

## TERMS AND CONDITIONS OF SUPPLY (GOODS AND SERVICES)

### 1 DEFINITIONS

- 1.1. "Customer" means the party whose order for the Goods or Services is accepted by the Company.
- 1.2. "Company" means Bluefort Security Limited, whose registered office is at 7/8 Eghams Court, Boston Drive, Bourne End, Buckinghamshire, SL8 5YS
- 1.3. "Goods" means the hardware and/or software products which the Company is to supply in accordance with these terms and conditions.
- 1.4. "Contract" means the contract on the terms and conditions set out herein between the Company and the Customer.
- 1.5. "Services" means any services which the Company is to supply under this Contract.
- 1.6. "Support Services" means any telephone, online, software, system support contract services provided by the Company to the Customer.

### 2 ORDER ACCEPTANCE

- 2.1. All orders placed with the Company by the Customer for Goods or Services shall constitute an offer to the Company under these terms and conditions subject to availability of the Goods and to acceptance of the order by the Company's authorised representative but subject to only to these terms and conditions which are the only basis upon which the Customer is prepared to purchase the goods from the Company.
- 2.2. It is agreed that these terms and conditions prevail to the exclusion of all other terms and conditions (including but not limited to any terms or conditions which the Company purports to apply under any quotation, acknowledgement of order, invoice, specification or other document) unless the latter terms and conditions are amended by the Company in writing and signed by the Company and the Customer
- 2.3. There will be no alteration(s) in quantity, quality, price, or description of the goods ordered (as set out in any order) unless authorised by the Customer in writing.

### 3 SOFTWARE AND INTELLECTUAL PROPERTY

For the purposes of these terms and conditions, "Intellectual Property" means all intellectual and industrial property rights including all registered trademarks, registered designs, patents, applications for and rights to apply for any of the foregoing, unregistered design right, unregistered trademarks, rights to prevent passing off for unfair competition, copyright, database rights in each case in the UK and all other countries in the world recorded or embodied in any Goods or Services supplied to the Customer by the Company under these terms and conditions.

- 3.1. With regard to any software supplied pursuant to this Agreement over which the Company or third parties hold title or other rights, the Company has full power and authority to grant a non-exclusive perpetual licence to permit or procure the Customer or any third party of the Customer (as the case may require) the right to use that software.
- 3.2. With regard to any software referred to in Condition 3.1 above the Customer undertakes not to disclose or make available any part or parts to any third party without the prior consent of the Company, such consent not to be unreasonably withheld, delayed or conditioned.
- 3.3. Software shall be supplied on the terms of the applicable licence agreement.
- 3.4. It is a condition of this Agreement that the Company has ownership of, or have an appropriate licence from the owner of, all Intellectual Property in any Goods or Services that the Company supplies to the Customer; and
- 3.5. Any Goods or Services that the Company supplies to the Customer does not infringe any third party's Intellectual Property.
- 3.6. The Intellectual Property rights in any ideas, concepts, know-how or techniques developed by the Company in the course of supplying the Services will be owned by the Company and the Company may use such ideas, concepts, know-how or techniques in the furtherance of its own business to the extent that such use does not result in a disclosure of confidential information in breach of Condition 11
- 3.7. The Customer will notify the Company of any claim or demand made or any action brought against it for any infringement or alleged infringement of any Intellectual Property by reason of the use or possession by it of any Goods supplied to it by the Company you under these terms and conditions. The Company shall diligently conduct at its own expense any proceedings arising therefrom and all negotiations for settlement of the same in connection therewith
- 3.8. The Company shall immediately notify the Customer of any claim or demand made or any action brought against it for any infringement or alleged infringement of any Intellectual Property which may affect the use or possession by the Customer of any Goods supplied to the Customer by the Company under these terms and conditions. The Company shall diligently conduct at its own expense any proceedings arising therefrom and all negotiations for settlement of the same in connection therewith.
- 3.13. With regard to Support Services provided to the Customer, the contract premium shall be paid on the commencement of the support agreement and thereafter annually on the anniversary of the coming into force of the agreement unless terminated in accordance with clause 10.1. In the event of a Support Services Contract not being cancelled in accordance with clause 10.1 and its automatic renewal being invoked, the renewal premium may vary from the original contracted premium, dependent upon, product use, exchange rate, RPI and other market conditions.

### 4 DELIVERY

- 4.1. All times and dates given for delivery of the Goods or Services as set out in the order are given in good faith and shall be the essence of any contract. The Company shall deliver the Goods or Services on the date set out in the relevant order. The Customer shall be entitled, on giving reasonable notice to the Company, to vary the date the date of any delivery and the dates so varied shall then become of the essence of any contract.
- 4.2. Delivery of the Goods and Services shall be at the Customer's premises unless otherwise stipulated in the order or agreed by the Company.
- 4.3. If the Company fails to deliver the Goods on the relevant date of delivery the Customer may (at its sole discretion) choose to cancel the order and the Company will not have the right to subsequently deliver those Goods to the Customer or to charge the Customer for them, as the Customer may have to obtain alternative goods elsewhere. Any failure by the Customer to exercise this option with respect to any delivery shall not be deemed to a waiver with respect to any subsequent deliveries, nor shall the exercise of, or the failure to exercise this option, constitute a waiver of any claim for damages for non-delivery by the date(s) shown in any order
- 4.4. The Customer shall examine the Goods on arrival and notify the Company in writing within 5 working days of delivery of any damage, short delivery, non-conformity of the Goods.
- 4.5. If the Customer refuses to take delivery of the Goods the Company shall be entitled to immediate payment in full for the Goods, except where the Customer refuses to take delivery because the Goods are delivered outside normal working hours and is an authorised delivery as set out in Condition 4.7 below.
- 4.6. Delivery in the Company's vehicles is undertaken at its risk and the Customer shall be under no liability in respect of any loss or damage caused to the Company's vehicles or to the Goods during transit to the point of delivery and during delivery (save to the extent that such losses occur on the Customer's premises and are directly attributable to its proven fault).
- 4.7. All Goods must be delivered during our normal working hours (from time to time) unless otherwise instructed. In the event of any unauthorised delivery outside our normal working hours the Company shall be liable for any additional costs incurred both by the Customer and the Company.

### 5 PRICE

- 5.1 The Price of the Goods and Services shall be the Company's quoted price.
- 5.2 The Price is exclusive of any applicable value added tax which the Customer shall be in addition liable to pay to the Company.

### 6 PAYMENT

- 6.1. Except as otherwise set out herein, payment of the Company's invoices in respect of the Goods and Services shall be made in full within 30 days of the relevant invoice date

6.2. If any invoice is disputed by the Customer, it will notify the Company as soon as reasonably practicable, any in any event before the due date. For any invoices requiring correction, the time of payment will be computed from the date of receipt by the Customer of your corrected invoice or credit note.

6.3. In the event that any invoice which is not in genuine dispute becomes overdue, the Company will serve the Customer with written notice to bring this to our attention. If the Customer does not settle any such overdue account within seven days of receipt of such notice, then from the seventh day, without prejudice to any other right or remedy available to the Company, the Company may charge the Customer interest on such overdue sums at 2% above the base interest rate of the National Westminster Bank plc until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

6.4. The Customer reserves the right to deduct from and set off against monies due to the Company under any contract, any monies due or accruing due to the Customer from the Company on any account whatsoever.

## **7 TITLE AND RISK**

7.1. The Goods shall be at the Customer's risk as soon as they are unloaded at the Customer's premises or if collected by the Customer or its appointed carrier, as soon as loaded into its vehicle.

7.2. In spite of delivery having been made and risk having passed to the Customer, legal and beneficial ownership in the Goods shall not pass from the Company until the Company shall have received the Price plus VAT in full in cash or cleared funds.

## **8 WARRANTIES**

8.1. The Company will ensure that the Customer has the benefit of any guarantee or warranty in respect of the Goods which may have been given to the Company by the manufacturer or third party.

8.2. The Customer must comply with the terms of this Contract and is responsible for instructing itself on the terms of such guarantee or warranty and ensuring that any conditions are fully complied with.

8.3. The Customer must ensure that the Goods are serviced, maintained and used properly and in accordance with the Company's recommendation (and any guarantee and warranty) and shall not be used with any parts, accessories or ancillary equipment other than those recommended by the Company or stated by the Company to be suitable.

8.4. No attempts must be made by the Customer or any third party to remedy any defect or to dismantle or otherwise tamper in any way with the Goods except in accordance with specific instructions, directions and/or requests of the Company, and necessary for the installation of the goods.

8.5. The Company will provide the Services with reasonable care and skill by appropriately experienced, qualified and trained personnel.

8.6. All Goods supplied under any order shall be of merchantable quality and shall be fit for purpose for which they are purchased, where this is expressly or by implication indicated to the Customer.

8.7. All Goods supplied under any order must be of the quality described in the order

8.8. The Customer reserves the right to reject at any time Goods which prove to be defective or not comply with the description, or be unfit for the purpose.

## **13 LIABILITY**

13.1. The Company shall not be liable to the Customer for direct or indirect special or consequential loss or damage (whether loss of profit revenue, contracts, production, operation time, customers' data, use of software or corruption of data or otherwise), costs, expenses or other claims for consequential compensation whatsoever which arise out of or in connection with the supply of the Goods or the Services and the entire liability of the Company under or in connection with the Contract shall not exceed £1M in the aggregate. Without limiting the generality of the foregoing, the Company shall not be liable to the Customer for any breach in the supply of the Services where such breach has arisen due (i) to the Customer's default, negligence or misuse or the Customer's failure to comply with its obligations under this Contract; or (ii) as a result of any act or omission of the Customer's staff, employees, sub-contractors or agents.

13.2. Either party shall not be liable to the other party or to be deemed to be in breach of the Contract by reason of any delay in performing any or any failure to perform any of its obligations in relation to the Goods or the Services, if the delay or failure was due to any cause beyond the party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond the party's reasonable control an Act of God, explosions, flood, tempest, fire or accident, war or threat of war, sabotage, insurrection, civil disturbance, acts, restrictions, regulations, by-laws, prohibitions or measures of any kind on the part of any governmental or local authority, strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the party's or any third party).

## **10 TERMINATION**

10.1. This Agreement will be terminated forthwith by notice in writing: (i) by the Company if the Customer fails to pay any sums due that are not in dispute; (ii) by the Customer if the Company fails to provide the Goods or Services under this Agreement (iii) by either party if either party fails to perform any of its obligations under this Agreement and such failure continues for a period of 14 days after written notice thereof and the failures are not remedied by the other party.

10.2. If either party makes any voluntary arrangements with its creditors or becomes subject to an administration order or goes into liquidation (otherwise than for the purposes of a solvent amalgamation or reconstruction) or a receiver is appointed or either party reasonably apprehends that any of these events is about to occur in relation to either party without prejudice to any other right or remedy available to either party, either party shall be entitled to cancel the Contract without any liability to either party, and if any Goods have been delivered or the Services provided but not paid for, then these monies shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

10.3. In the case of Support Services, once active, either party may terminate this Agreement by giving at least 130 days' notice in writing to the other party not less than 130 days prior to the end of the initial term. In the event that no cancellation notice is received, support services will renew automatically for a further year. Support services agreements are non-refundable.

## **11 INFORMATION AND CONFIDENTIALITY**

All information and advice, whether written or oral and of whatever nature made available by either party to the other party including (without limitation) that relating to the business of either party is for the sole use of the other party and shall not be disclosed or made available by that party to any third party without the prior written consent of the disclosing party. Without limiting the generality of the foregoing, such information includes the identity of or information relating to the disclosing party's customers.

## **12 NON-SOLICITATION OF STAFF**

While the Company is supplying the Services and for the period of 6 months after it has ceased to do so neither the Company or the Customer shall directly or indirectly employ or engage or (other than by general advertising) solicit or offer employment to any employee or agent of the other party who has been connected with the supply of the Services without the prior written consent of, and upon such terms as may be specified by, the other party.

## **13 DATA PROTECTION**

13.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

13.2. The parties acknowledge that:

(a) where the Company processes any personal data on the Customer's behalf when performing its obligations under this Agreement, the Customer is the controller and the

Company is the processor for the purposes of the Data Protection Legislation;

(b) the purpose of processing any such personal data by the Company is to (i) provide (and enable the provision of) the Service to the Customer, and (ii) to perform its obligations, each as specified in this Agreement;

13.3. Without prejudice to the generality of clause 13.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Company for the duration and purposes of this Agreement.

13.4. Without prejudice to the generality of clause 13.1, the Company shall, in relation to any personal data processed in connection with the performance by the Company of its obligations under this Agreement:

- (a) only process such data on the Customer's written instructions, unless required to do so by applicable laws in which case, the Company will inform the Customer before performing the processing that is required by the applicable laws unless they prohibit the Company from doing so;
- (b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
- (c) ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential;
- (d) not transfer any personal data outside of the European Economic Area and the United Kingdom unless the following conditions are fulfilled:
  - i. the Customer or the Company has provided appropriate safeguards in relation to the transfer;
  - ii. the data subject has enforceable rights and effective legal remedies; and
  - iii. the Company complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred;
- (e) assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- (f) notify the Customer without undue delay on becoming aware of a personal data breach;
- (g) at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of this Agreement unless required by applicable law to store the personal data;
- (h) make available to the Customer all information necessary to demonstrate compliance with the obligations laid down in this clause and permit and contribute to audits, including inspections, conducted by the Customer or its designated auditor.

13.5. The Customer consents to the Company appointing third-party processors of personal data under this Agreement. The Company confirms that it has or (as the case may be) will enter with the third-party processor into a written agreement that reflects the requirements of the Data Protection Legislation. As between the Customer and the Company, the Company shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause.

#### **14 GENERAL**

- 14.1 Any notice required or given by another party to the other under these conditions shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 14.2 No waiver by the Company of any breach of this Agreement by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provisions.
- 14.3 If any provision of these conditions is held to be invalid, illegal or unenforceable, in whole or in part, such provision shall to that extent be deemed not to form part of this Contract and the enforceability of the remainder of this Contract shall not be affected.
- 14.4 Either party may not assign this Agreement without the other party's written consent, such consent not to be unreasonably withheld or delayed.
- 14.5 This Agreement shall be governed by the laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.