

Agreement of Terms and Conditions of Business with Wellington Site Security Ltd and Customers



Background

- **Wellington Site Security Ltd** (“Wellington” or “Supplier”) is a company incorporated and registered in England and Wales with **company number 12796929** whose **registered office** is at Canada House, First Floor, 20/20 Business Park, Maidstone, Kent, United Kingdom, ME16 0LS.
- Wellington is a supplier of fire alarms, security equipment and construction site services. Wellington sells or rents equipment and services to customers and this agreement covers the terms of business with its Customers.
- Where Wellington sells and installs equipment, upon successful installation and sign-off by the customer, the responsibility of that equipment passes over to the customer. Where Wellington rents equipment it is the customer’s responsibility to take proper care of the equipment as detailed below. In both circumstances for the proper functioning of the equipment it is imperative that the equipment is kept and maintained as instructed here or in the manuals provided.
- Wellington will also provide an ongoing regularly maintenance service for rental equipment and can also provide a similar maintenance package for purchased equipment should the customer wish.
- **CIS Exempt:** Wellington Site Security Ltd is a Supplier, not a subcontractor and is CIS Exempt.
- ***Wellington will not engage in business until it has had a quote accepted and received a purchase order upon which both parties will be bound by these terms.***

Customer's Obligations

- **Use of Equipment.** The customer shall use the Equipment only in accordance with the instructions and recommendations of the manufacturer of the Equipment and as instructed by the Supplier at installation or as may be advised by the Supplier from time to time.
- **Training.** Following initial training by the Supplier, the Customer shall train and advise all of their staff whom may operate the system/s in its use and functionality in accordance of how they were trained.
- **Malfunction reports.** The Customer shall report that the Equipment is defective or malfunctioning or has failed or is otherwise not in Good Working Order either in email to operations@wellingtongroup.co.uk or by telephone, within 24 hours.
- **Not tamper with the equipment or cables.** The customer shall not allow any other person than the Supplier's representatives to adjust, maintain, repair, replace or remove the Equipment or any part of it, unless otherwise agreed by the Supplier.
- **Movement of Equipment.** The Customer shall not move the Equipment, or fixed cables from the installation point at the Location without the prior consent of the Supplier.
- **Power supply.** The Customer shall not switch the power off unless the equipment is battery operated.
- **Cables.** The Customer shall not interfere, compress or cut cables connecting the equipment or system.
- **Obstruction of sensors.** The Customer shall not obstruct the sensors by allowing materials or debris to be placed in front of the sensors that could prevent them from being activated. Or allow loose material to move in front of the sensors that may lead to a false activation.
- **Setting the equipment.** The Customer shall not allow personnel to enter the protected area when the system is set or being set.
- **Access to Equipment.** The Customer shall ensure that Wellington’s representatives have: Up-to-date Key holder information; all keys and access instructions to the premises or site where it is required that Wellington is to provide out of hours attendance services. All information should be sent 48 hours in advance of attendance to operations@wellingtongroup.co.uk.
- **Lost, damaged or stolen equipment.** Any lost, stolen or damaged equipment will be charged to the customer.
- **Notice of works.** The Customer shall provide at least 48hrs notice for system moves, additional works and system removals. Notify the Supplier in writing of required system set and unset times (if applicable) and adhere to those times. Any changes to such times will require 24 hours’ notice.
- **Instruction of works.** The Customer shall provide all instructions in writing to our email address operations@wellingtongroup.co.uk or through our client portal.
- **Changes to works.** Changes to agreed visits need to be within 2 working business days unless agreed otherwise by the Supplier. If not agreed, the Customer will be liable for the scheduled work.
- **Radio wave signal.** Should equipment require radio wave signal and in the unlikely event this is not available at the agreed installation point or base station, the Supplier has the right to move the installation point and equipment to achieve signal or the visit will be aborted.
- **Safety.** The Customer shall take all such steps as may be necessary to ensure the safety of any of the Supplier's representatives when attending the Location. All elevations on all lifts of scaffolding that the Supplier requires access to must be unobstructed, have a handrail installed and be fully boarded (5 board wide).
- **CCTV specific installation requirements:** For CCTV installations only, the Supplier requires the following for the job to be possible:

- Ducting with pull string at all access gates and pedestrian entrances
- Secure hoarding for cable runs
- 13 amp plugs within site offices / secure unit
- 24 hour power on site
- Broadband line with static IP address
- In the event of Heras fencing we require secure, upright poles in place to secure CCTV cameras
- **Abortive visits.** Due to the Customer not fulfilling its obligations outlined here, abortive visits will result in normal contractual rates being charged or up to £495.00 per engineer per day.
- **Customer Services Manager.** The Customer shall appoint a manager for the Services. That person shall have authority to contractually bind the Customer on all matters relating to the Services. The Customer may replace that person from time to time where reasonably necessary in the interests of the Customer's business.

Obligation of Customer for Supplier Efficacy Insurance

The Supplier has Efficacy Insurance in place for all 'rental' systems it provides to its' Customers. Should loss or damage occur to the customers' premises and the customer considers that such circumstances are the responsibility of the Supplier and believes the Supplier to be liable and wishes to make a claim against the Supplier, then notification must be made to the Supplier in writing within 7 days of the alleged incident.

The Customer has an obligation under this Agreement, and within the Terms of the Insurance to:

- Allow the Supplier, its representatives or its insurance company's officers access to the premises in order to undertake a comprehensive investigation.
- Provide the Supplier with written and/or photographic evidence that the alleged items lost or damaged actually existed on the premises.
- Provide the Supplier with written evidence that they have occurred costs, and have provided re-imburement to any third party for such costs.
- Notify the Supplier, and provide evidence of such, where items lost would or would not have been afforded cover by their own, or third parties Insurance.
- Not withhold any monies outstanding or due for products or services provided by the Supplier as a direct result of losses or damages.

Wellington's (or the Suppliers) obligations

- **Provision of information.** Wellington shall provide to the Customer from time in writing with such up to date and accurate information as to the application and use of the Equipment as deemed necessary by Wellington. Wellington shall respond promptly, and no later than 24 hours during Business Hours, by telephone or in writing, as appropriate, to any request from the Customer for information concerning the application and use of the Equipment, or arrange the repair of any defect in or malfunctioning of the Equipment. All requests must be made in writing to operations@wellingtongroup.co.uk or through the client portal.
- **Pre Installation Plan.** Unless agreed otherwise with the Customer, Wellington will carry out an installation plan, including a site visit, which will be signed off by the customer agreeing works, equipment and location points of equipment.
- **One continuous visit.** Wellington will install equipment in one continuous visit unless agreed otherwise. If work requires further visits to install equipment this will be charged in addition to the quote price.
- **Good working order.** On completion of installation the Supplier will ensure that the equipment and systems are in good working order and will issue a maintenance document confirming this with both engineer and appointed site manager signing it.
- **Planned Preventative Maintenance (PPM):** for rental equipment, or purchased equipment with agreed maintenance, Wellington will carry out planned preventative maintenance (PPM) during Business Hours as agreed in advance between the Customer and the Supplier on a quarterly basis.
- **Equipment malfunction discovered during PPM by Wellington and corrective maintenance.** If the Supplier's engineer discovers that the Equipment is malfunctioning or is not in Good Working Order during the course of the PPM the engineer will use all reasonable endeavours to repair or replace it during that visit at the location.
- **Corrective or Emergency Maintenance discovered by customer.** On the Customer informing the Supplier that the Equipment is defective or is malfunctioning or has failed or is not otherwise in Good Working Order, the Supplier shall use all reasonable endeavours to ensure that one of its representatives shall: attend the Location during Business Hours as soon as possible and no later than within 5 business days to perform Corrective Maintenance.
- **Good working order of equipment.** After every installation or maintenance activity (emergency or otherwise) Wellington will ensure the equipment is in good working order.
- **Health and safety compliance.** The Supplier shall ensure that its representatives, while on site at the Location, shall comply with the Customer's reasonable health and safety and security policies provided that these have been brought to the attention of its representatives.
- **Services manager.** The Supplier shall appoint a manager for the Services. That person shall have the authority to contractually bind the Supplier on all matters relating to the Services.

Charges

- **Installation and Standard Maintenance Charges.** In consideration of the installation and planned quarterly PPM (planned preventative and maintenance) the Customer shall pay to the supplier the price agreed in the accepted quote for services conducted in one continuous visit.

- **Additional Services Charges.** Where the Supplier is performing or has performed the Maintenance Services in circumstances where it is established that the Equipment was not in Good Working Order due to the customer not fulfilling its obligations (as detailed above), the Supplier may charge, and the Customer shall pay, the Additional Services Charges in respect of that work. In consideration of the performance of any Additional Services the Customer shall pay to the Supplier the Additional Services Charges of £60 for the first hour of work and £50 per hour thereafter of engineers' time.
- **Emergency Maintenance Charges.** In consideration of the performance of Emergency Maintenance (out of normal business hours) the Customer shall pay to the Supplier the Emergency Maintenance Charges of double our standard rate (ie: £120 for first hour and £100 per hour thereafter) unless Wellington or its equipment were deemed to be at fault.
- **Investigation charges.** If on investigation the Supplier reasonably determines that any defect in or malfunctioning of the Equipment is the fault of the Customer not carrying out its obligations (as detailed above), the Customer shall pay Additional Services Charges in respect of the time incurred by the Supplier in making the investigation and determining the cause of the defect in or malfunctioning of the Equipment.
- **Time and materials.** Where the Charges are calculated on a time and materials basis: the Supplier shall ensure that every individual whom it engages on the Services completes time sheets to record time spent on the Services.
- **Inclusive charges.** The Charges shall be inclusive of all expenses and the cost to the Supplier of any materials or services procured by the Supplier for the provision of the Services. A breakdown of the costs incurred will be sent to the customer along with the invoice.
- **Charges increases.** No later than 2 months from the expiry of the Initial Term or the Extended Term, the Supplier may propose, in writing, a revised schedule of Charges to the Customer, which the parties will seek to negotiate and agree. The increases shall be no more frequent than once in any 12-month period.

Invoicing and Payment

- **Invoicing.** The Supplier shall invoice the Customer upon the completed installation of the equipment (or pre agreed staged installation). The Supplier shall invoice the Customer in respect of any other Services or Spare Parts provided under this agreement upon completion of these services. Rental systems will be charged monthly with invoices being sent on the same date each month.
- **Payment timing.** The Customer shall pay each invoice submitted to it by the Supplier within 30 days of the invoice date to a bank account nominated in writing by the Supplier.
- **Failure to pay.** If the Customer fails to pay the Supplier any sum due:
 - the supplier may charge and the customer shall pay interest on the overdue sum from the due date until payment of the overdue sum at 8% above the Bank of England's base rate on an annual basis
 - the Supplier may suspend all or part of the Services until payment has been made in full
 - The Supplier may turn off and retrieve all equipment from the customers site and be unobstructed in doing so

Tax and set-off

- All sums payable to the Supplier under this agreement are inclusive of VAT which is payable unless expressed otherwise by the Supplier.

Insurance Cover and Limitation of Liability

- **Employers' Liability.** The Supplier has obtained insurance to provide Employers' Liability cover for death, bodily injury, illness or disease sustained by any employee arising out of his employment, with a limit of indemnity of **£10,000,000** any one occurrence
- **Public Liability.** The Supplier has obtained insurance to provide Public Liability cover in respect of the death of or injury sustained by third parties and/or damage to third party property arising out of their business, with an indemnity limit of **£10,000,000** any one occurrence.
- **Product Liability.** The Supplier has obtained insurance to provide Products Liability cover in respect of the death of or injury sustained by third parties and/or damage to third party property arising out of their business, with an indemnity limit of **£10,000,000** any one occurrence and in the aggregate during any one period of insurance.
- **Inefficacy Cover.** The Supplier has obtained insurance to provide Inefficacy cover in respect of the death of or injury sustained by third parties and/or damage to third party property arising out of their business, with an indemnity limit of **£5,000,000** any one occurrence
- **Professional Indemnity.** The Supplier has obtained insurance to provide Professional Indemnity cover against claims for damages and claimants costs for breach of professional duty, due to a negligent act, error or omission made against him during the period of insurance, with a limit of indemnity of **£2,000,000** any one claim.
- The insurance cover provided is subject to the insurers policy wordings, terms, conditions and exclusions.

Termination

- Either party may terminate this agreement with immediate effect by giving written notice to the other party if:
 - a) the other party fails to pay any amount due under this agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment;
 - b) the other party commits a material breach of any term of this agreement and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - c) there is a change of Control of the other party without reasonable notice given by the parties and approval granted to continuation of the contract.

- The Supplier may terminate this agreement with immediate effect by giving written notice to the Customer if the Supplier reasonably determines that all or substantially all of the Equipment can no longer be maintained in Good Working Order by the provision of Spare Parts or all or substantially all of the Equipment is damaged beyond economic repair otherwise than through the Supplier's fault.

Consequences of termination and survival

Unpaid invoices and survival. On termination or expiry of this agreement:

- the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Supplier may submit an invoice for those Services only, which shall be payable immediately on receipt.
- Accrued rights. Termination or expiry of this agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination or expiry.

Confidentiality

- **No disclosure of Confidential Information.** Each party undertakes that it shall not at any time during this agreement, and for a period of two years after termination or expiry of this agreement, disclose to any person any Confidential Information concerning the business, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by **Exceptions.** Each party may disclose the other party's Confidential Information:
 - a) to its employees, officers, representatives, contractors, subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 16; and
 - b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- **Restrictions on use of Confidential Information.** No party shall use any other party's Confidential Information for any purpose other than to exercise its rights and perform its obligations under or in connection with this agreement.

General

- **Force Majeure.** Neither party shall be in breach of this agreement or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for 3 weeks, the party not affected may terminate this agreement by giving 14 days' written notice to the affected party.
- **Entire agreement.** This agreement constitutes the entire agreement between the parties.
- **Third party rights.** This agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

Governing law

- This 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.