



# Monitoring Agreement

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**Cougar Monitoring Limited**  
Prime House, Sapcote Trading Centre  
Powke Lane, Cradley Heath  
West Midlands B64 5QR  
Co. Reg: 03223218



Reference Number \_\_\_\_\_  
Effective Date \_\_\_\_\_

## Client Details

Client Details	_____	Company Registration No	_____
Invoice Address	_____	VAT Number	_____
	_____	Authorised Representative	_____
	_____	Telephone Number	_____
Post Code	_____	Email Address	_____

## Premises Details (Property to be Protected)

End User/Occupier Name	_____	Authorised Representative	_____
Premises Address	_____	Telephone Number	_____
	_____	Email Address	_____
	_____	Installer/Service Provider	_____
Post Code	_____		

## Terms of Provision of Service

Terms which are defined in our Monitoring Terms of Supply which form part of this Agreement shall have the same meaning herein.

Charges to be paid by the Client, [ monthly ] [ annually ] in advance unless agreed otherwise. The annual Charge will be £ \_\_\_\_\_ plus VAT, subject to review in accordance with Monitoring Terms of Supply.

If you wish to pay by Credit or Debit Card please tick this box.

The Services comprise monitoring of End Users' Premises by remote signalling link of the System through to the Control Room. CCTV  Alarm

The Services will be carried out in accordance with the National Security Inspectorate Code of Practice and on the Monitoring Terms of Supply in force from time to time, the current version of which is attached and which form part of the Agreement. The System Information provided by the Client forms part of this Agreement.

Subject to completion of a Trial Period to our satisfaction, the Initial Period of this Agreement shall be 24 months from the Effective Date, terminable by either party by giving not less than 3 months notice to the other to expire at the end of the Initial Period. If such notice is not given then this Agreement shall continue for further periods of 12 month each until ended by not less than 3 months notice from one party to the other to expire at the end of any subsequent 12 month period.

**ACTIVATIONS -** If the System generates an excessive number of Activations then we reserve the right to isolate devices or the System in line with clause 4.4 and 4.6 of our Monitoring Terms of Supply. Where there are Activations in excess of the Activation Rate, we shall be entitled to charge each additional Activation at the rate of £0.25 per Activation.

**LIMIT OF LIABILITY -** The Client's attention is in particular drawn to clauses 5.3 and 5.4 of the Terms of Supply which limit our liability to you.

**Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Additional Information (This section MUST be completed)

The Client's attention is drawn to clause 2.8

Please provide number of damage/theft claims in the last 5 years and value. Number of claims  Value of claims £ \_\_\_\_\_

Average Value of stock on Premises.  £0-£500k  £500k-£1m  £1m-£3m  £3m+

Please tick box to confirm that you have insurance cover in place for fire & theft and any other risk against which it would be reasonable to insure.

By signing the Agreement, the Client warrants and represents that the information provided by it under this section and to Cougar generally, is complete and accurate.

## Keyholding Information

Please provide the names and telephone numbers of at least two keyholders. It should be noted that it is the Client's responsibility to ensure that these details are kept up to date.

Keyholder changes should be emailed to: arc@cougarmonitoring.com

	Name	Landline	Mobile Number	Password
Keyholder 1	_____	_____	_____	_____
Keyholder 2	_____	_____	_____	_____
Keyholder 3	_____	_____	_____	_____
Keyholder 4	_____	_____	_____	_____

# Monitoring Agreement

## Assignment Instructions

Please provide details of any special actions that you require to be undertaken by us on receipt of an Activation from the Premises or System. If you leave this area blank we will apply our standard actions to any Activation received.

**SPECIAL INSTRUCTIONS -**

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**MONITORING TIMES -**

Monday	_____	Friday	_____
Tuesday	_____	Saturday	_____
Wednesday	_____	Sunday	_____
Thursday	_____	Bank Holidays	_____

**SITE DRAWING-** Please provide a drawing as a .jpeg format file. Drawing provided? YES / NO  
If you are unable to provide an electronic format drawing please provide a Premises map showing all relevant system components.

# Monitoring Agreement

## Site Technical Information

We require a certain amount of technical information before we can efficiently commission or monitor the System. It is vital that this information is sent to us before an engineer attends to connect and commission the Premises to the Cougar Control Room (ARC).

If this information is not complete then we may not be able to monitor the System.

**Make or Model of DVR or Transmission Device:** \_\_\_\_\_

**Public IP Address:** \_\_\_\_\_ . \_\_\_\_\_ . \_\_\_\_\_ . \_\_\_\_\_

**Port Number(s):** \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

**DVR or Transmission Device MAC Address:** \_\_\_\_\_ : \_\_\_\_\_ : \_\_\_\_\_ : \_\_\_\_\_ : \_\_\_\_\_ : \_\_\_\_\_

**DVR or Transmission Device Serial Number:** \_\_\_\_\_

**Transmitter Username:** \_\_\_\_\_

**Transmitter Password:** \_\_\_\_\_

Camera Number	Fixed or PTZ Camera	Alarm input detail	Total presets for this camera
1	_____	_____	_____
2	_____	_____	_____
3	_____	_____	_____
4	_____	_____	_____
5	_____	_____	_____
6	_____	_____	_____
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19	_____	_____	_____
20	_____	_____	_____
21	_____	_____	_____

Please give details of any equipment that we will have control over (doors, gates, barriers etc). Please give details of the control mechanism.

\_\_\_\_\_

\_\_\_\_\_

## Date of Service Commencement

This Agreement shall be deemed to be accepted on the earlier of:

- (a) the Client issuing a written acceptance of this Agreement; or
  - (b) Cougar doing any act consistent with fulfilling the terms of this Agreement,
- at which point the Client will have accepted and is bound by this Agreement incorporating our Monitoring Terms of Supply.

Please sign and return a copy of this Agreement to Cougar to signify your agreement and acceptance of its terms.

## Declaration

I / We agree to be bound by the terms of this Agreement which incorporates Cougar's Monitoring Terms of Supply in force from time to time, the current version of which is attached and/or is available at the Company's premises or at [www.cougarmonitoring.com](http://www.cougarmonitoring.com) and which form part of this Agreement.

Signature of Client: \_\_\_\_\_

Date of Signature: \_\_\_\_\_

Name and capacity of person signing document: \_\_\_\_\_

**(CAPITAL LETTERS)** \_\_\_\_\_

## For Head Office Use Only

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## 1 Interpretation

- 1.1 In these Terms:  
"Activation" means any instance in which the sensors of the System(s) are activated from standby mode or a signal of such activation is received by the Control Room;  
"Activation Rate" means 15 Activations per Day for Systems;  
"Agreement" means the contract for the provision of the Services of which these Terms form part;  
"Authorised Representative" means the person or person(s) described in the Agreement as being authorised representative(s) of the Client or as a keyholder of the Client or such other person as may from time to time be appointed by the Client as its new or additional authorised representative provided that such appointment has been notified to the Company by such person as the Company reasonably believes to have authority to appoint a new or additional authorised representative;  
"Authority" means any of the police, fire or such other person or body as may be specified by the Client in writing;  
"Charges" means the Company's charges as set out in the Agreement as varied from time to time in accordance with these Terms;  
"Client" means the person, firm or company named in the Agreement who instructs the Company to provide the Services;  
"Communications Link" means any telecommunications network systems, line or link connecting a System to the Control Room or any device which carries data from a System installed on the Premises to the Control Room Equipment;  
"Company" means Cougar Monitoring Ltd a company incorporated in England (under registered number 03223218) whose registered office is at Prime House, Sapcote Trading Centre, Powke Lane, Cradley Heath, West Midlands B64 5QR.  
"Consumer" means a person who buys the Services but not as part of a business;  
"Control Room" means the monitoring centre(s) CAT2 ARC operated by the Company from time to time;  
"Control Room Equipment" means any equipment or computer system, applications or programs in or used in the Control Room which is used by the Company to receive and process the data transmitted from the Systems by means of the Communications Link;  
"Day" means any period of 24 hours;  
"Effective Date" means the date on which the Agreement is signed by authorised representatives of the Client or the date on which the Client is deemed to have accepted the Agreement, if earlier.  
"End-User" means the person or organization utilizing the Services for a System at its premises, being a customer of the Client, as listed on the Schedule and as agreed between the Company and the Client from time to time during the term of the Agreement;  
"Premises" means the premises in respect of which the Services are to be provided as set out in the Agreement;  
"Quarter" means a period of ninety days, the first such period beginning on the date of the Agreement and each subsequent ninety day period commencing on the first day immediately after the end of the prior ninety day period;  
"Services" means the services to be provided by the Company as stated in the Agreement;  
"System" means the closed circuit television system, security alarm system (intruder, fire, or personal attack) and/or other system(s) as set out in the Agreement installed at the Premises where the Company agrees to provide monitoring services as part of the Services on these Terms.  
"Trial Period" means, where applicable, 14 days from the date that the Agreement is signed during which period the Company will ascertain whether or, where applicable, the System performs correctly and whether or not the Company accepts the System for monitoring.
- 1.2 Where the context so admits or requires words denoting the singular include the plural and vice versa and words denoting any gender include all genders.
- 1.3 Clause headings are purely for ease of reference and do not form part or affect the interpretation of these Terms.
- 1.4 Capitalised terms will be construed to take the meaning set out in this clause 1 or in the Agreement.
- 1.5 References to each party herein include references to its successors in title, permitted assigns and novates.

## 2 Supply of the Services

- 2.1 The Company shall provide the Services subject to these Terms and in consideration of payment of the Charges. Any changes or additions to the Services or these Terms must be agreed in writing by the Company. The Client shall at its own expense supply the Company with all necessary information or other materials, and all necessary data or other information relating to the Services and the System and any End-User within sufficient time to enable the Company to provide the Services in accordance with the Agreement. The Client shall ensure the accuracy, completeness and adequacy of all information that is supplied.
- 2.2 If the Company is providing Monitoring as part of the Services, this will include the following activities:
- 2.2.1 the recording of any alarm signals received at the Control Room from the System at the Premises;
- 2.2.2 notifying the police or fire authorities following the receipt of any Activation; and
- 2.2.3 notifying the Client of any fault which appears in any private wire circuit used by the Client.
- 2.3 The Company will use its reasonable endeavours to respond to Activations in accordance with NSI Guidelines;
- 2.4 The Company may at any time make any changes to the Services or these Terms without notice where changes are reasonably necessary to comply with any applicable safety or other statutory requirements, or on not less than 30 days' notice where the changes do not materially affect the nature or quality of the Services.
- 2.5 The date of commencement of the Services specified in the Agreement is intended to be an approximate date only and the Company may, at its sole discretion, vary the due date for the commencement date of the Services on notice to the Client where necessary due to any reason beyond its control which constitutes an event of Force Majeure under clause 10.11 or any failure or delay by the Client or the End-User, if any, in complying with these Terms.
- 2.6 The Services shall not commence in respect of a System until the Trial Period, where applicable, has been completed to the Company's satisfaction.
- 2.7 The Company may cancel this Agreement and refund any Charges paid in advance by the Client in the event that on or before the expiry of the Trial Period, the Company does not accept the System for monitoring or it does not approve the claims details supplied to it by the Client under 2.9.
- 2.8 The Client shall provide, and where applicable, procure that each End-User shall promptly provide, the Company with all rights of access, without prior notice, to the Premises and any other facilities and all assistance, materials and equipment which the Company may reasonably request to facilitate the proper or timely performance of the Services. The Client shall be responsible for the safety and security of the Company's personnel whilst at the Premises or other such facilities or using such equipment and/or materials.
- 2.9 Within 14 days of the date of the Agreement, the Client shall provide the Company with written details of all material insurance claims by it over the last 5 years.
- 2.10 The Company shall not be obliged to act on any communication from the Client unless it is made by an Authorised Representative with appropriate password and Premises reference.

## 3 Charges

- 3.1 The Client shall pay the Company's Charges and any additional sums which are payable by the Client under the Agreement or which, in the Company's sole discretion, are required as a result of the Client or End-User's instructions, lack of instructions, the inaccuracy of any information or material supplied by the Client/End-User or any other cause attributable to the Client/End-User.
- 3.2 In addition to the Charges, the Client will be responsible for the payment of the following:
- 3.2.1 installation and rental charges for the connection facility between the System and the Control Room;
- 3.2.2 assessment of false alarms, fees or charges imposed by an Authority in respect of the provision of the Services;
- 3.2.3 any additional charge incurred in consequence of additional provision or modification of telephone or other facilities for the transmission of signals to the Company; and
- 3.2.4 any charges imposed by any Authority, supplier or any third party. Any such additional payments shall be paid directly to the relevant agency or authority or to the Company if billed by that agency or authority.
- 3.3 Charges are paid to the Company annually in advance or within 14 days of the Agreement being issued and invoiced. All Charges are exclusive of VAT.
- 3.4 All sums payable under the Agreement are payable in full without deduction, withholding, set-off or counterclaim for any reason whatsoever.
- 3.5 The Client shall pay to the Company on demand all costs and expenses (including legal costs and expenses) incurred by the Company in recovering or enforcing payment of the Charges and any amounts payable by the Client under the Agreement.
- 3.6 The Company may revise its Charges annually with each anniversary of the Effective Date and shall give not less than 30 days notice of any increase which shall in any event be not more than ten percent (10%)
- 3.7 The Charges are based on the information provided by the Customer to the Company in relation to the System and the Premises at the commencement of the Agreement and/or acceptance of the System, and the level of risk involved in relation to the Services at that time and the Company reserves the right to review the Agreement and the Charges in the event that the System, the Services, the level of risk and/or the Premises change during the term of the Agreement or the information provided is incorrect or incomplete or if the impact of any legislative change results in an additional cost to the Company in providing the Services and to make reasonable amendments to them on 30 days notice to the Client including but not limited to increasing the Charges or requiring the Client to increase its level of insurance at its cost and in the event that the proposed amendments are not agreed by the Client within 5 working days then the Company shall be entitled to terminate the Agreement with immediate effect or, where the Client is a Consumer, to terminate the Agreement on 30 days' notice.
- 3.8 All Charges quoted to the Client for the provision of the Services are exclusive of any Value Added Tax, for which the Client shall be additionally liable at the applicable rate from time to time.
- 3.9 If any payment under the Agreement is not made on the due date, the Company shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount at the rate of 2% per month from the due date until the outstanding amount is paid in full (before as well as after judgment).
- 3.10 If the Agreement is terminated by the Client for any reason, other than by reason of the Company's default or insolvency, or is terminated by the Company, the Client shall pay to the Company all charges and other payments due and unpaid in respect of the period from the date of termination to the earliest date that the Agreement could otherwise be terminated under clause 6.1 and the Client shall not be entitled to a refund of any Charges paid in advance.

## 4 Obligations

- 4.1 The Client shall ensure that each System, if applicable, is designed, installed, maintained and operated in accordance with all applicable laws regulations, codes of practice and industry standards and manufacturer's recommendations, if any, from time to time and that it is compatible with the Company's Control Room Equipment and configured to meet the Company's requirements.
- 4.2 The Client shall not and shall procure that the End-User shall not during the term of the Agreement make any changes to or re-configure the System which would render it incompatible with the Company's Control Room Equipment without the Company's prior consent which shall not be unreasonably withheld or delayed.
- 4.3 A key issue in providing monitoring Services is to ensure that false Activations are kept to a minimum.

- 4.4 The Client shall, and where applicable shall procure that the End-User shall use reasonable endeavours to ensure that Activations do not exceed the Activation Rate for its Premises and where the Activation Rate is exceeded, in respect of a Premises then the Company may at its sole discretion:
- 4.4.1 suspend the performance of the Services in respect of the System or part thereof at those Premises and temporarily isolate the System and require the Client to rectify or procure rectification of the cause of the Activation Rate being exceeded; and/or
  - 4.4.2 charge the additional rate per Activation as set out in the Agreement; and/or
  - 4.4.3 terminate the Agreement under clause 6.3; and/or
  - 4.4.4 where there is an End-User, terminate the Agreement in respect of that End-User and its System only.
- 4.5 Whenever the Company isolates a detector, camera, System or Premises, either permanently or temporarily under clause 4.4, the Company shall as soon as reasonably practicable use its reasonable endeavours to attempt to notify the keyholder, End-User or Client by telephone and/or email and/or SMS, and the Company shall (at its sole discretion) continue to ignore all Activations from the said detector, camera, System or Premises until the Company confirms in writing that the problem has been resolved to its entire satisfaction.
- 4.6 The Client shall obtain a unique reference identification number from the police ("URN") for the System where required by any Authority and promptly notify the Company of such URN. Where approval or permission has to be obtained by the Company from any Emergency Service, particularly in the application for URN (Unique Reference Number for the System), the provision of the Services is dependant upon the Client being and remaining approved by the relevant authority and complying with the conditions and requirements of that authority.
- 4.7 The Company shall not be obliged to notify any relevant Authority of any Activations from a System where the Client has not supplied the URN for the System to the Company or has not notified the Company that the URN has subsequently been withdrawn or the System has not been fitted to BS8418 and therefore no URN is available.
- 4.8 When an Activation occurs the Company shall use reasonable endeavours to take the steps or such combination of steps including all or any of the steps set out in the Agreement as it deems appropriate in its sole discretion;
- 4.9 Any obligations of the Company to notify any person of an Activation received from a System shall be an obligation only to take reasonable steps to notify that person.
- 4.10 The Client shall not and shall procure that any End-User shall not interfere or permit anyone to interfere with the System or any part thereof.
- 4.11 The Client agrees that neither the Client, its agents nor the End User shall add to or modify the System without the prior written consent of the Company
- 4.12 The Client shall not, without the prior written consent of the Company, at any time during the term of the Agreement or within 12 months after the last date of supply of the Services, solicit or entice away from the Company or employ or attempt to employ any person who is, or has been, engaged as an employee of the Company in the provision of the Services during the term of this Agreement
- 5 Warranties and Liabilities**
- 5.1 The Company warrants to the Client that the Services will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Agreement and at the intervals and within the times referred to in the Agreement. Where the Company supplies in connection with the provision of the Services any goods supplied by a third party, the Company does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Client the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to the Company.
- 5.2 The Company shall have no liability to the Client or End-User for any loss, damage, costs, expenses or other claims for compensation arising from any information, material or instructions supplied by the Client, End-User or any third party which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Client, End-User or any third party or any fault in the operation of the System.
- 5.3 The Company shall be liable for physical damage to tangible property of the Client and/or End User resulting from its negligence provided that without prejudice to clause 5.4 the Company's total aggregate liability for such loss or damage per event or series of related events will not in any event exceed:-
- 5.3.1 in the case of non-CCTV Monitoring, the sum of ten thousand pounds (£10,000); or
  - 5.3.2 in the case of CCTV Monitoring, the sum of ten thousand pounds (£10,000); or
- a sum equal to ten times the annual charge payable by the Client or, where there is an End User, in respect of such End User and System, under the Agreement, whichever is lower.
- 5.4 Except in respect of death or personal injury caused by the Company's negligence, or as expressly provided in these Terms the Company shall not be liable to the Client and / or End User by reason of any representation, mis-representation (unless fraudulent), tortious act or omission, negligence or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Agreement, for any loss of profit, loss of business, depletion of goodwill, loss of savings, loss of goods, loss of data, loss of contract or any indirect, special or consequential or pure economic loss, damage, costs, expenses or other claims (whether caused by the negligence or breach of contract of the Company, its servants or agents or otherwise) which arise out of or in connection with the provision of the Services or their use and, except as expressly provided in these Terms, the entire liability of the Company per event or series of related events under or in connection with the Agreement whether in contract, tort or otherwise shall not exceed:-
- 5.4.1 in the case of non-CCTV Monitoring, the sum of ten thousand pounds (£10,000); or
  - 5.4.2 in the case of CCTV Monitoring, the sum of ten thousand pounds (£10,000); or
  - 5.4.3 a sum equal to ten times the annual charge payable by the Client or, where there is an End User, in respect of such End User and System, under the Agreement, whichever is the lower.
- 5.5 The Company shall not be liable to the Client/End-User or be deemed to be in breach of the Agreement by reason of any delay in performing, or any failure to perform, any of the Company's obligations in relation to the Services, if the delay or failure was due to any cause beyond the Company's reasonable control and which constitutes an event of Force Majeure under clause 10.11.
- 5.6 The Communications Links and the computer applications or programs forming part of the Control Room Equipment are provided by independent organisations which are not under the Company's control. The Company does not accept responsibility for any signal or transmission failing to reach the Control Room because of a failure or any other problem whatsoever with any Communications Link or liability for any resulting non-performance of the Services.
- 5.7 The Company does not warrant or guarantee that any Authority will respond immediately or at all to any notifications or Activations received by it from the Company and the Company shall have no liability to the End-User and/or the Client if any Authority fails to respond to such notification. If the Company is advised by an Authority that the Company may not pass Activations from the System to an Authority then the Company shall inform the Client and/or End-User and will have no obligation to the Client to notify such Authority of such Activations.
- 5.8 The Client hereby acknowledges, agrees and recognises that the Company will be using the Control Room or its personnel for its own general purposes and for providing services to other persons and the Client expressly agrees that the Company shall have no duty of confidentiality to the Client and/or the End-User in respect of the Agreement or the transmissions of Activations received via the Communication Links and the keyholding/response service is a shared service with other customers of the Company and shall notify the End-User's accordingly.
- 5.9 The Client acknowledges that insurance is available and that the End-User and, where applicable, the Client, should take out and maintain for the term of the Agreement reasonable and adequate insurance to cover potential loss, damage or liability and for the property that is located at the Premises and agrees to disclose to any End-User these Terms and in particular the contents of this clause 5.9, to each End-User
- 5.10 The Client acknowledges that the Company is under no obligation to maintain, repair, service, replace, operate or assure the operation of any equipment or device not provided by the Company including without limitation, the System, Communications Link supporting the System and serving the Premises and any other relays or other facilities required to connect the system to those Communications Link and that the Client is solely responsible for the maintenance, repair and operation of such System and links and that the Company shall not be liable for any loss or damage resulting in the failure or inadequate performance of any such equipment or device or link.
- 5.11 The Client acknowledges that for the purposes of monitoring and carrying out the Services and in particular for the purposes of detecting intruders:
- 5.11.1 any image triggering an Activation should fill a minimum of 10% of picture height; and
  - 5.11.2 CCTV camera fields of view should be adequately lit and kept clear so that an operator at the Control Room can reasonably verify the presence or absence of any intruder at the Premises and that if either of the conditions in clause 5.11.1 or 5.11.2 are not met then, except in respect of death or personal injury caused by the Company's negligence, the Company shall have no liability for any failure by it to carry out the Services properly and/or to detect intruders as a direct or indirect result.
- 5.12 For so long (i) as the Activation Rate is exceeded in respect of a System or Premises or (ii) during any suspension of the Services or (iii) whilst any payment due here under is outstanding, and following notice to the Client, the Company will not be liable for the business efficacy of the Agreement and any damage or loss to those Premises and/or any property thereon.
- 5.13 The Client further acknowledges that:
- 5.13.1 the System and the Services are intended only to reduce the risk of loss of and damage to property and injury to persons on the Premises to the extent that it is reasonably practicable by use of such equipment and Services;
  - 5.13.2 the Company gives no undertaking to the Client or the End-User that the System and the Services cannot be compromised or circumvented or that they will prevent or detect any breaking or attempted breaking into the Premises or loss by theft or otherwise;
  - 5.13.3 the Client agrees that the Company shall not otherwise than through the negligence or breach of contract by the Company as expressly set out in these Terms be liable for any loss of or damage to the Premises or any property therein caused by any breaking in, attempted breaking in, theft or malicious damage, riot or civil commotion by reason of failure of the System or in the Services;
  - 5.13.4 the Charges are based solely on the value of the Services and are unrelated to the value of any property at the Premises; and
  - 5.13.5 the Client shall test the System ( including a walk test ) each month during the term of the Agreement to ensure that it meets the Company's requirements relating to the System referred to in the Agreement and the efficacy of the System and shall notify the Company in writing once a month of the results of these tests. The Company shall not be liable to the Client under this Agreement or in respect of the Services in the event that the Client fails to test the System or to maintain the System in accordance with the terms of the Agreement.
  - 5.13.6 Commercial Client only - the Charges payable under the Agreement and the agreement by the Company to provide the Services are based on the information provided by the Client by way of the warranty and representation in the Additional Information section in the Agreement and the Company shall not, except in the case of death or personal injury caused by its negligence or where it is in deliberate or wilful default of its obligations, be liable to the Client in the event that this information and the warranty is incomplete or inaccurate.
- 5.14 The Services do not include "setting and unsetting" the System and where this or any other activities outside the scope of the Services are carried out by the Company at the Client or End-User's request then they are carried out at the Client and End-User's risk and the Company shall have no liability in respect of any loss or damage suffered or incurred by the Client and/or End-User subsequent thereto.
- 5.15 The Client agrees to indemnify and keep indemnified the Company against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Company arising out of or in connection with a claim brought by the End-User or any third party against the Company in tort or otherwise in connection with the Services.
- 5.16 The Client shall notify the Company as soon as possible after becoming aware of any event, matter or circumstance which it considers would entitle it to bring a claim under the Agreement.
- 5.17 Notwithstanding this clause 5, nothing contained in these Terms is intended to limit any right the Client may have as a Consumer under applicable law or other statutory rights or to exclude liability for the Company for death or personal injury caused by the Company's negligence or for fraud or fraudulent misrepresentation.

## 6 Termination

- 6.1 Either party shall be entitled to terminate the Agreement at any time by giving not less than 3 months written notice to the other to expire at the end of the Initial Period or on any subsequent anniversary of that date.
- 6.2 Either party may (without limiting any other remedy) at any time terminate the Agreement by giving written notice to the other if the other commits any breach of these Terms and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so, or if the other ceases business, goes into liquidation, becomes bankrupt, has a receiver appointed, makes a composition or voluntary arrangement with its creditors or enters administration, or a moratorium comes into force in respect of the other (within the meaning of the Insolvency Act 1986).
- 6.3 The Company may terminate the Agreement by immediate notice if:
- 6.3.1 the Client is more than 14 days overdue with any payment hereunder;
  - 6.3.2 the Client fails to reconfigure or procure the reconfiguration of any System or rectify or procure the rectification of the cause of the high level of Activations, pursuant to a request by the Company to do so under clause 4.4 within 14 days of such request;
  - 6.3.3 in any Quarter 3 or more service suspensions occur under clause 4.4
  - 6.3.4 the Activation Rate is exceeded;
  - 6.3.5 the Control Room is so substantially damaged or destroyed that it is impractical to continue to provide the Services; or
  - 6.3.6 the Company is unable either to secure or retain telecommunications facilities necessary for the transmission of alarm signals between the Control Room and any Police, Fire or other agency or emergency service.
- 6.4 If the Agreement is terminated under 6.3.2 -6.3.4 in respect of a particular End-User's System or Premises then it shall continue in full force and effect in respect of the other End-Users and the Client shall immediately inform the End-User in question that the Services under the Agreement have ceased to operate forthwith
- 6.5 Subject to clause 5.15 if the Agreement is terminated under clause 6.3.5 or 6.3.6, the Company will refund to the Client the relevant proportion of any Charges paid in advance but shall have no other liability to the Client and/or End-User.
- 6.6 Where the Company is entitled to terminate the Agreement under clause 6.2 or clause 6.3, without prejudice to any other remedy, the Company may elect to suspend the performance of the Services to the Client or in respect of all or any End-User, if any, for a period of not more than 4 weeks and the Company may terminate this Agreement under clause 6.2 or 6.3 at any time during or at the end of such suspension if the breach by the Client is continuing or any of the circumstances set out in clause 6.2 or 6.3 have occurred or occur during that period of suspension.
- 6.7 On termination of the Agreement the obligations of the Company to provide the Services shall cease without prejudice to any accrued rights or liabilities of either party and, where the Client has an End-User, it shall immediately inform the End-User that the Services under the Agreement have ceased to operate forthwith
- 6.8 On termination of the Agreement all monies payable by the Client shall be immediately due and payable.
- 6.9 Where the Agreement is terminated or suspended, no refund of any of the Charges paid in advance by the Client shall be payable to the Client except where the Agreement is terminated due to the Company's default or in accordance with clause 6.5 above.
- 6.10 The provisions of clauses 3 & 5 and shall survive termination of any Services or the Agreement
- 6.11 The Company accepts no liability for delays and interruption in the provision of the Services and may terminate or suspend immediately the Services for any period without liability for any resulting loss if provision of the Services is in any way adversely affected by any act or default on the part of the Client, an End-User or any third party, or any Act of God, war, civil commotion, strike, industrial action, fire or flood, or any other cause which the Company could not have been reasonably expected to prevent or which is beyond its control;

## 7 Indemnity

- 7.1 Subject to and without limiting clause 6 of these Terms, the Client shall be solely responsible for and shall keep the Company indemnified against all liabilities, claims and expenses incurred by the Company in relation to the provision of the Services arising out of the Client or End-User's breach of these Terms

## 8 Confidentiality

- 8.1 The Client shall not disclose to any person (except for the purposes of effecting insurance) any information relating to the Services and shall keep the Company indemnified against all losses and expenses incurred by the Company as a result of any disclosure or information in contravention of this clause.
- 8.2 The Company will not disclose any details of the Client and/or the End-User to any third party unless written permission has been obtained from the Client and/or End-User save where disclosure is required for the performance of the Services or by law.
- 8.3 The Company shall have the right to disclose to the police force, fire service or other relevant authorities or to any insurance company or any party acting on behalf of such company, details of all records kept by the Company relating to any Activations received at any time during the provision of the Services at any Control Room in respect of the Premises and/or Services.

## 9 Data Protection

- 9.1 In this clause 9:
- 9.1.1 "DPA" the Data Protection Act 1998 as amended, extended or re-enacted from time to time and including any subordinate provision made under that Act; and
  - 9.1.2 the terms "Personal Data", "Data Controller", "Data Processor" and "Process" (and "Processing") shall have the meanings given to them in the DPA;
- 9.2 To the extent the Company Processes any Personal Data as part of performing its obligations under the Agreement ("Data"):
- 9.2.1 the Client acknowledges that it is the Data Controller of the Data, and that the Company is acting on the Client's behalf as a Data Processor of the Data;
  - 9.2.2 the Client:
    - i. will keep the Data reasonably confidential and reasonably secure from disclosure to unauthorised third parties; and
    - ii. will Process that Data only in accordance with the instructions of the Company (and Processing necessary to comply with the Agreement shall be deemed to be an instruction).
  - 9.2.3 The Client will obtain and maintain all appropriate notifications and consents under the DPA in order to allow the Company to Process the Data that it is required to Process as part of performing its obligations under the Agreement without such Processing contravening the DPA.
- 9.3 Where the Company processes personal data on behalf of the Client or End-User – for example, where Monitoring is included in the Services - the Company's Data Protection Policy shall apply, in force from time to time, linked to here [www.cougarmonitoring.com/privacy-cookie-policy/](http://www.cougarmonitoring.com/privacy-cookie-policy/)

## 10 General

- 10.1 These Terms (together with the terms, if any, set out in the Agreement) constitute the entire agreement between the parties, supersede any previous agreement or understanding and except as set out in these Terms, may not be varied except in writing between the parties. All other terms, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.
- 10.2 Where the Client has an End-User, it will notify to all End-Users these Terms and all relevant terms, conditions, requirements and responsibilities of the End-User under these Terms.
- 10.3 A notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 10.4 No failure or delay by either party in exercising any of its rights under the Agreement shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Agreement by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 10.5 If any provision of these Terms is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.
- 10.6 Provisions of these Terms which either are expressed to survive its expiry or termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such expiry or termination.
- 10.7 The Company may appoint an agent or sub-contractor to exercise its rights and perform its obligations under the Agreement.
- 10.8 The Agreement is personal to the Client and the Client may not assign or transfer the Agreement.
- 10.9 The Contracts (Rights of Third Parties) Act 1999 does not apply so as to give to a person who is not a party to the Agreement a right under it.
- 10.10 The Company is entitled to withdraw or to suspend the provision of, or any part of, the Services provided under this Agreement if the police or fire authorities refuse to respond to any alarm condition or refuse to provide their services in respect of the Premises
- 10.11 The Agreement together with all documents entered into or to be entered into pursuant to its provisions constitutes the entire agreement between the parties in relation to its subject matter and supersedes all prior agreements, understandings and discussions between the parties, other than representations made fraudulently
- 10.12 Neither party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of its obligations under this Agreement which result from circumstances beyond the reasonable control of that party including but not limited to any Act of God, war, civil commotion, strike, industrial action or dispute, power failure, fire or flood. The party affected by such circumstances shall promptly notify the other party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than six months, either party may terminate the Agreement by written notice to the other party.
- 10.13 Where there is any conflict between the terms set out in the Agreement and these Terms, the terms of the Agreement shall prevail.
- 10.14 The parties shall attempt to settle a dispute between them as to these Terms, the Agreement or their implementation by mediation in accordance with the Centre for Effective Dispute Resolution Model Mediation Procedure and a party may initiate mediation by giving a notice to the other requesting mediation in accordance with this clause.
- 10.15 English law shall apply to the Agreement, and the parties agree to submit to the non-exclusive jurisdiction of the English courts.