the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(b) scaffolding, lifting equipment, scissor lifts and rubbish removal skips will be provided for the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(c) use of welfare storage, parking and administration facilities on sites away from the Supplier's premises will be provided to the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(d) third party builders working in connection with the provision of any of the Supplier's Goods and Services will be

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provided free of charge by the Client including the costs of making good;

(e) containment equipment such as cable trays, trunking channels and the like will be provided free of charge by the Client for the Supplier's wiring, cables and equipment;

(f) the Supplier will only provide to the Client the documents stated within the Supplier's Order;

(g) the Client shall ensure that the whole of the Goods to be installed are available to the Supplier (its employees, agents, consultants and subcontractors) to enable the Supplier to carry out the Installation Services in one continuous operation or in accordance with the terms of supply communicated and agreed;

(h) the Supplier shall be entitled to charge and the Client shall pay the Supplier Extra Charges, standing time and additional

costs at the Supplier's stated daily rate or multiples thereof incurred if the Goods to be installed are incomplete or not available to the Supplier on the date stated for installing or if the Installation Services are delayed or interrupted due to the fault of the Client; and

(i) the Client will allow the Supplier's employees, agents, consultants and subcontractors, access and entry to the premises / Site in order to carry out Installation Services during Normal Working Hours.

2.2 The Client shall be required to acknowledge in writing that it is satisfied that the installation of Goods is correct and in accordance with the Client's requirements and that the installation is fit for the purpose required by the Client. Where the Client fails to provide such acknowledgment in the format requested by the Supplier, the Installation Services will be deemed to have been properly completed on the date the concerned Goods installed became operational.

2.3 The Supplier will provide Installation Services during Normal Working Hours. In the event that the Client requires Installation Services outside Normal Working Hours the Supplier shall provide the Client with a quotation and invoice for Extra Charges.

2.4 In the event that additional work, Extra Services and / or materials are required for any installation to achieve any particular standard in consequence of any circumstance not made known to the Supplier at the date of the Order / Quotation, the Supplier shall be entitled to Extra Charges for all such additional work, Extra Services and / or materials, which Extra Charges shall be payable by the Client in accordance with the payment terms set out in these Terms and Conditions or in writing by the Supplier.

3. Commissioning Services

3.1 The Commissioning Services are provided upon the basis of the following conditions and requirements namely that:

(a) electrical power and lighting to and for any works to be undertaken by the Supplier will be provided to the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(b) scaffolding, lifting equipment, scissor lifts and rubbish removal skips will be provided for the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(c) use of welfare storage, parking and administration facilities on sites away from the Supplier's premises will be provided to the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(d) third party builders work in connection with the provision of any of the Supplier's Goods and Services will be provided free of charge by the Client including the costs of making good;

(e) the Supplier will only provide to the Client the documents stated within the Supplier's Order;

(f) the Client shall complete, sign and deliver to the Supplier not less than fourteen days before Commissioning Services are required the Supplier's form of application for Commissioning and such other information as the Supplier shall require;

(g) the Client shall ensure that the whole of the Goods / works to be commissioned are available to the Supplier to enable the Supplier to carry out the Commissioning Works in one continuous operation or in accordance with the terms of supply communicated and agreed;

(h) the Supplier shall be entitled to charge and the Client shall pay the Supplier Extra Charges, standing time and additional

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costs at the Supplier's stated daily commissioning rate or multiples thereof incurred if the Goods to be commissioned are incomplete or not available to the Supplier on the date stated for commissioning or if the Commissioning Works are delayed or interrupted due to the fault of the Client; and

(i) the Client will allow the Supplier's employees, agents, consultants and subcontractors access and entry to the premises / Site in order to carry out Commissioning Services / Works during Normal Working Hours;

3.2 The Supplier will carry out Commissioning Works during Normal Working Hours. In the event that the Client requires Commissioning Works outside Normal Working Hours the Supplier shall provide the Client with a quotation and invoice for Extra Charges

3.3 The Supplier's quotation for Commissioning Services is prepared upon the basis that there shall be provided by the Client free of charge to the Supplier for use by the Supplier's commissioning engineer:

(a) mains and temporary power; scaffolding and access equipment;

(b) storage and welfare facilities;

(c) as fitted installation drawing/installation schematic drawings; and

(d) installers test sheets and attendance by a representative of the installer.

3.4 The Supplier shall not be required to complete any Commissioning Works unless there is a representative of the installer present during the process of commissioning, unless the installer was the Supplier.

3.5 The Client shall be required to acknowledge in writing that it is satisfied that the Commissioning Services have been provided in accordance with the Client's requirements and that the Commissioning Works are fit for the purposes required by the Client. Where the Client fails to provide such acknowledgment in the format requested by the Supplier, the Commissioning Services will be deemed to have been properly completed on the date the concerned Goods installed became operational.

3.6 In the event that additional work, Extra Services and / or materials are required for any commissioning to achieve any particular standard in consequence of any circumstance not made known to the Supplier at the date of the Order / Quotation, the Supplier shall be entitled to Extra Charges for all such additional work, Extra Services and / or materials, which Extra Charges shall be payable by the Client in accordance with the payment terms set out in these Terms and Conditions or in writing by the Supplier.

4. Maintenance Services

4.1 The Maintenance Services are provided upon the basis of the following conditions and requirements namely that:

(a) electrical power and lighting to and for any works to be undertaken by the Supplier will be provided to the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(b) scaffolding, lifting equipment, scissor lifts and rubbish removal skips will be provided for the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(c) use of welfare storage, parking and administration facilities on sites away from the Supplier's premises will be provided to the Supplier (its employees, agents, consultants and subcontractors) free of charge;

(d) third party builders work in connection with the provision of any of the Supplier's Goods and Services will be provided free of charge by the Client including the costs of making good;

(e) the Supplier will only provide to the Client the documents stated within the Supplier's Order;

(f) the Client shall ensure that the whole of the Goods / works to be maintained/services are available to the Supplier to enable the Supplier to carry out the Maintenance Services in one continuous operation or in accordance with the terms of supply communicated and agreed;

(g) the Supplier shall be entitled to charge and the Client shall pay the Supplier Extra Charges, standing time and additional

costs at the Supplier's stated daily commissioning rate or multiples thereof incurred if the Goods to be maintained/services are incomplete or not available to the Supplier on the date stated for maintenance or if the Maintenance Services are delayed or interrupted due to the fault of the Client;

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(h) the Client will allow the Supplier's employees, agents, consultants and subcontractors access and entry to the premises/ Site in order to carry out Maintenance during Normal Working Hours; and

(i) the Client will provide Supplier with at least 21 days' notice in writing before moving the Goods to a different premises /Site.

4.2 With respect to the provision of Maintenance Services:

a) The Supplier will carry out Maintenance in accordance with the applicable Regulations

b) the Supplier shall carry out the Maintenance Services in accordance with the service intervals required by the Regulations and / or as set out in the Order.

c) After Maintenance or a Corrective Call, the Supplier shall issue an inspection report to the Client to show whether the relevant Goods are in proper working condition and in accordance with the current Regulations and if not, what Extra Services (additional Maintenance) is required to bring the Goods into proper working condition in accordance with the Regulations.

d) If the Supplier does not provide the Maintenance Services:

a. in accordance with the Regulations; or

b. within 30 days either side of the Service month as set out in the Order or as agreed between the Supplier and client, then the Client must allow the Supplier to provide the Maintenance Service again as soon as reasonably practicable.

4.3 The Client shall be required to acknowledge in writing that it is satisfied that the Maintenance Services have been carried out in accordance with the Client's requirements. Where the Client fails to provide such acknowledgment in the format requested by the Supplier, the Maintenance Services will be deemed to have been properly completed on the date they were provided.

4.4 The Supplier will carry out Maintenance Services during Normal Working Hours. In the event that the Client requires Maintenance Services outside Normal Working Hours the Supplier shall provide the Client with a quotation and invoice for Extra Charges.

4.5 In the event that additional work, Extra Services and / or materials are required for any maintenance to achieve any particular standard in consequence of any circumstance not made known to the Supplier at the date of the Order / Quotation, the Supplier shall be entitled to Extra Charges for all such additional work, Extra Services and / or materials, which Extra Charges shall be payable by the Client in accordance with the payment terms set out in these Terms and Conditions or in writing by the Supplier.

4.6 Where possible, the Supplier will endeavour to carry out Extra Services requested by the Client when providing Maintenance Services on the premises / Site. If the Supplier is not on the Client's premises / Site when the Extra Services work is requested by the Client, the Supplier will endeavour to meet the Client's requested delivery dates.

5. **Special Provisions**

(a) none

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