

TERMS & CONDITIONS

(Business Customers)

IT IS AGREED:

1. Definitions

1.1. In addition to the definitions on the Front Sheet, the following terms used in the Agreement have the following meanings:

Charges	any Equipment Hire Charges, Equipment Purchase Charges, Installation Charges or Services Charges as specified on the Order
Contract Year	the twelve (12) month period commencing on the Service Commencement Date.
Control	has the meaning given to it in section 1124 of the Corporation Tax Act 2010, and the expression change of Control shall be construed accordingly.
Company	as set out on the Front Sheet.
Company Personnel	any employee, officer, contractor, consultant, agent or other representative of the Company that is engaged in the supply of the Services (or any part of them).
Customer	as set out on the Order Form.
Delivery	the transfer of physical possession of the Equipment to the Customer at the Premises.
Delivery Date	the date specified as such by the Company on the Order Form.
Equipment	the Hired Equipment and the Purchased Equipment.
Equipment Hire Charges	the hire charges for any Hired Equipment as set out on the Order Form.
Equipment Hire Period	the period specified as such on the Order Form
Equipment Purchase Charges	the purchase charges for any Purchased Equipment as set out on the Order Form.
Extended Service Term	has the meaning given in clause 2.1.
Force Majeure Event	any event or circumstance not within the reasonable control of the Company, including any abnormal inclement weather; flood; lightning; storm; fire; explosion; earthquake; subsidence; structural damage; epidemic or pandemic; natural physical disaster; failure, fluctuation or shortage of power supplies; war; military operations; riot; crowd disorder; vandalism, arson or criminal damage; terrorist action; civil commotion; refusal of the police, fire or other authorities to accept notification of the receipt of any alarm signal; any legislation, regulation, ruling or omissions (including failure to grant any necessary permissions) of any relevant government, court or authority; and any state of the Premises rendering such sites dangerous or unsafe for the installation of the Equipment and/or supply of the Services in the reasonable opinion of the Company or Company Personnel.
Hired Equipment	any equipment to be hired by, or on behalf of, the Company to the Customer in connection with the Agreement including the Hired Equipment as described in the Order Form.
Initial Service Term	for each Service, the period as set out on the Order Form for that Service.
Installed Equipment	The equipment to be installed by the Company pursuant to the Installation Services, being
Installation Services	the installation services to be provided by, or on behalf of, the Company (if any), as set out on the Order Form and as further described in the Service Schedule for Installation Services.
Installation Charges	the charges for the Installation Services as set out on the Order Form.
Lone Worker Monitoring Services	the lone worker monitoring services to be provided by, or on behalf of, the Company (if any), as set out on the Order Form and as further described in the Service Schedule for Lone Worker Monitoring Services.
Lone Worker Monitoring Service Charges	the charges for the Lone Worker Monitoring Services as set out on the Order Form.
Maintenance Services	the maintenance services to be provided by, or on behalf of, the Company (if any), as set out on the Order Form and as further described in the Service Schedule for Maintenance Services.
Monitoring Services	the monitoring services to be provided by, or on behalf of, the Company (if any), as set out on the Order Form and as further described in the Service Schedule for Monitoring Services.
Monitoring Service Charges	the charges for the Monitoring Services as set out on the Order Form.
Month	a calendar month.

Operational Service Charges	the changes for each of the Lone Worker Monitoring Services, the Maintenance Service Charges, the Monitoring Service Charges, the Security Personnel Services and the Vacant Property Protection Services, as the case may be
Other Charges	any charges, in addition to the Set-Up Charges and the Operational Service Charges, which may be payable in connection with a particular service as such charges are identified in the Order Form.
Order Form	the document that the Customer has signed which contains the Customer's details and details of what Equipment and/or Services are to be supplied to the Customer under the Agreement.
Premises	any premises where the Services are to be provided, including the Premises set out on the Order Form.
Purchased Equipment	any equipment which is to be sold by, or on behalf of, the Company to the Customer in connection with the Agreement, including the Purchased Equipment as set out on the Order Form.
Security Personnel Services	the security personnel services to be provided by, or on behalf of, the Company (if any), as set out on the Order Form [and as further described in the Service Schedule for Security Personnel Services].
Security Personnel Service Charges	the charges for the Security Personnel Services as set out on the Order Form.
Service Charges	as set out on the Order Form.
Service Commencement Date	the commencement date for each Service, as set out on the Order Form.
Services	any or all or any combination, as relevant, of the Installation Services, Maintenance Services, Monitoring Services, Lone Worker Monitoring Services, Security Personnel Services and/or Vacant Property Protection Services to be provided by the Company under the Agreement, as set out on the Order Form.
Service Schedule	the schedule that describes each Service and/or sets out the specific terms and conditions that apply to that Service.
Set Up Charges	the charges for the set-up of each service, if any, as set out on the Order Form.
Term	the period beginning on the Commencement Date and ending upon termination of this Agreement for whatever reason.
Vacant Property Protection Services	the vacant property protection services to be provided by, or on behalf of, the Company (if any), as set out on the Order Form [and as further described in the Service Schedule for Vacant Property Protection Services].
Vacant Property Protection Service Charges	the charges for the Vacant Property Protection Services as set out on the Order Form.
Warranty	the warranty for the Equipment set out on the Order Form (if any).

1. Interpretation

The following rules of interpretation apply to the Agreement:

- 1.1. Unless the context otherwise requires, any reference to a clause is a reference to a clause in these Terms & Conditions.
- 1.2. Clause headings are inserted for convenience only and shall not affect the construction or interpretation of the Agreement.
- 1.3. Unless the context otherwise requires, words in the singular shall include the plural (and vice versa) and references to any gender includes a reference to the other genders.
- 1.4. Any reference to a "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and any reference to a "company" includes any company, corporation or other body corporate (wherever and however incorporated or established).
- 1.5. Any reference to a statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time.
- 1.6. Any words following the terms "including", "include", "in particular", "for example" or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.7. Any obligation on the Customer shall be treated as an obligation on the Customer to comply and also procure that its employees, officers, contractors, consultants, agents and other representatives comply with the obligation.

2. Duration

- 2.1. With regard to each Service, this Agreement shall commence on the applicable Service Commencement Date. Unless terminated earlier in accordance with its provisions, the Agreement shall continue for the Initial Service Term and thereafter for successive one-year periods (each an "Extended Service Term") at the end of the Initial Service Term and at the end of each Extended Service Term.

- 2.2. A party may give written notice to the other party, not later than three months before the end of the Initial Service Term or the relevant Extended Service Term, to terminate the Agreement or a particular Service at the end of the Initial Service Term or the relevant Extended Service Term (as the case may be).

3. Equipment

- 3.1. Where the Agreement includes the supply of any Equipment by the Company (whether Hired Equipment or Purchased Equipment), the provisions of this clause 3 shall apply.
- 3.2. The Company shall use reasonable endeavours to deliver the Equipment to the Premises on the date agreed between the parties in writing. However, time is not of the essence as to the date of delivery of the Equipment and the Company shall not, in any circumstances, be liable for any delay in delivery, provided that the Company has used reasonable endeavours to meet the delivery date.
- 3.3. If the Customer has opted to purchase the applicable Installation Services, the Company shall install the Equipment at the Premises and the Customer shall co-operate with the Company as may be reasonably required for such purposes. Alternatively, the Customer shall be responsible for installing the Equipment at the Premises.
- 3.4. Risk of loss, theft, damage or destruction of the Equipment shall transfer to the Customer on completion of delivery of the Equipment save as in respect of any damage cause by the Company during the provision of any Installation Services (in which case the risk of damage shall pass to the Customer on completion of the installation of the Equipment). The Equipment shall be at the sole risk of the Customer thereafter, save that the risk in any Hired Equipment shall pass back to the Company upon the Hired Equipment being re-delivered to or collected by the Company.
- 3.5. The Customer shall take all reasonable steps to prevent loss, theft, damage or destruction of the Hired Equipment and shall be responsible for insuring the Hired Equipment during the Term to a value no less than its full replacement value comprehensively against all usual risks of loss, theft, damage or destruction, including the risks of loss, theft, damage or destruction due to a Force Majeure Event.
- 3.6. The Customer shall give immediate written notice to the Company in the event of any loss, theft, damage or destruction to the Hired Equipment or to any Purchased Equipment to the extent that any such loss, theft, damage or destruction may impact on the Company's ability to deliver any of the Services.
- 3.7. Ownership of any Purchased Equipment supplied by the Company shall not pass to the Customer until the Company has received payment of the [Equipment Purchase Charges and any related Installation charges in full and cleared funds.
- 3.8. The Company shall hire the Hired Equipment to the Customer for the Equipment Hire Period. Ownership of any Hired Equipment supplied by the Company shall remain with the Company (or its suppliers) at all times and the Customer shall have no right, title or interest in or to the Hired Equipment, other than the right to possession and use of the Hired Equipment in accordance with the Agreement.
- 3.9. If the Customer does not pay the [Equipment Purchase Charges, the Equipment Hire Charges and any related Installation Charges in full as required under the Agreement, then, without limiting any other right or remedy to which the Company may be entitled, the Company shall be entitled to require the Customer to return the applicable Equipment to the Company. If the Customer fails to do so within seven (7) days of the Company's request, the Company shall be entitled to enter the Premises (or any other premises where the Equipment is located) and recover the applicable Equipment. For these purposes, the Customer hereby grants the Company and Company Personnel an irrevocable licence to enter the Premises (and any premises where the Company reasonably believes the applicable Equipment is located). In addition, the Company may charge and the Customer shall pay any outstanding Equipment Hire Charges and a re-stocking charge equal to thirty percent (30)% of the applicable Equipment Purchase Charge (or, in relation to Hired Equipment, thirty percent (30%) of the Company's standard purchase list price of such Equipment) to cover the Company's administrative, collection and re-stocking costs.
- 3.10. The Customer shall:
 - 3.10.1. operate the Equipment with all reasonable care, in accordance with the Company's and/or manufacturer's instructions and recommendations, and in a manner designed to preserve it in proper and efficient working order;
 - 3.10.2. not alter any of the Equipment
 - 3.10.3. maintain, at its own expense, the Equipment in good and substantial repair in order to keep it in as good an operating condition as it was on the date of delivery (fair wear and tear only excepted), including replacement of worn, damaged and lost parts, and make good any damage to the Equipment (save where any of the foregoing fall within the scope of the Services to be supplied by the Company under the Agreement); and
 - 3.10.4. keep the Equipment at the Premises at all times and not move or attempt to move all or any part of the Equipment to any other location without the Company's prior written consent.
- 3.11. Any nameplates or other marks attached to the Equipment shall be left intact and shall not be altered, removed or defaced by the Customer.
- 3.12. All Hired Equipment shall be returned to the Company by the Customer at the end of the Hire Period and the Customer shall permit the Company to enter the Premises to remove and collect all such Hired Equipment.

4. Services

- 4.1. The Company shall use reasonable endeavours to supply the Services in accordance with the Agreement in all material respects. The Company shall have the right to make any changes to the Services that are necessary to comply with any applicable law or safety requirement; or, provided they do not materially adversely affect the nature or quality of the Services, the Company deems necessary or desirable. The Company shall notify the Customer of any such changes.
- 4.2. The Company shall use reasonable endeavours to commence the supply of each Service from the relevant Service Commencement Date and to meet any dates agreed in writing between the parties provided always that any such dates are estimates only. Time is not of the essence as to performance of the Services and the Company shall not, in any circumstance, be liable to the Customer for any delay in the performance of any Service, provided the Company has used reasonable endeavours to meet the relevant Service Commencement Date and agreed performance dates.

- 4.3. The Services do not include any services required by the Customer as a result of any of the following (each a “Service Exclusion”):
- 4.3.1. the Customer’s failure to comply with its obligations and responsibilities under the Agreement;
 - 4.3.2. the Customer’s failure to follow the Company’s and/or manufacturer’s oral or written instructions as to the storage, installation, commissioning, configuration, use or maintenance of the Equipment and/or Services (save where any of the foregoing fall within the Company’s responsibility under the Agreement);
 - 4.3.3. any issues, defects, errors or failures resulting from the installation, maintenance, repair, support or calibration of the Equipment and/or Services other than by the Company or Company Personnel;
 - 4.3.4. any issues, defects, errors or failures in equipment or services that are not supplied by the Company under the Agreement;
 - 4.3.5. any failure or fluctuation or surge in electricity supply, climate control or other environmental conditions at the Premises or where a fault with the Equipment occurs from loss of or interruption in the internet connection, signalling, line fault or other transmission path fault;
 - 4.3.6. improper use, negligence, abuse, misuse or accidental or deliberate damage or loss of the Equipment and/or Services or any operator error or fair wear and tear;
 - 4.3.7. any virus, infection, worm or other malicious code or electronic contaminants that have not been introduced by the Company or Company Personnel;
 - 4.3.8. any Force Majeure Event;
 - 4.3.9. any assistance required by the Customer to change user codes, add user codes, to set/unset or reset the system after initial handover/ demonstration;
 - 4.3.10. continued use by the Customer of any Equipment after it has reached end-of-life or the Company has advised the Customer that the Equipment needs replacing; and
 - 4.3.11. any service exclusions set out elsewhere in the Agreement (including in the applicable Service Schedules).
- 4.4. The Company shall not be liable to the Customer for any liabilities, costs, expenses, damages and losses suffered or incurred by the Customer arising out of, or in connection with, any of the matters listed in clause 4.3 above.
- 4.5. Where the Company agrees, in its sole discretion, to provide any services in connection with a Service Exclusion, the Company shall be entitled to make an additional charge for the services in accordance with clause 6.5.

5. Warranty

- 5.1. The Customer confirms that it has selected the Equipment from the options presented to it by the Company. Whilst the Company confirms that the Equipment complies with all standards that apply to the manufacture and distribution of such items in the UK (including all applicable British Standards) the Customer acknowledges and accepts that:
- 5.1.1. the Equipment has not been designed or manufactured by the Company;
 - 5.1.2. the Company has not tested or verified the Equipment to ascertain whether or not any malware, virus or other malicious software of any type has been embedded in the Equipment or any software which has been supplied for use with the Equipment by its manufacturer. Accordingly, the Customer accepts that no representation, warranty, assurance or undertaking (express or implied) is or will be made by the Company in respect of the absence of any malware in the Equipment and/or any associated software and no responsibility or liability is or will be accepted by the Company to the Customer or any person in such regard.
- 5.2. The Company warrants to the Customer that the Services will be supplied using reasonable skill and care. In addition, with relation to any Equipment, the Company shall provide the Customer with the benefit of the manufacturer’s standard warranty cover. {Drafting Note: Do Kings offer any additional or extended warranties at additional cost?}
- 5.3. Any failure of the Equipment and/or Services to comply with the warranties referred to in clause 5.2 shall be considered to be a “Defect”.
- 5.4. Subject to clause 0 if the Customer is able to demonstrate to the Company’s reasonable satisfaction that the Equipment and/or Services contain a Defect, the Company shall, at its option:
- 5.4.1. repair or replace the defective Equipment and/or re-perform or remedy the defective Services; or
 - 5.4.2. refund the Customer for the defective Equipment and/or defective Services.

The Customer acknowledges that the foregoing remedy constitutes the Customer’s sole and exclusive remedy in respect of Defects in the Equipment and/or Services and, provided the Company complies with this clause 5.4, the Company will have no further liability to the Customer for any Defect in the Equipment and/or Services. The Company shall not be liable to the Customer for any Defect in the Equipment and/or Services where the Defect arises out of or in connection with any of the matters listed in [clause 5.4 above or the Service Exclusions listed in the Service Schedules] or the Equipment and/or Services differing from their description as a result of changes made to it to ensure it complies with applicable statutory or regulatory requirements.

- 5.5. For the avoidance of any doubt, if a Warranty has been provided for the Equipment, once the period of the Warranty has expired, the Customer will not be covered for any services or parts supplied by the Company in connection with any Defect in the Equipment and such services and parts shall be chargeable by the Company. Please note it is mandatory for the Company to replace alarm batteries every five (5) years in accordance with security industry standards.
- 5.6. The express written terms of the Agreement are in lieu of all warranties, conditions, terms, undertakings and other obligations that would otherwise be implied by statute, common law, custom, trade usage, course of dealing or otherwise (including the conditions implied by sections 3, 4, 5 and 13 of the Supply of Goods and Services Act 1982), all of which are expressly excluded.

6. Payment of Charges

- 6.1. The Company shall invoice the Customer for the Charges at the intervals specified on the Order Form.
- 6.2. Installation Charges: Subject to clause 6.8, the Installation Charges must be paid in full by the Customer [by when?]. The Company shall be entitled to withhold any alarm codes or keys required to operate the Equipment (as relevant) until the Customer has paid the Installation Charges in full (regardless of whether or not the final date for payment of the Installation Charges has passed or not).
- 6.3. Equipment Charges: The Customer shall pay the Equipment Purchase Charges and the Equipment Hire Charges by the dates set out in the Order Form and, with regard to any Equipment Hire Charges, by monthly direct debit.
- 6.4. Service Charges: Subject to clause 6.8, the Customer shall pay the Service Charges either by:
 - 6.4.1. monthly direct debit. If the Customer chooses to pay by monthly direct debit, payment in respect of the Service Charges payable for each month during the Term shall be made by the Customer:
 - 6.4.2. annually in full. If the Customer chooses to pay annually in full, payment in respect of the Service Charges payable for the first twelve months of the Term shall be made by the Customer before the Services Commencement Date and payment for each subsequent period of twelve months during the Term shall be made before each anniversary of the **Services** Commencement Date.
- 6.5. Additional Charges: If the Company supplies, at the Customer's request, any services that do not fall within the scope of the Services (including any services required as a result of a Service Exclusion, any repairs to the Equipment which are not part of the Services or attendance at the Premises where such visit is not scheduled as part of the Services) and/or any equipment that is not part of the Equipment (including any spare parts or replacement parts that do not fall within the scope of the Warranty), the Company shall be entitled to charge the Customer for such additional services and/or equipment in addition to the Charges. Where practicable, the Company will notify the Customer that the additional services and/or equipment requested by the Customer do not fall within the scope of the Agreement and provide an estimate for the charges payable by the Customer for the additional services and/or equipment before supplying the additional services and/or equipment. For the avoidance of any doubt, any requests from the Customer for additional services and/or equipment may be rejected by the Company (in whole or part) in its sole discretion or accepted by the Company (in whole or part) on such terms as the Company determines.
- 6.6. The Company shall be entitled to invoice the Customer for any charges payable by the Customer for any additional services and/or equipment at any time after the Customer has requested the supply of them.
- 6.7. Unless the Agreement expressly states otherwise, the Customer shall pay each invoice submitted to it by the Company under this Agreement within 30 days of receipt to a bank account nominated in writing by the Company from time to time.
- 6.8. By signing the Order Form, the Customer authorises the Company to carry out a credit check with a reputable agency at any time during the Term. The Company reserves its rights to amend the payment terms offered to the Customer based on the results of any credit check. In particular, the Company reserves the right to require the Customer to pay the whole or part of the Installation Charge before the Installation commences and/or the Services Charges annually in advance.
- 6.9. The Customer shall pay all sums due under the Agreement in full without set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). The Company may at any time, without limiting any of its other rights or remedies to which it is entitled, set off any sums owing to it against any sums payable by the Company to the Customer.
- 6.10. VAT: All sums payable at any time under this Agreement by the Customer shall be subject to the additional payment of value added tax at the rate in force at the time the relevant payment is due to the Company.
- 6.11. The Company shall be entitled to increase the Charges:
 - 6.11.1. at any time if the impact of any change in law or regulatory requirement results in an additional cost to the Company in supplying the Services and/or the Equipment, including changes in law affecting the free movement of individuals or the rate of VAT, national insurance or minimum wage payments or direct taxes;
 - 6.11.2. at any time where the cost to the Company of supplying the Services and/or the Equipment increases for any reason (including where a third party increases the cost to the Company of any equipment, materials, fuel, power, services and/or labour that is on-supplied to the Company or that is utilised to enable the Company to supply the Services and/or Equipment to the Company);
 - 6.11.3. on each anniversary of the **Services** Commencement Date in accordance with the scope and value of the Services that have been provided during the preceding year where this differs in any aspect or there has been an increase in the quantitative value of the Services from that which was agreed most recently in writing by the parties and the Customer shall cooperate in good faith with the Company in relation to any request by the Company for information relating to any increase or potential increase under this clause; and/or
 - 6.11.4. on each anniversary of the **Services** Commencement Date in line with the percentage increase in the Retail Price Index ("**RPI**") in the preceding twelve month period and the first such increase shall take effect on the first anniversary of the **Services** Commencement Date and shall be based on the latest available figure for the percentage increase in the RPI published prior to notification to the Customer of such increase.

The Company shall notify the Customer of any increase in the Charges in accordance with this clause not less than one month prior to the effective date of the relevant increase. Any failure by the Customer to pay any sums owing to the Company by the date such payment is due shall be considered an irremediable material breach for the purposes of clause 8.1.
- 6.12. All amounts due under this Agreement shall be paid in full by the Customer without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6.13. Without limiting any other right or remedy to which the Company may be entitled, if the Customer fails to make payment to the Company of any sum by the date on which payment is due in accordance with the Agreement, then:
 - 6.13.1. the Company may, on notice to the Customer, suspend all or any part of the Services without liability to the Customer until all overdue sums (together with interest, where applicable) have been made in full; and

6.13.2. the Company may charge the Customer interest on the overdue sum at the rate of 4% a year above the base lending rate of the Royal Bank of Scotland. Such interest shall accrue on a daily basis from the date the payment is due until payment of the overdue sum, whether before or after judgment.

7. Liability

- 7.1. Notwithstanding any provision in the Agreement to the contrary, nothing in the Agreement shall limit or exclude the Company's liability for death or personal injury caused by negligence, for fraud or fraudulent misrepresentation, or for any other liability that it would be unlawful for the Company to limited or exclude.
- 7.2. Subject to clause 7.1:
- 7.2.1. the Company shall not be liable to the Customer, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, for any: [loss of profit; loss of business; loss of anticipated savings; loss of reputation; loss of or damage to goodwill; loss from business interruption; loss of use or corruption of software, data or information; loss from claims or demands made against the Customer by third parties (including any ex-gratia payments); or any indirect or consequential loss, arising out of, or in connection with, the Agreement];
- 7.2.2. the Company's total aggregate liability to the Customer in respect of all claims arising out of, or in connection with this Agreement, whether in contract, tort (including negligence), misrepresentation, breach of statutory duty or otherwise, shall in no circumstances exceed the total Charges paid or payable by the Customer under the Agreement in the Contract Year in which the relevant claims arise; and
- 7.2.3. the Company shall not be liable to the Customer in any circumstances where such liability has arisen out of, or in connection with: any information, materials or instructions supplied by the Customer or any third party being incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival; or any other fault of the Customer (including the Customer's breach of the Agreement) or any third party (other than an agent or contractor of the Company).
- 7.3. The Customer acknowledges that the Services are intended to reduce the risk of any potential loss to the Customer only and are not intended to be a solution that will completely prevent any loss occurring. The Customer further acknowledges that the Company has no detailed knowledge of the nature or value of the contents of the Premises and that the potential loss to the Customer is likely to be disproportionate to the Service Charges that the Company can reasonably charge the Customer. Accordingly, taking into account the foregoing and the opportunity afforded to the Customer to discuss the limitations and exclusions on the Company's liability in the Agreement, the parties hereby signify their agreement that the limitations and exclusions on the Company's liability and the allocations of risk in the Agreement are fair and reasonable. In addition, the Customer acknowledges that it is its responsibility to obtain insurance policies to cover any losses that the Customer may suffer or incur in relation to any loss, damage of theft to or at the Premises.
- 7.4. The Customer shall defend, hold harmless and indemnify the Company against any liabilities, costs, expenses, damages and losses suffered or incurred by the Company arising out of, or in connection with, any claim brought or threatened against the Company by a third party to the extent that such claim arises out of the Customer's breach of, or non-compliance with, the Agreement.

8. Termination

- 8.1. Without limiting any other right or remedy to which it may be entitled, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:
- 8.1.1. the other party commits a material breach of the Agreement which is not capable of remedy; or
- 8.1.2. the other party commits a material breach of the Agreement which is capable of remedy but which is not remedied within a period of sixty (60) days following receipt of written notice to do so.
- 8.2. The Company may terminate the Agreement (in whole or part) with immediate effect if:
- 8.2.1. the Customer takes any step or action in connection with it: 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; ceasing to carry on business, or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or
- 8.2.2. the Customer suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- 8.2.3. the Customer's financial position deteriorates to such an extent that, in the Company's opinion, the Customer's capability to adequately fulfil its obligations under the Agreement has been placed in jeopardy; or
- 8.2.4. the Customer undergoes a change of Control.
- 8.3. In the event the Company terminates the Agreement (or the supply of any Services to which the Set Up Costs relate), the Customer shall remain liable for the full amount of any Set Up Costs which remain unpaid at the date of termination.
- 8.4. In the event of termination of the Agreement [(or the supply of the [Monitoring Services])] by either party for any reason other than in accordance with clause 2.2, the Customer shall become liable for any contract(s) procured by the Company on behalf of the Customer, as set out on the Order Form, and the Customer shall:
- 8.4.1. before the date of termination of the Agreement [(or the supply of the [Monitoring Services])], procure, at its own expense, the formal transfer of the contract(s) so that the Customer becomes a party to such contract(s) in place of the Company; or
- 8.4.2. if such contract(s) cannot be transferred in accordance with clause 8.4.1, pay to the Company all the costs suffered or incurred by the Company arising out of, or in connection with, the termination of such contract(s) within 30 days of receipt of an invoice from the Company,

and, in any event, the Customer shall defend, hold harmless and indemnify the Company against any liabilities, costs, expenses, damages and losses suffered or incurred by the Company arising out of, or in connection with, the contract(s) following the date of termination of the Agreement. On termination of the Agreement (or the supply of the Services to which the matters listed below relate):

- 8.4.3. the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest;
 - 8.4.4. in respect of any equipment or services supplied but for which no invoice has been submitted and any Set Up Costs due in accordance with clause 8.3, the Company shall submit an invoice to the Customer, which shall be payable by the Customer immediately on receipt; and
 - 8.4.5. the Customer shall, promptly and at its own cost, return all of the Hired Equipment in its possession to the Company within [xx] days of termination or, if the Customer requests and the Company agrees to collect the equipment, allow the Company or its representatives access to the Premises to remove the equipment.
- 8.5. Termination of the Agreement (whether in whole or part) shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.
- 8.6. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination [(including clauses 7 and 11.4)] shall remain in full force and effect.

9. Force Majeure

- 9.1. If, by reason of a Force Majeure Event, the Company is prevented from, hindered in or delayed in performing any of its obligations under the Agreement, the Company shall not be in breach of the Agreement or otherwise liable to the Customer for any such failure or delay. The Company shall notify the Customer of the presence of the Force Majeure Event as soon as reasonably practicable after becoming aware of the impact of the Force Majeure Event on its ability to perform its obligations. If such Force Majeure Event subsists and prevents, hinders or delays the Company's performance of its obligations for a continuous period of two [2] Months or more, the Customer may terminate or (for so long as the Company is unable to perform its obligations only) suspend this Agreement by giving notice in writing to the Company.
- 9.2. In the event of termination or suspension pursuant to clause 9.1, the Company shall have no liability to the Customer for any liabilities, costs, expenses, damages and losses which the Customer suffers or incurs arising out of, or in connection with, any such termination or suspension. The Customer shall, in the event of termination of the Agreement, be under no liability to the Company in respect of its future obligations under the Agreement and, in the event of suspension of this Agreement, shall be relieved of such obligations for the period of such suspension, including the payment of any part of the Service Charges due during the period of suspension (but without prejudice to any rights of either party against the other in respect of any claim accrued to the date of the commencement of such termination or suspension).
- 9.3. In the event of termination of this Agreement pursuant to clause 9.1, the Company shall repay to the Customer any part of the Service Charges paid in respect of any period or periods affected by such termination or suspension apportioned on a basis which shall be fairly and reasonably attributable to the relevant termination or suspension.

10. Data Protection

Where the Company processes any Personal Data (as defined in Schedule 1) on behalf of the Customer – for example, where Lone Worker Monitoring and/or Monitoring Services are included in the scope of the Services – Schedule 1 shall apply.

11. General

- 11.1. Entire Agreement. The 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. Each party acknowledges that in entering into the Agreement it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement.
- 11.2. Assignment and other dealings. The Customer shall not assign, transfer, charge, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Agreement without the prior written consent of the Company.
- 11.3. Sub-contracting. The Company may subcontract any or all of its obligations under the Agreement, but, for the avoidance of doubt, no such subcontracting arrangement shall release the Company from any of its obligations under the Agreement and the Company shall remain fully responsible to the Customer for the proper and complete discharge of all such obligations.
- 11.4. Confidentiality. Each party ("**Receiving Party**") shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party ("**Disclosing Party**"), its employees, officers, contractors, consultants, agents or other representatives, and any other confidential information concerning the Disclosing Party's business, its products and services which the Receiving Party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, officers, contractors, consultants, agents or other representatives who need to know it for the purpose of discharging the Receiving Party's obligations under the Agreement, and shall ensure that such employees, officers, contractors, consultants, agents or other representatives comply with the obligations set out in this clause as though they were a party to the Agreement. The Receiving Party may also disclose such of the Disclosing Party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.
- 11.5. Variation. The Company may update or amend the Agreement from time to time by giving written notice to the Customer. Such updates or amendments will not allow the Company to supply Equipment and/or Services in a way that is substantially different to what was reasonably expected by the Customer at the Commencement Date, unless otherwise agreed by the parties in writing.
- 11.6. Waiver. A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. No failure or delay by a party to exercise any right or remedy provided under the Agreement 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.
- 11.7. Severance. If any provision or part-provision of the Agreement 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 Agreement.

- 11.8. Notices. Notice given under the Agreement shall be in writing, addressed to the recipient party at its registered office or such other address as that party may have specified to the other party in writing and shall be delivered either personally, by courier, or by recorded delivery. A notice is deemed to have been received on signature of a delivery receipt by an individual at the correct address for notices.
- 11.9. Third party rights. The Agreement does not create any rights or benefits enforceable by any person not a party to it (within the meaning of The Contracts (Rights of Third Parties) Act 1999).
- 11.10. Governing law and jurisdiction. The 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. Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation

Schedule 1 - Data Protection Schedule

- 1.1 In this schedule:
- “Controller”, “Processor”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “processing” and “appropriate technical and organisational measures”** shall have the meaning given to them in the Data Protection Legislation;
- “Data Protection Legislation”** shall mean the UK Data Protection Legislation and any other applicable data protection and privacy legislation in force from time to time
- “UK Data Protection Legislation”** means all applicable data protection and privacy legislation in force from time to time in the UK, including; the Data Protection Act 2018; the UK GDPR (as defined in the Data Protection Act 2018); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426).
- 1.2 The parties acknowledge and agree that, for the purposes of the Data Protection Legislation, it is their common understanding that the Company is a Processor acting on behalf of the Customer who is the Controller and that, for the purposes of this Agreement:
- 1.2.1 the type of Personal Data and categories of Data Subjects are set out [on the Order Form][in the applicable Service Schedule];
- 1.2.2 this Data Protection Schedule is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation;
- 1.2.3 the Customer will ensure that it has all necessary appropriate consents and notices in place to enable the lawful transfer of the Personal Data to the Company and/or lawful collection of the Personal Data by the Company on behalf of the Customer for the duration and purposes of this Agreement; and
- 1.2.4 the nature/purpose of the processing is to enable the Company to carry out its duties under this Agreement (which form the subject matter of the processing) and the duration of the Processing shall be the term of this Agreement.
- 1.3 Each party shall comply with their respective obligations under the Data Protection Legislation, and the Company shall:
- 1.3.1 process the Personal Data in accordance with the Customer's written instructions set out in this Data Protection Schedule, unless the Company is otherwise required by any law to which it is subject to process the Personal Data (in which case, where permitted by law, the Company shall use reasonable endeavours to inform the Customer of that legal requirement before processing the Personal Data). The Customer hereby irrevocably instructs the Company to process the Personal Data as required to perform the Services. The instructions given by the Customer in the foregoing sentence are the Customer's complete instructions in relation to the processing under the Agreement and, unless the Company otherwise agrees (on such terms and conditions as the Company may determine in its sole discretion), the Company shall not be bound by any additional or alternate instructions;
- 1.3.2 taking into account the state of the art, the costs of implementation, the nature, scope, context and purposes of processing and the likelihood and severity of risk in relation to the rights and freedoms of the Data Subjects, implement appropriate technical and organisational measures in accordance with the Data Protection Legislation to ensure a level of security appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data;
- 1.3.3 only transfer the Personal Data from one jurisdiction to another where such transfer is covered by a framework recognised by the relevant authorities or courts as providing an adequate level of protection for the Personal Data (which may include the use of standard contractual clauses). Where the framework relied upon by the Company is the standard contractual clauses, the Customer hereby authorises the Company to execute the standard contractual clauses in the name of the Customer (as Controller of the Personal Data) to legitimise the transfer;
- 1.3.4 ensure that any employees or other persons authorised to process the Personal Data are subject to appropriate obligations of confidentiality;
- 1.3.5 not engage any third party to carry out its processing obligations under this Agreement without obtaining the prior written authorisation of the Customer and, where such authorisation is given, procuring by way of a written contract that such third party will, at all times during the engagement, be subject to data processing obligations equivalent to those set out in this Data Protection Schedule. The Customer hereby authorises the Company to engage Cougar Monitoring Limited, and any affiliated Kings Solutions Group company] to process the Personal Data. The Company shall remain liable to the Customer for the performance by its sub-Processors of their obligations;
- 1.3.6 at the Customer's reasonable request, and taking into account the nature of the processing, assist the Customer, at the Customer's cost, by technical and organisational measures, insofar as possible, for the fulfilment of the Customer's obligations with respect to responding to any request from a Data Subject;
- 1.3.7 at the Customer's reasonable request, and taking into account the nature of the processing and the information available to the Company, assist the Customer, at the Customer's cost, 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;
- 1.3.8 at the Customer's reasonable request, make available all information necessary to demonstrate the Company's compliance with this Data Protection Schedule and permit, and contribute to, audits carried out by the Customer (or its authorised representative). Such audits shall not be conducted more than once in any 12-month period and shall be conducted during working hours and on such reasonable notice as the Company may require; and
- 1.3.9 on termination or expiry of this agreement, destroy or return to the Customer (as the Customer directs) all Personal Data and delete all existing copies of such Personal Data, except to the extent the Company is required to retain a copy of the Personal Data by law.