

**TERMS & CONDITIONS**

**IT IS AGREED:**

**1. Definitions**

1.1. The following terms used in this Agreement have the following meanings:

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| <b>Agreement</b>                       | these Terms and Conditions   |
| <b>Alarm(s)</b>                        | Notification of activation, fault or other received from the Equipment   |
| <b>ARC</b>                             | Alarm Receiving Centre   |
| <b>Change of Control</b>               | a change in the beneficial ownership of more than 50% of the issued share capital of a Company or the legal power to direct or cause the direction of the general management of the Company  |
| <b>Commencement Date</b>               | the date of execution of the Agreement which is either the order date for intruder alarm signalling Equipment or the Monitoring connection date, inclusive of any required Soak Test Period for all other Equipment  |
| <b>Company</b>                         | Remote Monitoring Services Group Limited a registered Company in England & Wales with Company registration 12228612 and its parent Company BusinessWatch UK Holdings Limited, a Company registered in England and Wales with Company registration number 06067087 and its registered offices at Unit 29 Metro Centre Woodston Industrial Park, Welbeck Way, Peterborough, Cambridgeshire, PE2 7UH and its Group Subsidiaries   |
| <b>Company Personnel</b>               | any employee of the Company or any self-employed third-party contractor engaged by the Company in the provision of the Services  |
| <b>Customer</b>                        | any organisation or person who enters into this Agreement  |
| <b>Clients' Premises</b>               | the address of the End User  |
| <b>Emergency Contacts</b>              | Any person or Company provided by the Customer and/or end user as a contact for alarm and incident reporting via a telephone call  |
| <b>Emergency Services</b>              | The Police, Fire, or Ambulance services  |
| <b>Employment Regulations</b>          | the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) (as amended)  |
| <b>Equipment</b>                       | any security or fire system communicator, router or other equipment or device provided by the Company under this Agreement which forms part of the monitoring service  |
| <b>Extended Term</b>                   | to which forms part of the term meaning given in clause 2.1  |
| <b>Force Majeure Event</b>             | any event affecting the performance by the Company of its obligations under this Agreement arising from or attributed to acts, events, omissions or accidents which are beyond the reasonable control of the Company including any abnormal inclement weather, flood, lightning, storm, fire, explosion, earthquake, subsidence, structural damage, epidemic or other natural physical disaster, failure or shortage of power supplies, war, military operations, riot, crowd disorder, vandalism, arson or criminal damage to the installed Equipment, terrorist action, civil commotion, refusal of the police, fire or other authorities to accept notification of the receipt of any alarm signal and any legislation, regulation, ruling or omissions (including failure to grant any necessary permissions) of any relevant government, court or authority and, in the case of the Customer, any state of the Customer's Premises or location where the Services are provided rendering such sites dangerous or unsafe for the provision of the Services in the reasonable opinion of the Company or Company Personnel |
| <b>Initial Term</b>                    | 12 months from the initial commencement date   |
| <b>Monitoring and Managed Services</b> | Reactive and/or active review and response to a notification of any Equipment covered under this Agreement or/and Service Level Agreement  |
| <b>Monitoring Station</b>              | the Company's site from which Monitoring is provided, also known as ARC (Alarm Receiving Centre) or RVRC (Remote Video Receiving Centre)   |
| <b>Month</b>                           | a calendar month   |
| <b>Monitoring Charge</b>               | Charges incurred for the provision of the service  |
| <b>NCPP</b>                            | National Police Chiefs Council <a href="https://www.npcc.police.uk/">https://www.npcc.police.uk/</a>   |
| <b>RVRC</b>                            | Remote Video Receiving Centre  |



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| <b>Soak Test Period</b>          | A defined period of time (usually 14 days from Equipment connection) for the system performance to be confirmed and for performance improvements to be made prior to the Services becoming fully live against the Service Level Agreement (refer Clause 5.5) |
| <b>Service Commencement Date</b> | defined as the date of order   |
| <b>Services</b>                  | any or all or any combination, as relevant, of the services to be provided by the Company as set out in the Sales Enquiry  |
| <b>Service Level Agreement</b>   | means [the Company's standard instructions that apply to the performance of the Services, where relevant, by the Security Personnel]   |
| <b>Set Up Costs</b>              | if any, as set out in the Sales Enquiry  |
| <b>Subsidiaries</b>              | All Companies held within the BusinessWatch UK Holdings Limited Group  |
| <b>Term</b>                      | the period beginning on the Commencement Date and ending upon termination of this Agreement for whatever reason  |

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### 1. Interpretation

- 1.1. Reference to a clause is to a clause in these Terms and Conditions.
- 1.2. Clause headings are inserted for convenience only and shall not affect the construction or interpretation of these Terms and Conditions.
- 1.3. Where context requires, the singular shall include the plural and vice versa and any gender includes the other gender.
- 1.4. Any reference to any statute or statutory provision will (unless the context otherwise requires) be constructed as a reference to that statutory provision as may be amended, consolidated, modified, extended, re-enacted or replaced from time to time.
- 1.5. 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.
- 1.6 This Agreement should be read in conjunction with Appendix 1 – SLA which is available at <https://www.remote-monitoring.co.uk/terms-conditions/> and which details our Monitoring and Managed Services provisions, our response times and process and procedures for the handling of alarm conditions.



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### **2. Duration**

2.1. The Agreement shall commence on the Commencement Date. Unless terminated in accordance with its terms, this Agreement shall continue for the Initial Term and shall automatically extend for one month ("Extended Term") at the end of the Initial Term and at the end of each Extended Term.

**3. Payment of Charges**

- 3.1. Service Charge: The Customer shall pay the Service Charge either by
- 3.1.1. monthly. The Company shall invoice the Customer each month in advance; or
  - 3.1.2. quarterly. The Company shall invoice the Customer each quarter in advance
  - 3.1.3. annually in full in advance. If the Customer chooses to pay annually in full, payment in; or of the first twelve Months of the Term shall be made before the Services Commencement Date and payments for each subsequent period of twelve Months shall be due and payable on each anniversary of the Commencement Date in accordance with the Term
- 3.2. Any costs incurred by the Company for the failure of the Customer to return equipment at the end of the contract or equipment that is considered to be damaged excluding fair wear & tear
- 3.3. By completing the New Installer Account 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 on the basis of the results of any credit check.
- 3.4. The Customer shall pay all amounts 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, set off any amount owing to it against any amount payable by the Company to the Customer
- 3.5. VAT: All monies 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.
- 3.6. The Company shall be entitled to increase the Monitoring Charge:
- 3.6.1. if the impact of any legislative change results in an additional cost to the Company in providing the Services or any part of the Services, including changes in law affecting the free movement of workers or the rate of VAT, national insurance or minimum payments or direct taxes.
  - 3.6.2. If the impact of any industry changes result in an additional cost to the Company in providing the Services or any part of the Services
- 3.7. Payment terms are 14 days from the date of invoice
- 3.8. Any failure by the Customer to pay any amount owing to the Company by the date such payment is due shall be considered an irremediable material breach for the purposes of clause 6.2.2.
- 3.9. The Company reserves the right to suspend the processing of orders, and monitoring of Customer's systems, when invoices owed to the Company are unpaid. The Customer will be notified via email of any or all of these restricting being implemented

#### 4. Services

4.1. The Company shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Company shall notify the Customer in any such event.

4.2. The Company warrants to the Customer that the Services will be provided using reasonable skill and care.

4.3. The conditions implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Agreement.

4.4. You must:

4.4.1. Obtain at your own expense such licences, permits and approvals as are necessary for the System to ensure compliance with all statutory and regulatory requirements.

4.4.2. Make all necessary payments and arrangements with your telephone service provider as may be required for the operation of the System.

4.4.3. Ensure that your existing computer and electrical installations are compatible with the System.

4.4.4. Comply, if the System is a CCTV system, with the Data Protection Act 2018 and GDPR Regulations 2016 CCTV Code of Practice.

4.4.5. Notify us when employees have left the business who have been granted access to our portals or are receiving reports containing confidential information

4.4.6. Indemnify us against any loss (including loss of profit), costs, damages, charges and expenses incurred by us as a result of any failure by you to comply with your obligations under this clause 4 or arising out of any negligence or breach of statutory duty on the part of you, your servants or agents.

4.4.7. Pay to us, as liquidated damages, as compensation for the time and expense we invest training our staff to a high standard, a sum equivalent to four times the weekly rate of Our Charges if at any time during the currency of or within three months from the termination (for any reason) of the Contract, you employ any member of our staff or enter into a contract for services with any such member of staff or with any firm or Company of which such member of staff is a director, shareholder, partner or employee.



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### 5. Monitoring and Remote Managed Services

- 5.1. Appendix 1 – SLA, available at <https://www.remote-monitoring.co.uk/terms-conditions/> details our Monitoring and Managed Services provisions, our response times and process and procedures for the handling of alarm conditions.
- 5.2. In the event of any conflict or ambiguity these Terms and Conditions shall take priority.
- 5.3. The following clauses shall apply, irrelevant of any conflict or ambiguity within these and/or the Company's Monitoring terms and conditions.
  - 5.3.1. Right of disclosure: The Company shall have the right to disclose to the police force, fire service or other relevant authorities or to any insurance Company or any party acting on behalf of such Company, details of all records kept by the Company relating to any alarm signals received at any time during the provision of the Services at any Termination Unit or Termination Units in respect of the Customer's Premises.
  - 5.3.2. The Company shall be indemnified in full by the Customer for any loss or damage, however caused, in the event that a monitored system has failed to signal or where the monitoring centre have not received or actioned an alarm or fault event.
- 5.4. We make no guarantee that the Emergency Services or the Emergency Contacts will respond to a report activation.
- 5.5. Each system must go through a 14-day Soak Test Period when -
  - 5.5.1. a new system is brought online or;
  - 5.5.2. The transmission unit is changed or;
  - 5.5.3. Cameras are added to an existing system or;
  - 5.5.4. There is a substantial change to the system behind the transmission unit

## 6. Termination

6.1. Either party may terminate the Agreement by giving one months' written notice:

6.1.1. to the other party prior to the anniversary of the Commencement Date which falls at the end of the Initial Period or prior to any anniversary of the Commencement Date after the Initial Period; or

6.1.2. in the case of the Customer, where the Customer wishes to terminate the Agreement further to any increase in the Service Charge notified to it, to the Company within two months of notification of the relevant increase.

6.2. Without limiting its other rights or remedies, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:

6.2.1. the other party commits a material breach of any term of this Agreement which is not capable of remedy; or

6.2.2. the other party commits a material breach of its obligations under this Agreement which is capable of remedy, but which is not remedied within a period of ninety (90) days following receipt of written notice to do so.

6.3. The Company may terminate this Agreement with immediate effect if

6.3.1. the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction; or

6.3.2. 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

6.3.3. 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

6.3.4. the Customer undergoes a Change of Control.

6.4. In the event of termination of the Agreement by the Customer under clause 6.1.2:

6.4.1. the Customer shall be liable for payment of the Service Charge (not including any price increases imposed by the Company under clause 3) due for such one-month notice period; and

6.4.2. notwithstanding payment of the Service Charge pursuant to clause 6.4.1, the Customer shall remain liable for the full amount of any Set Up Costs which remain unpaid at the date of termination. The Company shall be entitled to issue an invoice for any Set Up Costs due in accordance with this clause on termination and the Customer shall immediately pay this invoice, together with any of the Company's outstanding unpaid invoices and interest.

6.5. In the event of termination of the Agreement by the Company under clauses 6.2 or 6.3, the Customer shall remain liable for the full amount of any Set Up Costs which remain unpaid at the date of termination. The Company shall be entitled to issue an invoice for any Set Up Costs due in accordance with this clause on termination and the Customer shall immediately pay this invoice, together with any of the Company's outstanding unpaid invoices and interest.

6.6. In the event of termination of the Agreement by either party under this clause 6, the Customer shall become liable for any contract(s) procured by the Company on behalf of the Customer as set out in the Sales Enquiry, and the Customer shall:

6.6.1. on or before the date of termination of the Agreement, procure, at its own expense, the formal transfer of such contract(s) referred to in this clause 6.6, so that the Customer becomes a party to such contract(s) in place of the Company;

6.6.2. if such contract(s) cannot be transferred in accordance with clause 6.6.1, pay to the Company all the costs incurred in respect of the termination of such contract(s) within 30 days of receipt of any relevant invoice from the Company; or

6.6.3. if such contract(s) cannot be transferred in accordance with clause 6.6.1 or terminated pursuant to clause 6.6.2, the Customer shall indemnify the Company against all amounts due under the contract(s) from the date of termination of the Agreement onwards.

6.7. Termination of the Agreement 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.

6.8. Any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.



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### **7. Right of the Company to Withdraw Services**

7.1. The Company is entitled to withdraw or to suspend the provision of, or any part of, the Services provided under this Agreement if

7.1.1. the police or fire authorities refuse to respond to any alarm condition or refuse to provide their services in respect of the Customer's Premises

7.1.2. The Equipment fails its Soak Test Period

7.1.3. The Equipment, or part of the Equipment causes excessive Alarms that cause detrimental effect to the overall performance of the Company in its duty to adhere to all Service Level Agreements across its Customer portfolio

7.1.4. The Customer fails to make Payment pursuant to Clause 3



## 8. Liability

8.1. Nothing in this Agreement shall limit or exclude the Company's liability for death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable), for fraud or fraudulent misrepresentation or for any other matter in respect of which it would be unlawful for the Company to exclude or restrict liability.

8.2. Subject to clause 8.1:

8.2.1. Company shall not be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Agreement;

8.2.2. where the Services include the provision of Security Personnel, the Company's total liability for direct physical damage or loss of any property of the Customer or any property of a third party for which the Customer is responsible caused by or resulting from the acts or omissions of the Company or Company Personnel in relation to the Company's obligations under this Agreement or under law shall be limited to £250,000 (two hundred and fifty thousand pounds) per event or series of related events and the Customer acknowledges that this is a fair and reasonable limitation of the Company's liability taking into account the Service Charge;

8.2.3. subject to clauses 8.2.1 and 8.3.1 and save where clause 8.2.2 applies, the Company's total liability to the Customer in respect of any one claim or series of linked claims arising under or in connection with the Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the greater of (a) the sum charges paid under the Agreement in the 12 months immediately preceding the relevant claim or (b) £100,000 (one hundred thousand pounds); and

8.2.4. Up to the sum of 25,000 for any one claim or series of claims arising from the Company's negligence, breach of contract resulting in a loss of earning or income to the Customer.

8.2.5. the Company shall not be liable to the Customer where such liability has arisen due to incorrect instructions or information provided by the Customer to the Company.

8.3. Where the Services include the provision of Security Personnel:

8.3.1. without prejudice to any liability of the Company in relation to breach of this Agreement, the Company shall not be liable for any burglary, theft, arson or wilful damage or similar action by any member of the Company Personnel, unless such act or omission could have been reasonably prevented by the Company; and

8.3.2. the Customer shall indemnify and keep indemnified the Company against any liability of the Company for personal injury or death suffered by any Company Personnel caused by any negligence of the Customer, its officers, employees, agents or contractors, or any breach by the Customer of any of its obligations under this Agreement or law or otherwise occurring in the course of the performance of the Security Service or the Alarm Response Service by any Company Personnel except in each case to the extent due to the contributory negligence of such individual.

8.4. Furthermore, the Customer agrees that;

8.4.1. The Customer will adequately insure against all loss and risks that the Customer could suffer as a result of the failure of the monitoring or monitored system that is outside the control of the Company.

8.4.2. The Customer shall negotiate with and agree with the Company in writing any change to the level of liability set by the Company in Paragraph 4 where it is identified by the Customer or their insurer's that the liability set by the Company does not meet the requirements of the Customer or their insurers.

8.4.3. The Company shall not be liable for any loss or damage suffered by the Customer or the subscriber caused through circumstances beyond the control of the Company howsoever caused.

8.5. Company shall not be liable for any loss or damage suffered by the Customer or the subscriber resulting from the failure to receive any transmitted signals for the protected premises howsoever caused and specifically from any signals transmitted via internet service providers

8.6. The Company shall not be liable

8.6.1. for any loss or damage suffered by the Customer or any third party until the monitored system has been in service for a period of 14 days from the date of enablement to the ARC/RVRC and commissioned to the satisfaction of the Company by the acceptance certificate being issued.

8.6.2. Where the acceptance certificate is issued stating that the system has been rejected, the Company shall not be held liable for any loss or damage suffered by the Customer or end user

8.7. Nothing in this agreement shall confer any right of remedy upon the Customer to which it would not otherwise be legally entitled under Law.

8.8. The Customer acknowledges their responsibility to comprehensively and adequately insure the property in which the monitoring is provided, its contents and persons using the same, against "all risks" and agree to inform the Company in writing of any requirement by the Customer or their insurer to increase the amount of liability set by the Company shown in Section 4 ( i, ii, iii, iv, and v).

8.9. The Company shall not be liable for any loss or damage suffered by the Customer or any third party as a result of the Company's policy of verifying or filtering of signals in accordance with NCPP or other procedures relating to calls handling management



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8.10. The Services offered by the Company are designed to minimise the risk to the Customer or third party of suffering loss for which it has been designed. No guarantee can be given that the Monitoring systems or/and Equipment will activate or report correctly at all times and under all circumstances and the Customer shall indemnify the Company from any losses arising from such failure.

8.11. The Company shall not be liable for and the Customer shall indemnify the Company against any loss or damage incurred by the Customer or third resulting from a failure of any signalling transmission pathways to correctly deliver alarm signals to the Company's monitoring equipment howsoever caused.

8.12. This clause 8 shall survive termination of the Agreement.



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### **9. Force Majeure**

9.1. If by reason of a Force Majeure Event, the Company is or anticipates that it will be prevented or hindered from fulfilling the substance of its obligations under this Agreement, then the Company shall notify the Customer immediately and the Customer shall be entitled if such Force Majeure Event subsists for a period of one (1) Month, to cancel or suspend this Agreement by giving notice in writing to the Company.

9.2. In the event of cancellation or suspension pursuant to clause 9.1, the Company shall be under no liability to the Customer or its subcontractors for any loss which they may sustain in consequence of any such cancellation or suspension. The Customer shall in the event of such cancellation be under no liability to the Company in respect of its future obligations under this 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 Charge 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 cancellation or suspension).

9.3. In the event of cancellation of this Agreement pursuant to clause 9.1, the Company shall repay to the Customer any part of the Service Charge paid in respect of any period or periods affected by such cancellation or suspension apportioned on a basis which shall be fairly and reasonably attributable to the relevant cancellation or suspension.



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### 10. Use of personal data

10.1. Where the Company processes personal data on behalf of the Customer – for example, where Monitoring is included in the Services – the Data Protection Schedule (below) shall apply.

10.2. The Company's Privacy Policy can be found on its website; [www.remote-monitoring.co.uk/privacy-policy](http://www.remote-monitoring.co.uk/privacy-policy)



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### 11. General

11.1. 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.

11.2. Sub-contracting. The Company may subcontract any 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.

11.3. Confidentiality. A 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 the Receiving Party by the other party ("Disclosing Party"), its employees, agents or subcontractors, 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, agents and subcontractors who need to know it for the purpose of discharging the Receiving Party's obligations under the Agreement, and shall ensure that such employees, agents and subcontractors 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. This clause 11.3 shall survive termination of the Agreement.

11.4. Variation. The Company may update or amend these Terms and Conditions from time to time by giving written notice to the Customer. Such updates or amendments will not allow the Company to perform the Installation or provide the 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.

11.5. Waiver. 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.

11.6. 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.

11.7. 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 sent to the address 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.

11.8. 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).

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



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### **12. Right of assignment and Disaster Recovery**

12.1. The Company shall be entitled under NSI Disaster Recovery requirements to assign any or all of its liability to a subcontracted NSI Approved ARC/RVRC. The Customer and subscriber agrees to a maximum period of 21 days to enable the Company to restore monitoring services and will indemnify the Company against any losses incurred resulting from Disaster recovery arrangements.

**Data Protection Schedule**

- 1.1 In this schedule:
- “Controller”** means a “data controller” for the purposes of the DPA and a “controller” for the purposes of the GDPR (as such legislation is applicable);
- “Data Protection Legislation”** shall mean the DPA, or, from the date it comes into force in the UK, the GDPR (as applicable) and any other laws relating to the protection of personal data and the privacy of individuals;
- “Data Subject”** has the same meaning as in the Data Protection Legislation;
- “DPA”** means the UK Data Protection Act 1998;
- “GDPR”** means the General Data Protection Regulation (EU) 2016/679;
- “Personal Data”** means “personal data” (as defined in the Data Protection Legislation) that are Processed under the agreement;
- “Personal Data Breach”** means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed;
- “Processing”** has the same meaning as in the Data Protection Legislation and “Process” and “Processed” shall be construed accordingly; and
- “Processor”** means a “data processor” for the purposes of the DPA and a “processor” for the purposes of the GDPR (as such legislation is applicable).
- 1.2 The parties acknowledge that the Company is a Processor acting on behalf of the Customer and that, for the purposes of this Agreement:
- 1.2.1 the type of Personal Data and categories of Data Subjects are included on the Sales Enquiry; and
- 1.2.2 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, in particular:
- 1.3.1 Process the Personal Data only to the extent, and in such manner, as is necessary for the purpose of carry out its duties under this Agreement and in accordance with the Customer’s written instructions and this schedule;
- 1.3.2 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 such Processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data, 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;
- 1.3.3 not transfer the Personal Data outside of the European Economic Area without the prior written consent of the Customer;
- 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 schedule. The Customer hereby authorises the Company to engage any affiliated Parent Company subsidiaries and its approved partners to Process the Personal Data to provide software support services;
- 1.3.6 notify the Customer, as soon as reasonably practicable, about any request or complaint received from Data Subjects without responding to that request (unless authorised to do so by the Customer) and assist the Customer by technical and organisational measures, insofar as possible, for the fulfilment of the Customer’s obligations in respect of such requests and complaints;
- 1.3.7 on request by the Customer and taking into account the nature of the Processing and the information available to the Company, assist the Customer in ensuring compliance with its obligations under the GDPR (where applicable) with respect to:
- (i) implementing appropriate technical and organisational measures in accordance with Article 32 of the GDPR;
- (ii) where relevant, notifying any Personal Data Breach to the Information Commissioner’s Office (or any replacement body) and/or communicating such Personal Data Breach to the Data Subject in accordance with Articles 33 and 34 of the GDPR; and
- (iii) where necessary, carrying out and/or reviewing and, if applicable, consulting with the relevant supervisory authority with respect to data protection impact assessments in accordance with Articles 35 and 36 of the GDPR;
- 1.3.8 on request by the Customer, make available all information necessary to demonstrate the Company’s compliance with this schedule and otherwise permit, and contribute to, audits carried out by the Customer (or its authorised representative); 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.



## Terms & Conditions