

## MIDPAT SERVICES TERMS AND CONDITIONS

### 1. CONDITIONS OF CONTRACT

Governing all contracts for the sale or supply of goods (or services) by Midpat Services ("the Company").

In these conditions:-

"The company", "Us", or "We" means Midpat Services

"The buyer", "Customer" "You", or "They" means any person at whose request goods or services are supplied by the Company.

"Goods" means any goods or replacements therefore and (in the case of contracts for the provision of services) any services/workmanship supplied to the Buyer under the contract.

These conditions shall apply to every contract entered into with the Company except as varied by express agreement in writing by a Director or authorised person on behalf of the Company. The headings are for convenience only and shall not affect construction of these conditions.

### 2. FORMATION AND PARTIES

(a) The Buyer's order to the Company is an offer to enter into a contract upon these conditions. Acceptance occurs and the contract is formed solely upon the Company despatching to the Buyer its acknowledgement of the Order or the Company commencing work on the order (whichever shall first occur). Any terms or conditions proffered at any time by the Buyer are hereby excluded. A quotation by the Company does not constitute an offer. Quotations given are valid only if in writing and may be withdrawn at any time by written notice from the Company. Unless a different period is specified on the Company's written quotation, a quotation is valid for 3 months from the date of issue of the quotation.

(b) The Buyer shall not assign the benefit of the contract without the Company's prior written consent.

(c) The contract is not cancellable by the Buyer without express written consent of a Director or other authorised person on behalf of the Company.

(d) If the Company agrees cancellation by the Buyer, the Buyer shall indemnify the Company in full against all expenses incurred up to the time of cancellation together with reasonable amount by way of liquidated damages for breach of contract as specified by the Company, such sum being acknowledged by the Buyer as representing a genuine pre-estimate of the Company's loss of profit and not in any event to exceed 30% of the contract price.

(e) No conduct of the Company shall constitute acceptance of any terms put forward by the Buyer unless the Company expressly agrees to them in writing.

(f) No employee or agent of the Company has any authority to vary these terms and conditions orally or to make any representation on behalf of the Company as to their effect.

(g) All variations in the terms and conditions are to be agreed in writing by a Director of the Company.

### 3. VALIDITY

Unless otherwise stated prices quoted by us are open for acceptance within three months from the date hereof and are subject to confirmation at the time of such acceptance.

### 4. DELIVERY

Unless the contract expressly provides otherwise delivery shall be "ex- works". Delivery and completion dates are approximate only and whilst every effort will be made to meet such dates we can accept no responsibility

or liability for any delays however caused or occasioned. No claims will be entertained in respect of discrepancies in goods delivered unless notification to this Company is given within three days from date of delivery or, in the case of non-delivery, within fourteen days of despatch.

### 5. PRICES

(a) Unless otherwise stated prices are for goods "ex-works"; packaging, carriage, insurance and other costs (if any) will be charged as extras. Value Added Tax will be added at the appropriate rate.

(b) We reserve the right to increase the quoted price (and in such event) such increased price shall be deemed to be the original contract price):

I. By the amount of any increase in the costs of labour and materials which may occur after the date of our quotation and before delivery or completion of the contract (as the case may be);

II. By the amount of any increase in cost resulting from any alteration made by you in any specification upon which the contract quotation or tender was based;

III. If during the contract we should incur any extra cost as a result of being obliged to suspend work on your instructions or lack of instructions, interruptions, delays, work done outside our normal working hours (unless otherwise agreed), any errors or mistakes affecting the contract for which we are not responsible, or being obliged to keep any of our employees or the employees of our subcontractors on site after completion of the contract;

IV. If we should incur any extra cost as a result of any additions, alterations or any other changes being made to the site or to any plant or other services thereon after we have submitted a quoted price (whether on the basis of an examination of the site or of the plans or models thereof).

### 6. PROPERTY IN GOODS

(a) Goods supplied. On delivery of the goods the same shall remain in our property and beneficial ownership until payment of the contract value of those goods is received by us.

(b) Installations. The property in goods which are installed by us shall pass to you upon the payment for practical completion of the installation work as determined by us. When an installation is partially completed but cannot, in our opinion, be fully completed owing to your request or for any other reason outside our control the property in the goods will pass to you when we certify in writing that, owing to the circumstances, we are unable to complete the installation. Such certificate shall also state the amount payable by you which shall be calculated on a pro-rata basis of the original price as determined by us.

(c) Risk. Notwithstanding Conditions 5(a) and 5(b) above, the risk in goods supplied by us shall pass to you upon delivery and you shall also be responsible for insurance thereof from the time of delivery.

### 7. TERMS OF PAYMENT

(a) Goods supplied. Unless otherwise indicated terms are payment within twenty days net after the date of the invoice.

(b) Installations. In the case of contracts totalling under £1,000 terms are payment within twenty days net after the practical completion of the work as determined by us. In the case of contracts over £1,000, unless otherwise agreed in writing, payments for progress invoiced shall be payment within twenty days net days from the date of invoice. Invoices for progress payments will be issued by us upon commencement of work on the contract and/or upon delivery of materials or provision of services. The final balance shall be paid within twenty days after practical completion of the installation as determined by us or where we have issued a certificate in accordance with Clause 5(b) above.

#### **8. DEFAULT IN PAYMENT**

If you fail to make payment within the time allowed for payment of any amount due under any contract with us, we shall be entitled:

(a) To charge interest on amounts which are overdue by more than 30 days at the statutory interest rate of 8% above the Bank of England base rate plus any debt recovery costs.

(b) To suspend work and/or delivery of any goods and/or remove any goods delivered or installed which are the subject of all or any of such contracts but such suspension shall not in any respect release you from your obligations under such contracts and we shall be entitled to add to the price payable for such goods the increased costs resulting from the suspension.

(c) To terminate this contract as if you had wrongfully refused to accept the goods to which it relates and claim damages for breach of contract.

#### **9. GUARANTEE**

If within twelve months after delivery of goods (or in the case of installations after the date on which the property in goods supplied and installed by us is passed to you in accordance with Clause 5(b)) you shall give to us written notice that a defect exists in such goods, and if we are satisfied that such defects arose solely through faulty materials or solely from our workmanship upon installation and if we are satisfied that the goods have been subject to normal use, we shall make good such defect free of charge by repair or, at our option, by replacement.

#### **10. LIMITATION OF LIABILITY**

Save in relation to death or personal injury we shall be under no liability to you or to any third party (including your employees and agents) for any injury, damage or loss howsoever caused in respect of or arising from the goods, the installation thereof or any defect in either or from any error in or omission from any report made by us other than from direct physical loss or direct physical damage arising from the sole negligence of ourselves or our employees. These rights and the guarantee described in Clause 8 are in total substitution for any rights you might otherwise have in respect of the goods and in respect of the installation (if applicable) both of which you are deemed to have inspected and approved at the time of delivery or installation.

Nothing contained in these Conditions shall affect the statutory rights of a customer, whether a direct customer of ours or an indirect customer by virtue of any intermediate or sub-sale, who is the consumer.

#### **11. SPECIFICATIONS AND DRAWINGS**

Quotations for installations are based upon specified quantities of materials and lengths of pipe work or wiring and/or arrangements shown on drawings. Alterations involving extra materials or labour will be charged for additionally.

#### **12. NON-DISCLOSURE AGREEMENT**

The buyer undertakes not to use the Confidential Information disclosed by the company for any purpose except for the purpose it was intended between the named parties, without first obtaining the written agreement of the company.

The buyer undertakes to keep the Confidential Information disclosed by the company secure and not to disclose it to any third party [except to its employees [and professional advisers] who need to know, who know they owe a duty of confidence to the company and who are bound by obligations equivalent to those in clause 3 above and this clause 4.

#### **12. LIMITS OF CONTRACT**

(a) Prices are exclusive of making good any holes in walls, ceilings, floors, steelwork, metal tanks and other similar work and for the work of any masons, bricklayers, carpenters, redecorating or other additional work.

(b) If this contract relates to a fire alarm system then if and whenever any claim shall be made against us by the Fire Authority or any other person, company, or public body in respect of a false call you agree (unless we accept responsibility for the false call) to indemnify us in respect thereof.

#### **13. ACCESS TO THE SITE**

You shall provide suitable access to the site, permit us facilities for uninterrupted working, accept delivery of, unload and provide suitable protection for the goods and materials from time of delivery. All of these are to be supplied at your expense to enable the work to be expeditiously and continuously carried out. If access to your site is made inaccessible when scheduled then we reserve the right to abort the visit and charge at our usual call out rate.

#### **14. SERVICE AND MONITORING CONTRACTS**

After the initial term, which is stipulated in your maintenance agreement, service and monitoring contracts shall be renewed on a rolling basis. You can cancel a rolling contract at any time by giving one months written notice. Should you wish to cancel, we will invoice for the greater of costs accumulated to date or a pro-rata amount of the annual contract value. If the contract is cancelled within the initial term, then no refunds will be issued. We reserve the right to cancel any contract if you fail to make payment or a serious breach of contract is committed.

#### **15. FORCE MAJEURE**

We shall be entitled to cancel, rescind or vary any contract without liability for any loss or damage if we are unable to fulfil the contract as a result of Act of God, fire, flood, severe or adverse weather conditions, invasion, war, act of any foreign enemy, martial law, riot, act or restraint of governmental authority, strike, lock-out, trade dispute or any other cause beyond our reasonable control.

#### **16. LAW**

This Contract shall be construed and governed in all respects by English Law and the Customer hereby acknowledges and agrees:

I. That this Contract shall be deemed to have been made at the Registered Office of this company.

II. That notwithstanding any presumption or Rule of Law or Rules of Court any Court Proceedings arising out of or in connection with this contract shall be taken only in Dartford County Court or the District Registry of the High Court of Justice or such other Court or Courts as shall succeed to its jurisdiction from time to time.