Arc Monitoring Limited - Terms and Conditions of Sale

Arc supplies alarm, CCTV and lone worker monitoring and alarm servicing services, and associated goods. These Terms apply where Arc agrees to supply Goods and/or Services as set out in the Order Form to the Customer. Where an Installer arranges the supply of Goods and/or Services by and on behalf of Arc, the Installer is required to obtain your agreement to these Terms.

1. Information to be completed by Arc/Installer and the Customer

ARC/INSTALLER TO COMPLETE THIS SECTION

Arc	Arc Monitoring Limited (Company no: 03862866), Address: 9 Brabazon Office Park, Golf Course Lane, Filton, Bristol BS34 7PZ. Tel: 0844 933 9999 Fax: 0117 931 2114 Email: sales@arcmon.com
Customer/you	means the purchaser of the Goods and/or Services as set out in the Order Form, namely: Name: …… Address: …… ……
Delivery date of Goods	If applicable, Arc will deliver the Goods on [……../……../20…… or within 5 Working Days following this date] **OR** [on a date to be agreed between Arc and the Customer] *(delete as appropriate)*
Duration and start date of Services	If applicable, the Services will start on ……../……../20…… (the **"Start Date"**). The Services will end on the date on which the last of the Services are completed **OR** [……days/months from the Start Date]. *(delete as appropriate)*
Installer	If applicable, means the individual or company which completes the Order Form and obtains the Customer's consent to these Terms on Arc's behalf, namely: Name: …… Address: …… ……
Payment Method	means the method by which payments for Goods and/or Services are to be made as follows: (a) to Arc by cheque addressed to Arc Monitoring Limited OR direct debit to **Arc Monitoring, Bank:-Lloyds TSB, Address:-15 High Street, Westbury on Trym, Bristol BS9 3DA, Account Name:-Arc Monitoring Ltd, Sort Code:-30-99-38, Account Number :-01937584** OR electronic bank transfer to the details as named above

CUSTOMER TO COMPLETE THIS SECTION

PART A (all Customers) I agree to these Terms and Arc's use of the personal information provided to Arc for the purposes of performing the Contract. (as set out at clause 12).	**Signed** on behalf of the Customer: **Date**:	…… ……
PART B (Consumer Customers only) I agree for Arc to supply Goods and/or Services before the end of the Cooling Off Period (as set out at clause 9.4).	**Signed** on behalf of the Customer: **Date**:	…… ……

Please ensure that you have read and understand the details in these Terms and the Operations Handbook. You will be bound by these once you sign these Terms. In particular, we draw your attention to clauses 4 (Payment), 7 (Changes to the Contract), 8 (Limits on Arc's liability) and 9 (Cancellation rights) of these Terms.

2. Definitions

Authority Charges has the meaning given in clause 4.7.

Consumer	means an individual (rather than a company) who, in entering into this Contract is acting for purposes which are outside his business, trade or profession (for example, if Goods and/or Services are supplied only for the business purposes of the Customer, the Customer will not be a Consumer).
Contract	means the contract between Arc and the Customer comprising, these Terms and the Operations Handbook.
Contract Price	means the price for the Goods and/or Services, including any delivery charges, as set out in the Order Form.
Cooling Off Period	means the additional right which Consumers have to cancel the Contract, as set out at clause 9.4.
Goods	means the goods set out in the Order Form.
Order Form	means the Customer's order for Goods and/or Services to which these Terms are annexed.
Services	means the services set out in the Order Form.
Terms	means these terms and conditions.
writing or written	includes faxes and e-mail.
Working Days	means a day (other than a Saturday, Sunday or a public holiday in England) when the banks in London are open for business.

3. **Forming the Contract**

3.1 If you wish to enter into the Contract with Arc, you must sign both copies of this application, and return one set to Arc Monitoring Limited at 9 Brabazon Office Park, Golf Course Lane, Filton, Bristol BS34 7PZ / sales@arcmon.com.

3.2 Arc only accept responsibility for statements and representations made in writing by Arc's authorised employees and agents.

3.3 If these Terms are inconsistent with anything set out in the Operations Handbook, these Terms will prevail, unless Arc expressly agrees otherwise in writing.

3.4 Subject to the 7 day Cooling Off Period, a contract shall come into existence between Arc and you, and these will Terms become binding on Arc and you when:

(a) Arc issues you with written acceptance of the Contract; or

(b) Arc starts to provide the Goods and/or Services,

whichever is the earlier.

3.5 This Agreement shall be formed when the Credit Account Application Form is accepted by Arc Monitoring and shall apply to all services supplied by Arc Monitoring from the earlier of:

The date that Arc Monitoring accepts a Connection Sheet referring to these Terms & Conditions and Customer Credit Application Form;

The time that the Customer first makes a connection to the Control Room for services referred to in an Arc Monitoring Connection Sheet

4. **Payment for Goods and Services**

4.1 The Contract Price is set out in the Order Form and it may be varied in accordance with clause 7.

4.2 Arc may invoice you for the Goods and/or Services (including any Authority Charges) monthly, quarterly or annually. Arc may invoice you for the Goods on the date on which this Contract is formed in accordance with clause 3.4 .

4.3 The monitoring fee shall be due and payable by the Customer within 30 days of the earliest of (i) enablement of the signalling path, (ii) connection by Arc Monitoring to the End User equipment or (iii) the commencement of the Monitoring Services.

Following the expiration of the Initial Term, Arc Monitoring may vary all or any of the Charges or introduce new charges by notifying the Customer of any such variation in or the introduction of a new charge in writing, any such increase or decrease to be effective from 30 days after the date of notification.

Should the tariffs charged by the Signalling Path Service Provider, in respect of the connection charge, call rates or leased lines be increased then Arc Monitoring reserves the right to increase charges to the Customer with immediate effect by such amount as may be necessary to reimburse Arc Monitoring for any increased or additional costs incurred by Arc Monitoring in providing the monitoring services.

All quotations and sums payable under this Agreement by the Customer, unless otherwise stated are exclusive of Value Added Tax (VAT) and any other sales tax or duty and any VAT payable shall be payable by the Customer to Arc Monitoring in addition to the Charges.

4.3 You must pay the invoice in cleared monies within fifteen Working Days from the date on

which the invoice was issued in accordance with the Payment Method set out at clause 1.

4.4 If you do not make full payment due to Arc by the due date for payment, Arc may charge interest to you on the overdue amount at the rate of 4% a year above the base rate of the Bank of England from time to time. This interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after a court judgment. You must pay Arc interest together with the overdue amount.

4.5 Without limiting any other remedies or rights that Arc may have, if you do not pay Arc on the due date and that payment is outstanding for ten Working Days from the due date, Arc may cancel or suspend its performance of the Services, or its delivery of the Goods until you have paid the outstanding amounts.

4.6 If you dispute any part of the invoice and wish to withhold any amount, you must notify Arc of this fact at least five Working Days before the due date for payment and set out what amounts you dispute and your reasons. You will ensure that any undisputed part of such an invoice is paid, leaving the disputed element to be dealt with in accordance with clause 13. Where a payment is disputed in good faith and the notification requirements under this clause 4.6 are complied with, clauses 4.4 and 4.5 shall not apply for the period of the dispute.

4.7 ***Authority Charges***

Subject to Arc's compliance with the Alarm Filtering Policy (which forms part of this Contract), you agree to reimburse Arc in full for any and all charges made by the Police, Fire or other authority to Arc in connection with the provision of the Services to you (the **"Authority Charges"**). Any reimbursement due to Arc under this clause 4.7 will be detailed in the next invoice following the date on which Arc has received an invoice from the Police, Fire or other authority for any Authority Charges.

5. **The Services**

5.1 Arc will provide Services which:

(a) are carried out with reasonable care and skill;

(b) comply with all applicable statutory and regulatory requirements for supplying the Services in England and Wales; and

(c) are in accordance with these Terms, and the Operations Handbook

5.2 This warranty is in addition to your legal rights in relation to Services which are not carried out with reasonable skill and care or which otherwise do not conform with these Terms.

5.3 Arc will give you any guarantees, test certificates and other relevant paperwork relating to the Services within fourteen Working Days of completing the aspects of the Services to which the paperwork relates.

5.4 In the unlikely event that the Services do not conform to these Terms, please let Arc immediately. If Arc fails to perform a material aspect of the Services in accordance with the Terms, the Customer shall be entitled to require Arc to take reasonable steps to remedy the failure, at Arc's cost.

5.5 These Terms apply to any replacement Goods which Arc supplies to you.

5.6 The Customer shall provide Arc with all reasonable assistance necessary for Arc to provide the Services.

6. **The Goods**

6.1 Arc warrants that on delivery the Goods shall:

(a) conform in all material respects with the manufacturer's specification subject to any qualification or representation contained in Arc's brochures, advertisements or any other documents;

(b) be of satisfactory quality;

(c) be fit for any purpose which Arc says the Goods are fit for which is specified on the Order Form, or for any reasonable purpose for which the Customer uses the Goods;

(d) be free from material defects in design, material and workmanship; and

(e) comply with all applicable statutory and regulatory requirements.

6.2 This warranty is in addition to the Customer's legal rights in relation to Goods which are faulty or which otherwise do not conform with these Terms.

6.3 This warranty does not apply to any defect in the Goods arising from: fair wear and tear, wilful damage, or accident,; negligence by the Customer or any third party; use of the Goods by the Customer in a way that Arc does not recommend; the Customer's failure to follow Arc's instructions; or any alteration or repair you carry out without Arc's prior written approval.

6.4 In the unlikely event that the Goods do not conform with these Terms, please let Arc know as soon as possible after delivery. Arc will collect the Goods on a date agreed between you and Arc, and once Arc have checked that the Goods are faulty, Arc will:

(a) provide you with a full or partial refund;

(b) replace the Goods; or

(c) repair the Goods.

6.5 These Terms apply to any repaired or replacement Goods that Arc supplies to the Customer.

6.6 ***Delivery***

(a) Arc will deliver the Goods in accordance with the delivery date set out at clause 1 or as otherwise agreed with Arc in writing.

(b) Delivery of the Goods shall be completed when Arc delivers the Goods to you. Arc will take reasonable steps to meet the delivery date set out at clause 1 or as otherwise agreed between you and Arc in writing. Occasionally delivery may be affected by factors beyond Arc's control and so cannot be guaranteed. Arc will let you know if it becomes aware of an unexpected delay and will arrange a new delivery date with you.

(c) Arc will give you any guarantees, test certificates and other relevant paperwork relating to the Goods within fourteen Working Days of delivery.

6.7 ***Ownership and risk***

The Goods will be your responsibility from the time of delivery. Ownership of the Goods will only pass to you when Arc (or the Installer on Arc's behalf under clause **Error! Reference source not found.**) receives payment in full of all sums due for the Goods.

7. **Changes to the contract**

7.1 Arc has the right to revise and amend these Terms and Operations Handbook from time to time. You will be subject to the Terms and Operations Handbook in force at the time that you order the Goods and/or Services from Arc, unless any change is required by law or government or regulatory authority, in which case the amended version will apply to orders you have previously placed that Arc have not yet fulfilled. If the Services are on-going, Arc will give you prior notice of any changes to the Terms and Operations Handbook, and you will then have six months from receipt of the notice in which you can cancel the Contract (in accordance with clause 14.1) without penalty if you wish, before the change affects you.

7.2 If you wish to change any of the Services, you must inform Arc in writing. Arc will respond in writing within five Working Days to confirm whether it will agree to the proposed change and the effect of the proposed change on the Contract Price (the **"Quote"**), if any. Unless you withdraw your request for the change within ten Working Days' of receipt of the Quote, the Contract Price will be adjusted in accordance with the Quote and the proposed change to the Contract will become binding.

8. **Limits on Arc's liability**

8.1 Arc will not be liable to you for:

(a) any losses which you may suffer which neither Arc nor you could have reasonably foreseen may arise as a result of a failure by either party to comply with this Contract; or

(b) any defect in goods, or consequences arising from defects in goods, which were not supplied by Arc, except where remedying the defects forms part of the Services.

8.2 Except for the Customer's payment obligations under clause 4, neither Arc nor the Customer shall be responsible for losses that fall into the following categories:

(a) loss of income or revenue;
(b) loss of profit;
(c) loss of business;
(d) loss of goodwill;
(e) loss of contracts;
(f) loss of production;
(g) loss of anticipated savings; or
(h) loss of data.

However, this clause 8.2 shall not prevent claims for foreseeable loss of, or damage to, your physical property.

8.3 Except as set out in clause 8.4, Arc's total liability to the Customer in connection with this Contract, regardless of how such liability arises, shall be limited to an amount equal to £5 million per claim or series of connected claims.

8.4 Nothing in these terms and conditions will limit or exclude Arc's liability for:

(a) death or personal injury caused by Arc's negligence;
(b) fraud; or
(c) anything else for which Arc cannot by law limit or exclude its liability.

9. **Cancellation rights**

9.1 ***Arc's cancellation rights***

Arc may cancel this Contract if:

(a) Arc provides you with twenty Working Days' prior notice in writing;

(b) you fail to make any payment due to Arc (or the Installer if applicable) under the Contract within ten Working Days of the payment due date;

(c) you break any other term or condition of the Contract which would reasonably be regarded as serious. If such a break is capable of being remedied so that it would no longer be a break, the right to cancel only exists if you fail to take steps to remedy the break within twenty Working Days of Arc notifying you of the facts of the break; or

(d) you become, or Arc reasonably suspects that you will become, insolvent, bankrupt or have a receiver, manager, administrative receiver or liquidator appointed.

9.2 ***Your cancellation right***

You may cancel this Contract if:

(a) you provide Arc with six months prior notice in writing

(b) Arc breaks any term or condition of the Contract which would reasonably be regarded as serious. If such a break is capable of being remedied so that it would no longer be a break, the right to cancel only exists if Arc fails to take steps to remedy the break within twenty Working Days of you notifying Arc of the facts of the break;

(c) Arc becomes insolvent, bankrupt or has a receiver, manager, administrative receiver or liquidator appointed;

(d) in accordance with clause 7.1, where Arc makes any material changes to the Terms and the Operations or

(e) you are a Consumer <u>and</u> you notify Arc of you intention to cancel the contract within the "Cooling Off Period", as set out at clause 9.4.

9.3 The procedure for notification of the cancellation of the Contract in accordance with clauses 9.1(a) to (d) and 9.2(d) to (d) is set out at clause 14.1.

9.4 ***Cooling Off Period***

This clause applies only to customers who are Consumers and is in addition to the cancellation rights set out at clause 9.2(a) to (d). If you are a Consumer, you may cancel any aspect of this Contract which relates to the supply of Goods and/or Services within seven calendar days starting with the date on which you sign these Terms, or if later, the date on which you receive copies of all the documents which form the Contract. This period is commonly referred to as the **"Cooling Off Period"**. If you cancel this Contract within the Cooling Off Period, you will be entitled to a full refund of everything you have

paid to Arc under this Contract, no further payments under this Contract will be due and the Contract shall be treated as if it had never been entered in to. Notice of cancellation must be in writing and you can use the notification form attached in the Appendix to these Terms if you wish. The cancellation will be deemed to take effect from the day on which it is posted or sent (if by fax or email). If you would like Arc to supply Goods and/or Services before the Cooling Off Period has expired:

(a) you must indicate this by signing Part B on page 1 on these Terms; and

(b) if you cancel the contact in accordance with this clause 9.4 before the Cooling Off Period has expired, you may be required to pay the reasonable costs of any Goods and/or Services supplied under the Contract before the cancellation.

10. **Consequence of cancellation**

10.1 On cancellation of this Contract for any reason, except as provided otherwise in clause 9.4, you shall immediately pay any outstanding unpaid invoices and interest due to Arc (or, if applicable, the Installer). Arc may submit invoices for any Goods and/or Services that it has supplied but not invoiced and you must pay these within ten Working Days from date on which the invoice was issued.

10.2 Cancellation of this Contract will not affect the rights and obligations of you and Arc which existed prior to the Contract being cancelled, nor will it cause clauses 4, 6.7, 8, 12, 13 and 14 to cease to have effect.

11. **Events outside Arc's control**

Arc will not be liable for any failure to perform, or delay in performance of, any of Arc's obligations under this Contract which is caused by your failure to fulfil your obligations under this Contract or any event outside Arc's control. Examples include, amongst others, severe weather conditions, fire, flood, epidemic, war, terrorism, strikes and restrictions in obtaining materials and labour. Arc's obligations under this Contract will be suspended for any period that such an event continues.

12. **Data protection and confidentiality**

12.1 Arc will use the personal information you provide to Arc only to perform the Services. You acknowledge and agree that Arc may pass your details to credit reference agencies. Arc will not pass your details to any other third parties, except where the third party is a sub-contractors, a company in the same group as Arc or any of the authorities referred to in clause 4.7, where the transfer of details is required in connection with performance of the Contract

12.2 Arc may monitor or record telephone calls for the purposes of maintaining and improving standards, and for training.

12.3 Each party shall treat as confidential the information of the other party received in connection with this Contract during the Contract and for twelve months after termination of the Contract.

13. **Disputes**

You and Arc will try to resolve any disagreement arising in connection with this Contract amicably by talking directly through the issues. If the disagreement is not resolved within six weeks of the date on which the disagreement was notified to the other party, it may be referred for resolution by the courts of England and Wales.

14. **General**

14.1 ***Notices under the contract***

(a) All notices and communications under the Contract must be in writing and delivered by hand or pre-paid first class post. Where either party needs or wishes to give notice to the other under this Contract, it must do so at the address of the other party as set out at clause 1 or to any other address which one party has subsequently notified to the other in writing.

(b) Any notice sent by post will be deemed to have been received two Working Days after it was sent and notices delivered by hand will be deemed to have been given immediately upon their delivery.

(c) Any notice sent by fax or email will be deemed to have been received on the day which it was sent.

14.2 ***Entire agreement***

You and Arc have entered into this Contract relying only on the content of these Terms and the Operations Handbook and except where stated in these Terms neither you nor Arc will have any liability in respect of any representation made before the date that you signed the copies of these Terms, unless it was made fraudulently.

14.3 ***Assignment of contract rights and obligations***

Arc is entitled to transfer any of its rights or obligations under this Contract to any other person or entity for business reasons, including a takeover, a merger or in relation to any outsourcing of any part of Arc's Services.

14.4 ***Waiver of contract terms***

If, at any time, Arc allows you not to act in line with any provision of this Contract, this does not mean that Arc will not expect you to do so in the future. If, at any time, you allow Arc not to act in line with any provision of this Contract, this does not mean that you will not expect Arc to do so in the future.

14.5 ***Invalidity of contract terms***

If a court or other authority decides that any provision of this Contract is not valid, or any such provision becomes illegal and unenforceable, the remaining provisions of the Contract will not be affected.

14.6 ***Rights of third parties under the Contract***

A person who has not signed this Contract does not have rights under it, unless any provision of the Contract provides otherwise.

14.7 ***Governing law***

This Contract is governed by English law and subject to the exclusive jurisdiction of the courts of England and Wales.

Appendix
(applies to Consumers only)

Notice of the right to cancel

You have the right to cancel your contract with Arc Monitoring Limited (**"Arc"**) (Company no: 03862866) at any time within 7 days starting with the date on which you signed Arc's Terms (to which this notice is an Appendix). If you wish to cancel the contract you MUST DO SO IN WRITING and deliver personally or send (which may be by electronic mail) a cancellation notice to Arc Monitoring Limited at 9 Brabazon Office Park, Golf Course Lane, Filton, Bristol BS34 7PZ or sales@arcmon.com. You may use the cancellation notice below if you want to but you do not have to. The cancellation notice will deemed to be served on the day you send it by post, email or fax.

Cancellation notice

If you wish to cancel the contract you MUST DO SO IN WRITING and deliver personally or send (which may be by electronic mail) this to the person named below. You may use this form if you want to but you do not have to.
(Complete, detach and return this form ONLY IF YOU WISH TO CANCEL THE CONTRACT).

To: Arc Monitoring Limited, 9 Brabazon Office Park, Golf Course Lane, Filton, Bristol BS34 7PZ.
I/we *(delete as appropriate)* hereby give notice that I/we *(delete as appropriate)* wish to cancel my/our *(delete as appropriate)* contract with Arc Monitoring Limited ("Arc") which is governed by Arc's terms and conditions, a copy of which were signed by me on ……. *(insert date).*

Customer name: ……..……...

Customer address: ……

……

……

Signed on behalf of the Customer : ……

Date: ……../……../20……