

TERMS AND CONDITIONS OF SALE - CONSUMERS

1. INTERPRETATION

1.1 In these Conditions:

"Annual Charge" means the charge for the maintenance Agreement.

"Company" means CSS Total Security Ltd (registered in England under number 2432869) whose registered office is at 346 Shirley Road, Southampton, Hampshire, SO15 3HJ.

"Conditions" means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Company;

"Contract" means the contract for the purchase and sale of the Security System and/or Services;

"Customer" means the person firm or company whose order for the Security System is accepted by the Company;

"Effective Date" means the date that the warranty period expires provided that the Company has accepted the Customer's order for Maintenance Service;

"Maintenance Agreement" means the Services the Company agrees to provide on or from the Effective Date;

"Maintenance Service" is defined in Conditions 11.1, 11.2 and 11.3;

"NACOSS" means the National Approval Council for Security Systems;

"Normal Working Hours" means 8.00 a.m. to 5.00 p.m., Monday to Friday inclusive, National and Bank Holidays excepted;

"Premises" means the installation address listed overleaf or (as the case may be) any other premises in which for the time being the Security System is installed with the consent of the Company;

"Regulations" means the NACOSS Codes of Practice, British Standards and Police Authority Regulations as amended, re-enacted or extended at the relevant time;

"Services" the services (if any) specified overleaf or on the annexed specification list to be supplied by the Company for the Customer in accordance with the Conditions including but not limited to the Maintenance Service;

"Security Systems" means the security system, services or goods specified overleaf or on the annexed specification list (including any instalment of the Security System or any parts for it) which the Company is to supply in accordance with these Conditions;

"Spare Parts" means all parts and subassemblies of the Security Systems supplied and installed in the Security System by the Company pursuant to the provision of Maintenance Service;

"Writing" includes telex, cable, facsimile transmission and comparable means of communication.

Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF THE SALE

The Company shall sell and the Customer shall purchase the Security System and/or Services in accordance with any order of the Customer which is accepted by the Company, subject to these Conditions, which shall govern the Contract.

Any typographical, clerical, or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

3. THE SECURITY SYSTEM

The Customer shall, upon payment to the Company of all monies due under the terms of this Agreement, become the beneficial owner of the Security System.

4. ORDERS AND SPECIFICATION

No order submitted by the Customer shall be deemed to be accepted by the Company unless and until confirmed in Writing by the Company's authorised representative with such confirmation to be provided within a reasonable time.

The Customer shall be responsible to the Company for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Customer, and for giving the Company any necessary information relating to the Security System within a sufficient time to enable the Company to perform the Contract in accordance with its terms.

The quantity, quality and description of and any specification for the Security System shall be those set out in the Customer's order (if accepted by the Company).

If the Security System is to be manufactured, altered or any process is to be applied to the Security System by the Company in accordance with a specification submitted by the Customer, the Customer shall reimburse the Company against reasonable loss, damages, costs and expenses awarded against or incurred by the Company in connection with or paid or agreed to be paid by the Company in settlement of any claim for infringement of any patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Company's use of the Customer's specification.

Upon reasonable notice to the Customer the Company reserves the right to make any changes in the specification of the Security System which are required to conform with any applicable statutory or EU requirement or, where the Security System is to be supplied to the Company's specification, which do not materially affect its quality or performance.

No order which has been accepted by the Company may be cancelled by the Customer except with the agreement in Writing of the Company and on terms that the Customer shall reimburse the Company against reasonable loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by the Company as a result of cancellation and this clause shall not prejudice any rights of the Customer that may have arisen before the time of cancellation.

5. PRICE OF THE SECURITY SYSTEM

5.1 The price of the Security System shall be such price as is set out on the order form or where no price has been quoted (or a quoted price is no longer valid), the price listed in the Company's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Customer.

5.2 The Company reserves the right, by giving written notice to the Customer at any time before delivery, to increase the price of the Security System to reflect any increase in the cost to the Company which is due to a variable factor about which the Customer has been notified in advance beyond the control of the Company such as, without limitation, any foreign exchange fluctuation and alteration of duties. Any Customer requested variation in delivery dates, quantities or specifications

for the Security System which is requested by the Customer will only be accepted upon the Customer agreeing to pay any reasonable additional cost.

5.3 Maintenance Service charges and rates shall be such price as set out above on the order form or where no price has been quoted (or a quoted price is no longer valid) then prices are based on costs ruling at the date of the order. The Company may increase Maintenance Service charges and rates at any time after the warranty period by giving written notice to the Customer who may within 14 days give 3 months notice in writing to terminate the Contract. If the Customer shall give such notice the increase in charges and/or rates shall not be effective.

6. TERMS OF PAYMENT

6.1 Subject to any special terms agreed in Writing between the Customer and the Company, the Company shall be entitled to invoice the Customer for the price of the Security System on or at any time after delivery or installation of the Security System, unless the Security System is to be collected by the Customer or the Customer wrongfully fails to take delivery of the Security System or wrongfully refuses installation of the Security System, in which event the Company shall be entitled to invoice the Customer for the price at any time after the Company has notified the Customer that the Security System is ready for collection or the Company has tendered delivery of the Security System or at such time as the Customer has wrongfully refused installation of the Security System.

6.2 The customer shall pay the price of the Security System to the Company's engineer on delivery or installation of the Security System and the Company shall be entitled to recover the price, notwithstanding that delivery may not have taken place and the property in the Security System has not passed to the Customer. The time of payment of the price shall be of the essence of the Contract. Receipts for payment will be issued only upon request.

6.3 If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to:- cancel the contract or suspend any further deliveries to the Customer; appropriate any payment made by the Customer to such part of the Security System (or the system supplied under any other contract between the Customer and the Company) as the Company may think fit (notwithstanding any purported appropriation by the Customer); and charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 3 per cent per annum above Lloyds Bank basic rate from time to time until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).

7. DELIVERY

7.1 Delivery of the Security System shall be made by:

the Customer collecting the Security System at the Company's premises at any time after the Company has notified the Customer that the Security System is ready for collection, or the Company delivering the Security System or in the event the Security System is installed, upon installation of the Security System; which in this Agreement shall be defined as "Delivery".

7.2 The Company shall use its reasonable endeavours to meet any date given for Delivery. In the case of unforeseen circumstances beyond the reasonable control of the Company, the Company may not be able to do so. In such circumstances, the Company will contact the Customer and agree an alternative date. Time for Delivery shall not be of the essence unless previously agreed by the Company in writing. The Security System may be delivered by the Company in advance of the quoted Delivery date upon giving reasonable notice to the Customer.

7.3 If the Company fails to deliver the Security System for any reason other than any cause beyond the Company's reasonable control or the Customer's fault, and the Company is accordingly liable to the Customer, the Company's liability shall be limited at the Customer's option to either: the excess (if any) of the cost to the Customer (in the cheapest available market) of a similar security system to replace that not delivered over the price of the Security System, or the Customer may give 7 days notice in writing to terminate the Contract.

7.4 If the Customer fails to take Delivery of the Security System or fails to give the Company adequate Delivery instructions at the time stated for Delivery (otherwise than by reason of any cause beyond the Customer's reasonable control or by reason of the Company's fault) then, without prejudice to any other right or remedy available to the Company, the Company may: store the Security System until actual Delivery and charge the Customer for the reasonable costs (including insurance) of storage, or sell the Security System at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.

8. RISK AND PROPERTY

8.1 Risk of damage to or loss of the Security System shall pass to the Customer:

in the case of a Security System to be collected from the Company's premises, at the time when the Customer collects the goods; or at the time of Delivery or, if the Customer wrongfully fails to take Delivery of the Security System, the time when the Company has tendered Delivery of the Security System.

8.2 Notwithstanding Delivery and passing of risk in the Security System, or any other provisions of these Conditions, ownership of the Security System shall not pass to the Customer until all sums due or owing by the Customer to the Company on any account have been paid.

8.3 Until such time as the property in the Security System passes to the Customer, the Customer shall keep the Security System separate from those goods of the Customer and third parties and properly stored, protected and insured and identified as the Company's property.

8.4 Until such time as the property in the Security System passes to the Customer (and provided the Security System is in existence and has not been resold), the Company shall be entitled at any time to require the Customer to deliver up the Security System to the Company and, if the Customer fails to do so forthwith, to take court action to recover the Security System.

8.5 Demand for recovery of the Security System by the Company shall not of itself discharge either the Customer's liability to pay the whole of the price and take Delivery of the Security System or the Company's right to sue for the whole of the price.

9. INSTALLATION

9.1 Where the Contract includes installation of the Security System, and unless agreed in writing to the contrary with an agreed specification, this is deemed to be on a site prepared by the Customer which shall meet the Company's specified requirements. In the event of any variation from this specification the Company reserve the right to make an additional charge which shall be reasonable in the circumstances. The Company shall not be liable or be required to express any opinion upon the suitability of the Customer's premises or the supply of any mains services thereto.

9.2 If the Customer fails to comply with the provisions of clause 9.1 in timely fashion, in addition to all other remedies available to the Company, the Company may charge for each subsequent Delivery or attempted Delivery of the Security System to the Customer's premises at the Company's prevailing rates.

10. TIME AND PLACE FOR PROVISION OF SERVICES

10.1 The Services shall be supplied at the Customer's premises or as otherwise agreed in writing by the Company and the Customer.

10.2 The Customer agrees at all reasonable times to provide access for the Company's employees and vehicles and the Company's agent's and/or sub-contractors and their vehicles (if any) on or into the Customer's premises for the purpose of performing or providing the Services to the Customer.

10.3 The Company shall be entitled to bring on to the site in advance of actual requirement any equipment or materials required to provide the Services and the Customer shall at its own expense make available to the Company secure storage facilities for such equipment or materials.

10.4 The Customer shall provide at its own expense such assistance as the Company shall reasonably require in the provision of the Services.

10.5 Time for provision of the Services is not to be the essence of the Contract. Any date given in respect thereof by the Company is the best estimate that can be made and the Company shall not be liable for any loss or damage (whether direct or consequential which shall include loss of profit), whether negligently or otherwise, caused by provision being after the estimated date. In addition, where any delay is caused by the Customer the Company reserves the right to make an additional charge which shall be reasonable.

10.6 The Customer acknowledges that the Company may make extra charges for services/maintenance work carried out outside normal working hours at the Customer's request.

11. MAINTENANCE SERVICES

11.1 The Company shall, during the continuance of the warranty period and/or Maintenance Agreement, carry out the Maintenance Service. If the Security System is within the warranty period or subject to a Maintenance Agreement the Customer will not be charged for call-out or labour charges except where the conditions specified in Condition 10.6 apply. If the Security System is outside of the warranty period but subject to a Maintenance Agreement the Customer will be charged for spare parts in accordance with Condition 11.6.

11.2 Maintenance Service includes but is not limited to: scheduled preventive maintenance (including, without limitation, adjustments, modifications, and supply and installation of Spare Parts) of such a nature and at such time and frequency as shall be deemed necessary by the Company to comply with the Regulations; unscheduled on-call remedial maintenance (including without limitation, adjustments, modifications, and supply and installation of Spare Parts) due to malfunction of the Security System.

11.3 For the avoidance of doubt, Maintenance Service does not include; work other than to the Security System; repair of damage to, or replacement of parts of, the Security System, caused by accident or misuse, or by the neglect, act or default of the Customer or any other user of the Security System or by any factor external to the Security System (including, without limitation, defective consumable items, or the failure of, or defects in, equipment which is not part of the Security System); painting or refinishing the Security System or furnishing supplies for such purposes, or making specification charges or performing services connected with relocation of the Security System or any part thereof, or providing, adding or removing accessories, attachments, consumable items or other devices; and such services as it may be impractical for the Company to render because of alterations to the Security System other than alterations carried out by the Company.

11.4 Maintenance Service under Condition 11.2.1 (scheduled preventative maintenance) will be provided by the Company during Normal Working Hours and subject to reasonable price notice by the Company to the Customer.

11.5 Maintenance Service under Condition 11.2.2 (on-call remedial maintenance) will be provided by the Company as soon as reasonably practicable from the time the request from the Customer for such Maintenance Service is received by the Company and the Company shall provide a 24 hour emergency service which can be contacted 24 hours per day by telephoning the service provided to the Customer by the Company.

11.6 Spare Parts supplied and installed in the Security System as part of the provision of a Maintenance Agreement shall be so supplied and installed by the Company at a charge of 70% of the Company's usual retail price for the Spare Parts.

11.7 All Spare Parts shall be either new, or reconditioned or reassembled Spare Parts which are equivalent to new Spare Parts in performance. The Company warrants that it has good title to such Spare Parts and that property in such Spare Parts shall vest in the Customer upon their installation in the Security System.

11.8 The Company shall provide the Customer with a completed service card after every visit. A service card completed after every planned maintenance and signed by the Customer, is available on request.

11.9 If any replacement or repair included within Maintenance Service is normally effected by removal of the Security System or any part thereof from the Premises, and the Customer refuses to permit this, then the Company will be entitled to recover any additional costs incurred thereby and the Company shall incur no liability for any resultant delay or failure in providing the relevant Maintenance Service.

12. CUSTOMER OBLIGATIONS

The Customer;
12.1 shall reimburse the Company for any charges made by the Police or other authority to the Company from time to time in connection with the Security System;

12.2 shall make and pay for such arrangements with British Telecom or other authority as may be necessary in connection with the Security System;

12.3 shall notify the Company forthwith (confirming in writing) any defects appearing in the Security System and shall permit the Company to take such steps as it shall consider necessary to remedy such defect;

12.4 shall notify the Company of any structural alterations to the installation address or any modification in the requirements of the Security System or in the telephone installation affecting the Security System. The Company shall carry out all alterations and modifications necessary to maintain the Security System at the expense of the Customer;

12.5 shall pay the Company for the full cost of all work required to the Security System due to damage caused by accidents or malicious damage;

12.6 shall pay the Company for the full cost of all work required to the Security System due to damage caused by Acts of God;

12.7 shall pay all reasonable costs of all visits to reset signalling equipment, other than those attributed to Security System failure within the warranty period;

12.8 shall pay any charges made by the Police or other authority from time to time in connection with the use of the Security System after delivery and/or installation.

13. WARRANTIES AND LIABILITY

13.1 Subject to the conditions set out below the Company warrants that the Security System will correspond with its specification at the time of Delivery and will be free from defects in material and workmanship for a period of 12 months from the date of installation.

13.2 The above warranty is given by the Company subject to the following conditions:- the Company shall be under no liability in respect of any defect in the Security System arising from any drawing, design or specification supplied by the Customer; the Company shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, misuse or alteration or repair of the Security System without the Company's approval; the Company shall be under no liability if there shall be any delay by British Telecom in making connections for transmission of signals, or if British Telecom or the Police or other authority shall for any reason withdraw its service;

13.3 WHERE THE SECURITY SYSTEM IS SOLD UNDER A CONSUMER TRANSACTION (AS DEFINED WITHIN SECTION 12 OF THE UNFAIR CONTRACT TERMS ACT 1977) THE STATUTORY RIGHTS OF THE CUSTOMER ARE NOT AFFECTED BY THESE CONDITIONS.

13.4 EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT AND EXCEPT IN RESPECT OF DEATH OR PERSONAL INJURY CAUSED BY THE COMPANY'S NEGLIGENCE, THE COMPANY SHALL NOT BE LIABLE TO THE CUSTOMER FOR ANY LOSS AND DAMAGES WHICH WILL INCLUDE COSTS, EXPENSES, LOSS OF PROFIT AND LOSS OF OPPORTUNITY SO LONG AS THE CUSTOMER MAY EXERCISE ITS STATUTORY RIGHTS IN RESPECT OF ANY CLAIM OR REMEDY OR OTHERWISE WHICH ARISES OUT OF OR IN CONNECTION WITH THE SUPPLY OF SERVICES OR THE SECURITY SYSTEM OR ITS USE OR RESALE BY THE CUSTOMER.

13.5 The Company shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Security System and /or Services, if the delay or failure was due to any cause beyond the Company's reasonable control. Without limit, the following shall be regarded as causes beyond the Company's reasonable control:
Act of God, explosion, flood, tempest, fire or accident;
war or threat or war, sabotage, insurrection, civil disturbance or requisition;
acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any government, 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 Company or of a third party);
difficulties in obtaining raw materials, labour, fuel, parts or machinery;
power failure or breakdown in machinery.

14. TERMINATION

In the event of:

14.1.1 the Customer making default in or committing a breach of any part of its obligations to the Company (whether under the Contract or otherwise); or
failure by the Customer to make any payment on the due date; or
the Customer being deemed to be unable to pay its debts pursuant to s.12.3 of the Insolvency Act 1986; or
entry by the Customer into a deed or arrangement; or
failure by the Customer to comply with any statutory demands served on it under the Insolvency Act 1986; or
the making of a voluntary arrangement between the Customer and its creditors under the Insolvency Act 1986; or
the obtaining of any judgement against the Customer or the levying of distress or execution on any premises owned or occupied by the Customer; or
the appointment of a receiver (whether by the Court or out of the Court) of the whole of any part of the Customer's property; or
the presentation of a petition for the winding up of the Customer or for the appointment of an administrator
the Customer having an interim or bankruptcy order made against the Customer or the Customer petitions for the Customers own bankruptcy
the Company may forthwith by written notice terminate the Contract.

14.2 In the event of the Contract being terminated in accordance with clause 14.1: any payments to be made by the Customer to the Company in respect of which invoices have been issued but which have not fallen due at the date of termination shall become immediately due and owing; and the Customer shall immediately pay to the Company any outstanding amounts owed by the Customer to the Company or vice versa.

14.3 The Company shall not be liable for any loss or damage whatsoever incurred by the Customer arising from cancellation or termination in accordance within this clause 14.

GENERAL

15.1 The Company is a member of the group of companies whose holding company is the Company, and accordingly the Company may perform any of its obligations or exercise any of its rights hereunder by itself or through any other member of its group, provided that any act or omission of any such other member shall be deemed to be the act or omission of the Company.

15.2 Any notice required or permitted to be given by either party to the other under these Conditions shall be in Writing addressed to that 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.

15.3 No waiver by the Company of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision.

15.4 If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

15.5 Any dispute arising under or in connection with these Conditions or the sale of the Security System may at the Customer's discretion be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated on the application of either party by the President for the time being of NACOSS, in accordance with the rules of NACOSS.

15.6 The Contract shall be governed and construed in accordance with English law.