



# TERMS AND CONDITIONS

## For the Supply of SIM Cards on TVC Monitoring Equipment

### DEFINITIONS

**"Additional Services"** means the additional services (if any) chosen or used by the Customer and provided by the Supplier during the term of this Agreement;

**"Agreement"** means the Contract & Tariff Sheet together with these Terms and Conditions;

**"Airtime Service"** means the wireless airtime service, which the Supplier will procure, for the Customer from the Network Operator;

**"Charges"** means the charges (including but not limited to the charges set out in the Tariff) payable by the Customer to Thames Valley Controls Ltd pursuant to this Agreement;

**"Contract"** refers to this SIM Provision Contract;

**"Commencement Date"** means the date upon which Services are first provided to the Customer pursuant to this Agreement;

**"Customer"** means the customer of Thames Valley Controls Ltd whose details appear on this Contract;

**"Device"** means a wireless device or other equipment of the Customer into which the SIM Card will be inserted;

**"Minimum Period"** means the minimum term as detailed on the Contract & Tariff Sheet from the date of connection of each SIM Card to the Network;

**"Network"** is the cellular mobile telecommunications network(s) to which the Customer is connected pursuant to this Agreement;

**"Network Operator"** means the network operator who operates the Network;

**"Numbers"** means the telephone numbers allocated to SIM Cards and used by the Customer to access the Airtime Service;

**"Services"** means the Airtime Service, the Support Service and the Additional Services;

**"SIM Card"** means a subscriber identity module, which the Supplier will procure for, and supply to the Customer (and which at all times remains the property of the Network Operator), which allows the Customer to connect a Device to the Network;

**"Supplier"** means Thames Valley Controls Ltd, Manor Farm Industrial Estate Flint CH6 5UY, United Kingdom registration number 2931013;

**"Support Service"** means any ongoing customer telephone support service provided by the Supplier to the Customer;

**"Tariff"** means the tariff applicable to this Agreement which sets out the rates at which the Supplier will charge the Customer for calls made and Services chosen or used by the Customer, which Tariff may be amended by the Supplier from time to time;

**"Termination Fee"** means the line rental and other charges for the period from the date of disconnection of a SIM Card to the end of the Minimum Period in respect of that SIM Card, an administration fee of £25 per SIM Card/Device connected and any other charges payable by the Customer to the Supplier as set out in this Agreement;

**"Third Party Services"** means the additional services (if any) which are supplied to the Customer by a third party (not including the Supplier) which the Supplier may bill the Customer for through this Agreement. Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

### 1 GENERAL

These terms and conditions are the only terms and conditions on which orders are placed on, or will be accepted by the Supplier and they govern the Agreement to the exclusion of any other terms and conditions of or referred to by the Customer.

### 2 ORDERS/SERVICES

2.1 Subject to the Supplier (and the Network Operator) accepting an order, the Supplier agrees and undertakes to use its reasonable endeavours to:

2.1.1 procure the supply of the agreed number of SIM Cards to the Customer;



- 2.1.2 procure from the Network Operator the Airtime Service;
- 2.1.3 provide the Support Services during normal business hours, 9.00am until 5.00pm, Monday to Thursday and 9:00 until 4:00 Fridays, excluding public holidays and factory shutdown periods
- 2.1.4 provide the Additional Services chosen, used or requested by the Customer.
- 2.2 The Supplier undertakes to provide the Services using its reasonable skill and care.
- 2.3 If requested by the Customer, the Supplier will use its reasonable endeavours to supply SIM Cards that are ready for use by the Customer on the agreed date but the Supplier cannot be held liable for any loss resulting from any delay in supplying the SIM Cards. For the purpose of this clause, the parties agree that time will not be of the essence.
- 2.4 To preserve continuity of service the Contract will be automatically renewed for a further Minimum Period at the end of the subsisting period. The Customer agrees to advise the Supplier, in writing, no less than 30 days prior to the end of each Minimum Period should they wish to discontinue the Service.

### **3 MINIMUM PERIOD**

3.1 Subject to the provisions of Clauses 7 and 8, this Agreement will last for the Minimum Period of 3 years or such additional period(s) as may be agreed between the parties from time to time. Each additional SIM Card/Device connected to the Network under this Agreement will be treated separately and must be connected for the Minimum Period.

### **4 PRICE AND PAYMENT**

- 4.1 The Customer will pay the Charges to the Supplier. The Charges will be based on the Tariff agreed with the Customer at the Commencement Date. However, the Tariff may be amended or altered by the Supplier from time to time, subject to the Supplier giving the Customer 30 days prior written notice.
- 4.2 The Customer will pay all Charges to the Supplier in full without any deduction, retention or set off within 30 days of the date of the invoice.
- 4.3 All payments under this Agreement require to be paid by the Customer to the Supplier within the agreed payment terms from the date of invoice.
- 4.4 The Charges are exclusive of Value Added Tax which will be payable by the Customer at the prevailing rate.
- 4.5 Without prejudice to any other rights of the Supplier, in the event that the Customer fails to pay any sums due to the Supplier on the due date, the Supplier shall be entitled to:
  - a) charge interest on any amounts overdue under this Agreement from the due date until payment is made at the rate of 4% per annum above the base rate of the Bank of England for the time being
  - b) suspend the provision of the Services and/or disconnect the SIM Cards from the Network until such time as all payments due, including all interest accrued, have been paid and satisfied in full.
- 4.6 If the Supplier offers any credit facilities, it reserves the right to set and/or alter, at any time, such credit limits.
- 4.7 If the Supplier requires to bar or disconnect any SIM Cards for non-payment of Charges or otherwise, the lifting of any bar and/or the reconnection of such SIM Cards will be subject to a one off administration charge.
- 4.8 The Customer must inform the Supplier in writing within 7 days of the invoice date if any invoice discrepancy is found. The Customer must still pay the disputed sum as and when it falls due until any dispute is resolved.
- 4.9 The Supplier reserves the right to charge the Customer for call charges where the Device makes excessive calls (which equate to more than £10 per quarter) due to, for example, a fault within the Device or where equipment connected to the device is over-reporting.
- 4.10 The supplier reserves the right to charge the customer for any excess data charges incurred outside of their monthly contracted tariff at £12 per GB. An example of data usage would be to download 1 days historic data from a CCTV system could equate to approximately 1.8GB of data with live streaming equating to approximately 30MB per minute.

### **5 CUSTOMER'S OBLIGATIONS**

- 5.1 The Customer must:
  - a) Ensure that all connected devices are correctly configured to operate on the Network they are connected to. The Supplier and the Network will not be responsible for limiting, monitoring or barring without authorisation, any connected SIM cards that are generating adverse levels of traffic over the Network.
  - b) pay all Charges on time (please note that any dispute with a third party, including but not limited to, problems with Third Party Services, hardware, supply and fitting of hardware, damage to property, software related issues which are out with the Supplier's direct control must not affect the prompt and full payment of all Charges to the Supplier);
  - c) provide information as reasonably requested by the Supplier in connection with this Agreement;
  - d) adhere to any conditions issued by the Supplier from time to time regarding the use of SIM Card and/or Devices;
  - e) comply with all these terms and conditions and requirements (including those issued by the Network Operator);
  - f) not use the SIM Card or the Services for any purpose for which it was not designed or intended; and
  - g) inform the Supplier immediately of any changes in the Customer's account/payment/ address/contact and other details.
- 5.2 The Customer must not:
  - a) use the Customers SIM Card and/or Device (or allow it to be used) for any immoral, harassing or illegal purpose. The Supplier may report any incidents to the police or any other relevant official organisation; or
  - b) use any equipment or Device, which has not been approved for use on the Network. If the Customer is not sure, please telephone the Supplier's Customer Services Help Line on 01352 793 265 during normal business hours: 9.00am until 5.00pm, Monday to Thursday and 9:00 until 4:00 Fridays, excluding public holidays and factory shutdown periods.
- 5.3 This Agreement does not constitute the Supplier's acceptance, nor endorsement in any way that the Customer's equipment or Devices are approved for use on the Network.
- 5.4 Should the supplier be called to site to investigate an unwarranted claim against the SIM the customer will be charged for all costs incurred by the supplier.

### **6 TERMINATION**



6.1 The Customer may end this Agreement by giving the Supplier 30 days written notice ("Disconnection Notice") in accordance with the notice provision in Clause 17. The Disconnection Notice will start on the date the notice is received and acknowledged by the Supplier. At the end of the notice period the Supplier will procure the disconnection of the SIM Cards from the Network.

6.2 In the event that the Customer gives a Disconnection Notice to take effect, and resulting in SIM Card disconnections, prior to the expiry of the Minimum Period for the particular SIM Card concerned, the Customer will pay to the Supplier any applicable Termination Fee together with all other applicable Charges.

6.3 Either party may terminate this Agreement with immediate effect, if:

a) the other party is in material breach, and if the breach is capable of remedy the party in breach shall have failed to remedy the breach within thirty (30) days of written notice specifying the breach and requiring its remedy, or the breach is not capable of remedy; or

b) bankruptcy or insolvency proceedings are brought against the other party, or if an arrangement with creditors is made, or a receiver or administrator is appointed over any of the other party's assets, or the other party goes into liquidation.

6.4 The Supplier may terminate this Agreement if the Network is no longer in operation for any reason.

6.5 Upon the expiry of any termination notice or otherwise upon the termination of this Agreement, the Supplier will procure the disconnection of the relevant SIM Cards, (and any other Device) from the Network and the Customer will pay to the Supplier any applicable Termination Fee, together with all other Charges payable.

## **7 LOSS OF SIM CARD**

7.1 The Customer must inform the Supplier immediately of any loss of or damage to any SIM Card and/or Device or upon becoming aware that any party is making improper use of same. The Customer will be responsible for any Charges incurred as a result of any unauthorised use of the SIM Card/Device until such time as it has notified the Supplier in writing and the Supplier has suspended the Services to that SIM Card.

7.2 If the Customer has to replace a SIM Card/Device because it has been lost, stolen, damaged or destroyed the Customer will have to pay such additional charges as are incurred by the Supplier as well as any applicable replacement charges and shall be liable to the Supplier for any charges, losses or expenses associated with such damage.

## **8 CONFIDENTIALITY**

8.1 The parties will each keep confidential any proprietary information and/or any information obtained from the other in connection with this Agreement (including for the avoidance of doubt details of the Customer's employees) which is reasonably identified by either party as commercially confidential or which is obviously confidential in nature and neither will divulge the same to any third party (except such of its employees, contractors and agents as may need to know the same for the purposes of the implementation of this Agreement and who agree to be bound by the provisions of this clause) without the consent in writing of the other.

8.2 The obligations in Clause 8.1 shall not apply to any material or information which is in the public domain (other than as a result of a breach of this Agreement); or is already known to the receiving party; or is lawfully received from a third party; and/or is ordered to be disclosed by any court or other tribunal or regulatory authority of competent jurisdiction.

## **9 LIMITATION OF LIABILITY**

9.1 The Supplier shall not be liable to the Customer in respect of any matter arising out of or in connection with this Agreement in contract, tort, delict or otherwise for any loss (whether direct or indirect) of profit, business, revenue, anticipated savings, goodwill or any loss or corruption of data, or any indirect or consequential loss or damage whatsoever.

9.2 The Supplier's aggregate liability of any sort resulting from its negligence or otherwise arising in connection with this Agreement shall be limited to a sum equivalent to the Charges paid by the Customer.

9.3 Nothing in this Agreement shall exclude or restrict the liability of either party for death or personal injury resulting from that party's negligence.

9.4 The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

9.5 The Supplier does not accept liability for the acts or omissions of other providers of telecommunication services unless such other providers have been specifically engaged by the Supplier as subcontractors or assignees in respect of performing the Supplier's obligations under this Agreement.

9.6 If a SIM Card is faulty, the extent of the Supplier's liability will be to provide a replacement card as soon as is reasonably practicable to do so. The Supplier will not be held responsible for any costs incurred by the Customer if any replacement SIM card imposes a change of telephone number for the Devices or associated connected equipment.

## **10 SUSPENSION OF SERVICE**

10.1 In addition to the rights specified in this Agreement, the Supplier can suspend the Services if the Network fails, if modification or maintenance work is being carried out, or if the Network is unavailable for any reason.

## **11 FORCE MAJEURE**

11.1 Neither party to this Agreement shall be deemed in default or liable to the other party for any matter whatsoever or for any delays in performance or from failure to perform or comply with the terms of this Agreement due to any cause beyond that party's reasonable control including, without limitation, acts of God, acts of Government or other competent regulatory authority, telecommunications network operators, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that party's workforce).

## **12 VARIATIONS TO CHARGE/SERVICES**

12.1 Notwithstanding any other terms of the Agreement, the Supplier shall only be required to give the Customer as much notice as is reasonably practical for any changes to the Services, the Tariff or Charges if such changes are required as a



consequence of any changes proposed by any third party (including but not limited to any Network Operator, manufacturer, supplier or regulatory body), or from changes to the law.

12.2 The Supplier reserves the right to vary the pricing Tariff, Charges and other costs in line with any network changes in supply pricing.

### **13 THIRD PARTY SERVICES**

13.1 The Supplier may in some circumstances invoice and collect payments for certain Third Party Services on behalf of the third parties supplying those services with a view to streamlining the payment process for the Customer. Third Party Services are not supplied by the Supplier and are supplied directly to the Customer by other third parties. The Supplier cannot be held liable in any way for the delivery of any Third Party Services which are supplied by third parties.

### **14 OWNERSHIP**

14.1 The ownership of the SIM Card (or any other Device supplied by the Supplier) remains the property of the Supplier – which owner shall be entitled to enforce any of the terms of this Agreement relating to the Customer's use of same.

14.2 Upon termination or expiry of this Agreement the Customer must return the SIM Cards to the Supplier.

14.3 The Supplier may charge the Customer if they wish to keep the SIM Card and/or Numbers after the Agreement has expired.

14.4 All trademarks, branding, logos or other intellectual property belonging to the Supplier, the Network Operator or any supplier or manufacturer of SIM Cards or other equipment supplied to the Customer will at all times remain the property of its owner. The Customer must not alter, remove or tamper with any such trademarks, branding, logos or other intellectual property or use them in any way without obtaining the prior written consent of their owners.

### **15 DISCLOSURE OF INFORMATION**

15.1 The Customer agrees that the Supplier may search the files of credit reference agencies, which will keep a record of that search. The Supplier may also carry out identity and anti-fraud checks with fraud prevention agencies. Details of how the Customer conducts its account may also be disclosed to those agencies.

15.2 The Customer authorises the Supplier to use and disclose, in the UK and abroad, information about the Customer and its use of the Services and how the Customer conducts its account for the purposes of operating its account and providing the Customer with the Services or as required under law to the Supplier's associated companies, partners or agents, any telecommunications company, debt collection agency or credit reference agency and fraud prevention agency.

15.3 The Supplier may also use information provided by the Customer for marketing purposes including contacting the Customer by phone, post, SIM Card, e-mail or other means in relation to products, services and offers which the Supplier thinks might be of interest to the Customer. If the Customer does not wish its details to be used for marketing purposes it may notify the Supplier accordingly.

### **16 ASSIGNATION**

16.1 This agreement is personal to the Customer and cannot be assigned without the Supplier's prior written consent. The Customer must obtain the consent of the Supplier if it wishes to transfer the Customers SIM Card or Device to a third party.

16.2 The Supplier can transfer this Agreement to another party but is obliged to give the Customer suitable prior written notice.

### **17 NOTICES**

17.1 Any notice or other communication required or permitted under this Agreement to be given in writing will be deemed to have been given or made when delivered personally if properly addressed; if posted by first class mail within two business days of posting; and/or if sent by email upon being sent. For all notices sent to the Supplier, the Supplier will only be deemed to have received the notice once it sends the Customer a confirmatory email to this effect. The Supplier will endeavour to send a confirmatory email as soon as it is reasonably practicable to do so. For the avoidance of doubt notices will only be actioned during normal business hours (9.00am until 5.00pm, Monday to Thursday, 9:00 until 4:00 Fridays excluding public holidays and factory shutdowns). The Customer shall send all notices to Thames Valley Controls Ltd, Manor Farm Industrial Estate, Flint, CH6 5UY, UK.

### **18 GENERAL**

18.1 The Customer acknowledges that Devices will only work in the areas covered by the Network the Customer has chosen. Remember that cellular device systems use similar technology to car radios and televisions. This means that they may be affected by interference caused by the weather, high buildings, geographical features, tunnels and so on.

18.2 The Supplier cannot guarantee coverage or quality of service in particular areas/locations as the Supplier has no control over this. However the Customer can get estimated network coverage from the Supplier.

18.3 If and in so far as any part or provision of the Agreement is or becomes void or unenforceable it shall be deemed not to be or never to have been or formed a part of the Agreement and the remaining provisions of the Agreement shall continue in full force and effect.

18.4 The parties are independent contractors and nothing in this Agreement and no action taken by the parties pursuant to this Agreement shall constitute, or be deemed to constitute, between the parties a partnership, association, joint venture or other co-operative entity.

18.5 The failure of either party to exercise or enforce any right conferred on that party by the Agreement shall not be deemed to be a waiver of any such right or operate to bar the exercise or enforcement thereof at any time or times thereafter.

18.6 Save to the extent expressly set out in this Agreement, this Agreement is not intended nor shall it create any rights, entitlement, claims or benefits enforceable by any person that is not a party to it and the rights set out in the Contracts (Rights of Third Parties) Act 1999 shall not apply to and will be excluded from this Agreement.

### **19 GOVERNING LAW**

19.1 This Agreement shall be governed by and construed in accordance with the Laws of England and Wales and any dispute in relation hereto shall be subject to the non-exclusive jurisdiction of the English Courts.