

TERMS AND CONDITIONS



1. GENERAL (1) these conditions or any other terms of this Agreement shall not be varied added to or waived except by agreement in writing signed on behalf of the Company by a Director and the Subscriber. If during the currency of the Agreement its terms are varied, then subject to the express terms of such variations the terms and conditions of this Agreement shall continue to apply as if such variations were incorporated in this Agreement.

(2) these conditions refer to a shared keyholding and response service and not a dedicated service with guaranteed response times. By accepting these conditions, the Subscriber accepts that the Company provides similar services to other customers and that the Company may not always be immediately available to fulfil call-out requests.

2. PAYMENTS (1) the Company shall invoice the Subscriber, which invoice shall detail the charges payable by the Subscriber in connection with the services provided under this Agreement, together with any costs and charges arising from any temporary or emergency repairs effected by the Company in accordance with clause 6(1).

(2) the Subscriber shall pay each invoice submitted by the Company within 30 days of the date of the invoice and in full and in cleared funds to a bank account nominated in writing by the Company, and time for payment shall be of the essence of the Agreement.

(3) all amounts payable by the Subscriber under this Agreement are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under this Agreement by the Company to the Subscriber, the Subscriber shall, on receipt of a valid VAT invoice from the Company, pay to the Company such additional amounts in respect of VAT as are chargeable on the supply of the services at the same time as payment is due for the supply of the services.

(4) if the Subscriber fails to make a payment due to the Company under this Agreement by the due date, then (without limiting the Company's other rights or remedies), the Subscriber shall pay interest (accruing daily) on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment, at 8% per annum.

(5) all amounts due under this Agreement shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

3. HEALTH AND SAFETY (1) the Subscriber shall use their best endeavours to ensure the Premises are safe without risk to the Company's employees, servants, or agents to work therein in pursuance of the Company's obligations hereunder.

(2) the Subscriber shall advise the Company in writing of the full details regarding all lighting arrangements trap doors obstructions equipment processes or any pitfall which could adversely affect the health and safety of the Company's employees, servants, or agents whilst visiting the Premises. Every such hazard shall be adequately lit and or fenced off as appropriate.

(3) the Company is not obliged to require its employees, servants, or agents to climb fences, scaffolding or gates, break through doors or enter onto roofs, raised walkways or external fire escapes and it is the Subscriber's responsibility to ensure that as far as practical safe access is provided to the Company out of working hours.

4. ATTENDANCES (1) during the hours from 19:00-07:00 Monday to Friday and 24 hours Saturday Sunday and all public/bank holidays (and at all other times by agreement) the Company will attend at the Premises as soon as reasonably possible with the keys provided when notified of an alarm activation or when requested to do so by the Police Service, Fire Brigade, Local Council Officers, the Subscriber or nominees but not otherwise.

(2) in the case of an intruder alarm the Company's employees, servants, or agents ('the Response Officer') who attends the premises will notify the Police as soon as reasonably possible if he/she observes any indication that the Premises have been forcibly entered or that a theft may have occurred. In the case of a fire or process alarm the Response Officer will either call the Fire Brigade or the Subscriber or nominee and await their arrival.

(3) in the event that the Company cannot obtain instructions from any of the emergency contact persons or nominees whose numbers will be provided by the Subscriber, then the Company at its absolute discretion may (by an immediate assessment by one of its senior management personnel) decide whether to leave the premises unalarmed and undertake random mobile security checks if it is considered that it is reasonable and safe to do so, or to maintain a permanent presence at the premises if it is considered that it is not safe and it is reasonable to provide such service which will be at the Subscribers additional cost.

(4) The Company will make a separate charge for random mobile security checks at a rate of £25.00 plus VAT per visit and an extended attendance charge at a rate of £27.50 plus VAT per hour.

(5) if the Premises appear not to have been forcibly entered and no theft is apparent the Response Officer will first inspect the alarm control panel in order to identify the circuit giving the alarm and then having investigated the cause reset the alarm except that for if any reason he/she is unable to re-set the alarm he/she will call the alarm service engineer and remain on the Premises until their arrival.

(6) the Company depends upon the availability of the Subscribers nominees and if they are not available the Subscriber is deemed to accept that the Response Officer is entitled to make the decision to remain or leave the premises un-alarmed at his/her absolute discretion without suffering or incurring any liability to the Subscriber.

(7) If for any reason the Response Officer is unable to remain on the Premises he/she will notify the Subscriber or nominee and await their arrival.

(8) the Company shall be under no obligation to take any action hereunder if the Subscriber is in arrears of payment of monies due.

(9) the Company will not assume the powers of the Civil Police.

(10) upon every visit at the Premises, full details will be sent to the Subscriber by e-mail in the form of an "Attendance Report".

(11) the Company reserves the right to apply a cancelation fee of £25.00 having been engaged for 15 mins or more, parking charges, parking fines reasonably incurred in the course of the services provided and congestion charges.

5. KEYS (1) the Subscriber shall supply the Company a set of working keys, fobs, cards, or door codes for the locks to the Premises to enable the Response Officer to gain entry to the Premises and the Subscriber shall deliver to the Company any further keys, fobs, cards, or door codes for locks that may be changed on the Premises within seven days thereof.

(2) the subscriber shall clearly mark such keys so as to enable the Response Officer to identify them easily.

(3) the Company will hold a maximum of ten keys. If a greater number of keys are required to enable the Response Officer to carry out his/her duties the Subscriber shall provide access to a key cabinet at the premises. All keys contained within such a cabinet shall be clearly marked.

(4) all keys will be surrendered to an authorised representative of the Subscriber if requested to do so in writing at the termination of this Agreement.

(5) all uncollected keys will be destroyed after a quarantine period of 30 Days.

(6) the Company reserves the right to make a reasonable charge for any collection or delivery of additional keys if the Company considers it appropriate.

6. LIABILITY (1) any temporary or emergency repairs effected by the Company, its employees, servants or agents are carried out on the basis that these temporary or emergency repairs will require immediate inspection and, if appropriate, further repair work by the Subscriber as soon as the Subscriber is made aware that such works have been affected. These works by their very nature are not designed to be permanent and will often be designed to be a mere improvement on an otherwise dangerous, unsafe, or unsecure situation, and in no way are intended to be permanent or will any warranty be given with respect to their suitability for any more than the briefest of time. In such circumstances, neither the Company, its employees, servants, or agents will accept any liability for unsatisfactory workmanship in this regard. It shall be understood and agreed that by their very nature such temporary or emergency repairs may not comply with current standards.

(2) the Subscriber shall indemnify the Company and its employees, servants, or agents in respect of any loss, damage or injury sustained whilst on the Premises caused by reason of the unsafe conditions of the Premises or howsoever.

(3) without prejudice to the forgoing, the liability of the Company and its employees, servants or agents arising out or howsoever in connection with this Agreement or any services performed or agreed to be performed hereunder (including wilful misconduct and fundamental breach) shall in no event exceed £10,000,000 Employers Liability, £5,000,000 Public/Products Liability, £5,000,000 Inefficacy and Contractual Liability, £5,000,000 Products Inefficacy, £5,000,000 Wrongful Arrest, £100,000 Loss of Keys and Consequential Loss of Keys, £1,000,000 Financial Loss, £250,000 Professional Indemnity, £250,000 Fidelity Guarantee (inclusive of all fees and expenses) PROVIDED THAT a higher limit may be arranged at additional cost to the Subscriber.

(4) Nothing in this Agreement limits any liability which cannot legally be limited, including liability for death or personal injury caused by negligence and fraud or fraudulent misrepresentation.

7. RIGHT OF ASSIGNMENT (1) the Company may assign all or any of its rights under this Agreement and may perform any of its obligations through sub-contractors.

(2) the Company's duty is to select a reasonably competent sub-contractor and will not be held liable for any default or damage caused by the sub-contractor provided the Company has reasonably selected what appears to be a competent sub-contractor. No warranty is given with respect to any insurance cover which the sub-contractor may or may not have.

8. TERMINATION (1) without prejudice to paragraph 2 of the agreement the Company may terminate this Agreement at any time; (a) if the Subscriber is in arrears or makes default in payment of any sum due hereunder or under any other contract with the Company or commits any other material breach of this Agreement, or (b) if the Subscriber becomes Bankrupt or permits a receiver to be appointed of any of their assets or make any arrangements with or for the benefit of their creditors.

(2) the provisions of this condition shall be without prejudice to the Company's rights to recover any sum under this Agreement or to any other claim which the Company may have under this Agreement.

(3) subject always to condition 13, the Subscriber may terminate this Agreement forthwith if the Company commits any material breach of its obligations under this Agreement.

(4) after the initial 30 days of this Agreement, upon termination a pro-rata refund will be made of the annual key holding charge in respect of the unexpired term of the Agreement less the Company's survey and administration set up fees of £90.00 plus VAT.

9. FORCE MAJEURE any failure by the Company to perform any of its obligations by reason of any cause beyond the control of the Company, including without limitation, strikes, lockouts, other labour disputes, weather conditions, fire, flood, traffic congestion, mechanical breakdown, obstruction of any public or private roads or highways, be deemed not to be in breach of this Agreement.

10. NOTICES (1) any notice to be given by either party to the other shall be served by sending same via first class registered post in the case of a Company at its Registered Office address or in the case of a Subscriber to the Premises.

(2) any notice so sent shall be deemed to have been served upon the other party within seven days or upon proof of receipt thereof.

11. CONFIDENTIALITY (1) each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, clients, or other confidential information of the other party, except as permitted by clause 11(2).

(2) Each party may disclose the other party's confidential information: (a) to its employees, officers, representatives, subcontractors, or advisers who need to know such information for the purposes of carrying out the party's obligations under this Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors, or advisers to whom it discloses the other party's confidential information comply with this clause 11; and (b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

(3) Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under this Agreement.

12. DATA PROTECTION (1) both parties will comply with all applicable requirements of the Data Protection Legislation. Data Protection Legislation means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

(2) the Company will collect and process information relating to the Subscriber in accordance with the privacy notice annexed to this agreement.

13. REMEDY provided the Company or Subscriber remedies any breach of its obligations hereunder within 14 days of its being notified by the other party in writing thereof the Company or Subscriber shall not be entitled either to terminate the Agreement summarily or to any damages in respect of any such breach.

14. INSURANCE (1) the Subscriber agrees to maintain a comprehensive level of insurance with respect to theft and fire. In no way is this Agreement a substitute for any insurance policy.

15. ENTIRE AGREEMENT (1) this agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

(2) 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. GOVERNING LAW this agreement 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.

17. 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 agreement or its subject matter or formation.