

FIDELITY INTEGRATED SYSTEMS LIMITED STANDARD TERMS AND CONDITIONS

GENERAL CONDITIONS

1) **Definitions**

"Company" means Fidelity Integrated Systems Limited and includes but is not limited to its servants, agents and sub-contractors.

"Customer" means the party defined in the "Tender".

"Contract Terms" means the terms and conditions detailed below and overleaf.

"Tender" means a quotation or estimate prepared by the Company for the Customer.

"Works" means the work to be executed as detailed in the Tender.

"Contract" means the agreement between the Company and the Customer (howsoever made) for the execution of the Works.

"Site" means the land, premises and other places on under in or through which the Works are to be executed and any other land, premises or other places provided by the Customer for the purposes of the Contract.

"Contract Sum" means the sum named in the Tender and agreed in writing by both the Company and Customer or by the Customer's written acceptance of the Tender and Contract Terms.

"Construction Plant" means any temporary plant or equipment brought to site by the Company not for incorporation in the Works.

2) **Validity**

a) Unless other terms and conditions are expressly accepted by the Company by a written amendment referring specifically to the term and condition to be amended and signed by a Director of the Company, the Contract Terms will be as set out below and overleaf and such Contract Terms shall not be varied by any conditions or purchase or Purchase Order issued by the Customer.

3) **Tender Acceptances**

a) Tenders are valid for acceptance 60 days from the date of Tender.

b) The acceptance by the Customer of a Tender will only create a Contract between the Company and the Customer upon the Customer's unequivocal acceptance of the Contract Terms as detailed in clause 2 above.

4) **Payment Terms**

a) All invoices are strictly net and must be paid within 30 days from date of invoice. If payment is not made in accordance with the above terms the Company reserves the right to suspend or abandon further work and deliveries of goods and materials and remove such unfixed goods or materials and Construction Plant from Site. The above are without prejudice to any other right or remedy which the Company may possess.

5) **Rates and Prices**

a) The Tender is calculated on the rates and prices of goods, labour, materials, sub-contracts, transport, taxed and duties ruling at the date the Tender was submitted to the Customer and on the Works being executed during the hours of 08:00 to 17:00 Monday to Friday inclusive.

b) The Company reserves the right to amend the Contract Sum to take account of duties and taxes.

c) The Customer will be liable for the following as variations to the Contract Sum:-

- i) Additional work instructed by the Customer not included in the Contract Sum.
- ii) Additional work required as a result of any matter of thing which at the date of Tender could not have been reasonably foreseen.
- iii) Additional work or costs arising from inadequate or inaccurate instructions or drawings given to the Company by the Customer or any act of prevention committed by the Customer in the execution of the Works by the Company.

d) Any additional costs payable by the Customer as a result of the matters specified in clause 5(c) will be charged at rates and prices of goods, labour, materials, sub-contracts, transport, taxes and duties prevailing at the time the additional work is carried out together with a sum calculated at 40 (forty) percent in respect of overheads and profit.

6) **Ownership and Risk**

a) The property in goods and materials fixed or unfixed under the Contract will not pass to the Customer until the price for all such goods and materials and all other sums due from the Customer to the Company under the Contract have been paid in full.

b) All goods materials and Works fixed or unfixed on Site will be at the sole risk of the Customer unless damage to such goods, materials and Works shall be due to the neglect or default of the Company. The cost of repairing or replacing such goods, materials and Works lost or damaged not due to the neglect or default of the Company will be charged to the Customer in accordance with clause 5(d).

7) **Delivery and Completion**

a) The Company will complete the Works within the time agreed and if no time is agreed then within a reasonable time.

b) In no circumstances will the Company be liable for loss and or damage of any kind whatsoever caused directly or indirectly if completion of the Works is delayed by reason of events outside the Company's control including but not limited Act of God, war, national emergency, Act of Parliament, order regulation or law made under any statutory authority, industrial dispute, strike, lock out, civil commotion, fire, tempest, flood or failure to deliver or delay in delivery by any of the Company's sub-contractors or suppliers.

8) **Work Not Included**

a) Unless specifically so stated the Works do not include builders work including excavations, cutting away of walls, floors etc and forming bases.

9) **Customers Obligations**

a) The Customer will provide at his own expense secure covered storage and 240 volt single phase mains power.

10) **Guarantee**

a) The Company guarantees to either repair or at its own option replace any part of the Works that the Company is satisfied after inspection is defective under normal use and service for a period of 12 months from the date of commissioning of the Works providing that the Customer gives notice in writing of the defect becoming apparent.

b) The Company warrants that the Works will be reasonably fit for their intended purpose but does not accept any larger responsibility than this.

c) The Company shall not be liable for any consequential loss or indirect loss suffered by the Customer whether this loss arises from breach of a duty in tort or in contract or in any other way and in particular the Company shall not be liable for any loss of or damage to the premises or property therein caused by burglary, theft, robbery or any unauthorised entry by reason of failure of the Works to operate or any inadequacy in the design or installation of the Works.

d) The Works are intended to only to reduce risks of loss and damage to property and injury to persons on the premises to the extent that this is practicable by use of such Works. The Company gives no undertaking to the Customer that the Works may not be compromised or circumvented or that the Works will prevent any loss by burglary, theft or otherwise and the Company gives no guarantee that any loss, damage or injury can and will be prevented by such use.

11) **Liability to Third Parties**

a) The Customer will indemnify and keep indemnified the Company against any loss or damage of whatsoever nature, including but not limited to death or injury to any person or persons and however arising, incurred or suffered by the Company by reason of any claims made by a third party for loss or damage which would not have been in direct contractual relationship with the Company under the Contract Terms. Provided always that this indemnity shall not apply where such loss or damage arises from any negligence or breach or the Contract on the Company's part.

12) **Specification**

a) The Works will be installed substantially as described in the Tender, however, the Company reserves the right at its absolute discretion to make reasonable changes during the execution of the Works, but such changes shall not lower the performance of the Works nor increase the Contract Sum.

13) **English Law**

a) The Contract Terms shall be governed and interpreted according to English Law and both the Company and the Customer hereby submit to the jurisdiction of the English Courts.



TERMS AND CONDITIONS OF MAINTENANCE

1. DEFINITIONS

"System" means the equipment and any associated items (including wiring) listed in the Schedule.

"Premises" means the location listed in the Schedule or (as the case may be) any other premises in which for the time being the System is installed with the consent of the Company.

"Effective Date" means the effective date stated in the Maintenance Service Agreement.

2. WARRANTY

The Customer hereby warrants that the Customer is the owner of the System (or is otherwise entitled to enter into this Agreement) and that the System is in good working order as at the Effective Date. The Company reserves the right to carry out an examination of any unit forming part of the System to determine its acceptability or otherwise for the provision of maintenance and/or other services by the Company hereunder and to reject any such System which the Company decides is not so acceptable unless the Customer agrees that the Company can carry out at the Customer's expense such rectification works as the Company considers necessary to bring the System up to an acceptable standard.

3. TERM

3 (1) This Agreement shall not come into force until it has been signed on behalf of the Customer and the Company.

3 (2) This Agreement shall continue in force for a period of twelve (12) months from the Effective Date ("the Fixed Period") and thereafter unless or until terminated by either party by giving to the other not less than sixty (60) days prior written notice. All outstanding sums relating to the Agreement, and for works initiated as part of the Agreement, shall be payable in full prior to the cessation date.

3 (3) This Agreement shall be subject to earlier termination as provided in Condition 9.

4. MAINTENANCE SERVICE

4 (1) The Company agrees to provide maintenance service (hereinafter referred to as "Maintenance Service") to keep the system in good working order.

4 (2) Maintenance Service includes:-

(i) Scheduled preventive maintenance based upon the specific need of the System as determined by the Company including such adjustments, modifications, and replacement of parts as shall be deemed necessary by the Company to keep the System in good working order (such maintenance service to be provided during the Company's Normal Working Hours, Mondays to Fridays inclusive, and

(ii) Unscheduled on-call remedial maintenance (due to malfunction of the System) as soon as reasonably possible from the time the request for service is received.

4 (3) Maintenance Service does not include:

(i) Work other than to the System;

(ii) Repair of damage or replacement of parts caused by accident or misuse, or the neglect, act or default of the Customer or any other user of the System (including, without limitation, failure to undertake user routine maintenance specified in System operating instructions) or failure of electrical power, or any other failure not attributable to the System;

(iii) Painting or refinishing the System or furnishing supplies for such purposes, or making specification changes or performing services connected with relocation of the System or any part thereof, or adding or removing accessories, attachments, consumable items or other devices; and

(iv) Such services as may be impractical for the Company to render because of alterations to the System other than alterations carried out by the Company.

4 (4) The Company shall provide in respect of the System the additional services (if any) detailed in the Schedule, (hereinafter called "the Additional Services").

4 (5) These conditions shall not be deemed to constitute or imply any warranty by the Company that the System will at all times operate satisfactorily without malfunction.

4 (6) The Company's entire liability in respect of the System, the Maintenance Service, and the Additional Services and any loss, injury, death or damage caused thereby or resulting therefrom is set out in this Condition and in Condition 8 which apply to the total exclusion of any other conditions, warranties, stipulations or statements whatsoever, whether express or implied by statute, common law or otherwise howsoever. The Company accepts no liability for any loss of business or profits or contracts or any other consequential loss or damage.

5. MAINTENANCE AND OTHER CHARGES

5 (1) The Customer shall pay to the Company annual charges ("the Annual Charges") at the rates stated in the Schedule for the Maintenance Service and for the Additional Services. The Annual Charges shall be payable in advance on the Effective Date and on each subsequent anniversary thereof or as may be otherwise agreed by the Company in writing under the hand of an authorised signatory.

5 (2) The Company reserves the right to vary the Annual Charges by giving the Customer not less than sixty (60) days prior written notice to expire at any time or times after the Fixed Period (but not more frequently than once in every period of twelve months following the end of the Fixed Period)

5 (2a) The Company reserves the right to vary the Callout Charges by giving the Customer not less than sixty (60) days prior written warning at any time during the Fixed Period.

5 (3) If the Annual Charges (or any part thereof) remain unpaid for more than 30 days after their due date the Company shall be entitled to withhold any or all of the services to be provided by the Company hereafter until such time as payment is received by the Company.

5 (4) The foregoing charges exclude Value Added Tax. The amount of Value Added Tax for which the Company will be accountable to HM Customs and Excise in respect of such charges shall be paid by the Customer on the submission of a Tax invoice and in accordance with the foregoing terms of payment.

6. CUSTOMER'S OBLIGATIONS AND UNDERTAKINGS

6 (1) The Customer shall provide at its own expense by the Effective Date and thereafter maintain throughout the period of the Agreement the following facilities for the operations and use of the System, to the standards specified by the Company: sufficient space for the accommodation of and access to the System: adequate power supplies: suitable environmental conditions: all necessary telephone lines or circuits and connections thereto and line interfacing equipment: any Post Office or other consents licensees or authorisations (other than Type Approval of the System): and any other necessary facilities specified by the Company. No absence, deterioration or failure of any such facilities which prevents or otherwise interferes with the Customer's operation or use of the System shall entitle the Customer to any rebate of the Annual Charges nor to withhold or delay payment thereof to the Company nor to any other rights against the Company.

6 (2) The Customer shall throughout the period of this Agreement take good care of the System and operate the same in a proper manner, pay all charges, taxes and other outgoings payable in respect of the use of the System: order and pay for such consumable items as he shall require to operate and use the System: permit the Company and any person authorised by the Company to have access to the System at all reasonable times: not make or endeavour to make any alterations or additions to the System or any part thereof or permit any other person to do so without the prior written consent of the Company: notify the Company forthwith of any loss of or damage to or malfunction in the System or any part thereof: notify the Company forthwith of any proposed structural alterations to the Premises or of any modifications to the telephone installation affecting the System.

6 (3) In the case of equipment forming part of an intruder or fire alarm System, the Customer shall, in the event of the System operating, forthwith notify the Company thereof by telephone: the Company shall reset the System. The Customer shall not nor shall he permit any other person without the prior consent of the Company in writing to reset the System or to test, reset or repair or replace or in any way interfere with the System or any part thereof. In the event of a breach of this provision the installer shall be entitled to terminate the Maintenance Contract forthwith upon its discovery.

6 (4) In the event that access to a Central Alarm Receiving Station operated by the Company is included in the Schedule, the Customer shall notify the Company in writing of the days and times during which the Premises are normally closed. The Company shall be entitled to assume (unless written notice shall have been given by the Customer to the Company of any proposed alteration in such days or times) that any interference with the System during such days or times is unauthorised and shall be entitled to notify the Police accordingly.

7. FORCE MAJEURE

Neither party to this Agreement shall be under any liability to the other in respect of any failure to carry out or delay in carrying out any of its obligations hereunder attributable to any cause of whatever nature outside its reasonable control.

8. LIMITATION OF LIABILITY

It is understood that the Company is not an insurer, that insurance (if any) shall be obtained by the Customer, and that the amounts payable to the Company under the Contract are based upon the value of the Services and the scope of the Company's liability as set forth herein. The Company makes no guarantee or warranty that the System maintained by the Company will avert or prevent occurrences or the consequences thereof which the System is designed to detect. The Company shall not accept responsibility for any injurious act or default on the part of any employee of the Company unless such act or default could have been foreseen and avoided by the exercise of due diligence on the part of the Company as his employer. The Company shall indemnify the Customer against any loss or damage to the Customer's premises or to property of the Customer or of third parties thereon, caused directly by a failure of the System due solely to deficient maintenance by the Company, subject to a maximum amount of £1,000,000 (one million pounds) in respect of any one incident. The Company shall not otherwise be liable, whether in contract, tort or otherwise howsoever, for any loss, damage, death or injury arising directly or indirectly from any breakdown of failure of the System or from its use by the Customer or any third party or from any failure in the provision of the Maintenance Service or the Additional Services, all with the sole exception of any death or injury caused by the negligence (as defined for the purposes of the unfair Contract Terms Act 1977) of the Company or its servants or agents acting in the course of the employment or agency.

9. TERMINATION FOR DEFAULT

9 (1) If any distress, execution or other legal process shall be levied on the System or any goods of the Customer or if the Customer shall be adjudicated bankrupt or (being a Company) have a liquidator appointed or if the Customer shall execute a Bill of Sale of the Customer's effects or any of them or if the Customer shall fail to perform, any of the Customer's other obligations hereunder, the Company shall be entitled forthwith to terminate this Agreement by giving notice in writing to the Customer.

9 (2) Termination of the Agreement for any reason shall be without prejudice to all rights accrued prior thereto.

10. ENTIRE AGREEMENT AND APPLICABLE LAW

10 (1) This Agreement constitutes the entire agreement between the Company and the Customer in respect of the System and supersedes all other agreements, statements, representations or warranties made by or between the parties or either of them concerning the System. The terms and conditions of the Agreement shall supersede any terms and conditions appearing on or referred to in any purchase order, acknowledgement or other document issued by the Customer in respect of the subject matter of this Agreement. No waiver, alteration, variation or addition to this Agreement shall be effective unless made in writing on or after the date of signature of the Agreement by both parties and accepted by an authorised signatory of both parties.

10 (2) The interpretation construction effect and enforceability of the Agreement shall be governed by English Law, and the parties agree to submit to the jurisdiction of the English Courts.