

CONDITIONS

1 DEFINITIONS & INTERPRETATIONS

1.1 In these Conditions:

"Agreement"	Means the contract between KeyPlus and the Customer for the supply of Services in accordance with the Schedule, the Conditions and Quote Conditions.
"Alarm Signal"	Means a request for the Services identifying the Site communicated by voice call to the KeyPlus Telephone by or on behalf of the Customer to KeyPlus.
"ARC"	Alarm Receiving Centre.
"Assignment Instructions"	Means KeyPlus' detailed description of the Services, risk assessment and related information gathered at the Site Survey.
"Business Day"	Means a day other than a Saturday or a Sunday or a public holiday in England when UK clearing banks in the city of London are open for general business
"Charges"	Means the charges set out in the Schedule.
"Commencement Date"	Has the meaning given in clause 2.1.
"Computer Virus"	Means a program or similar that automatically copies itself and infects programs or discs and thereby causes data or programs to disappear or to be damaged.
"Conditions"	Means these terms and conditions
"Customer"	Means the person/organisation described on page 1 of the Quote.
"Data Protection Legislation"	Means: (i) until the General Data Protection Regulation ((EU) 2016/679) (" GDPR ") is directly applicable in the United Kingdom, the Data Protection Act 2018, then (ii) unless and until the GDPR is no longer directly applicable in the United Kingdom, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 2018.
"Designated Contacts"	Means the persons nominated by the Customer and detailed [in the Assignment Instructions or otherwise notified to KeyPlus in writing.
"Extended Period"	Has the meaning given in clause 3.1.
"Initial Period"	Means the period set out in paragraph 4 of the Schedule starting on the Services Start Date.
"KeyPlus"	Means KeyPlus Security Ltd a company registered in England with registered number 06648384 whose registered office is at FM House, Bentley Wood Way, Network 65 Business Park, Burnley, Lancashire, BB11 5ST.
"KeyPlus Telephone"	Means the telephone number or numbers of KeyPlus set out in the Assignment Instructions or as notified in Writing to the Customer from time to time.
"Personnel"	Means the employees and sub-contractors of KeyPlus or any employees of any sub-contractors of KeyPlus who are from time to time engaged in providing the Services.
"Quote"	Means the Customer's quotation document appended to these Conditions.
"Site"	Means the address at which the Services are to be performed, as amended from time to time in accordance with this Agreement.
"Site Survey"	Means the survey of the Site conducted by KeyPlus [prior to the Services Start Date].
"Schedule"	Means the Schedule of Services and Costs detailed above.
"Services"	Means the services supplied by KeyPlus as described in the Schedule and the Assignment Instructions, as amended from time to time in accordance with this Agreement.
"Service Levels"	Means the service levels agreed in Writing by KeyPlus (if any).
"Service Provider"	Means a person who provides signalling transmission systems or computer or electrical or other services by cable radio or other means for the Customer.
"Services Start Date"	Means the date on which the Services shall commence as agreed by both parties.
"System"	Means the signalling devices, control equipment, power supplies, electronic detection units, monitors and electronic entry control devices and control devices and computer hardware and software installed by or on behalf of the Customer.
"Unnecessary Alarm Signal"	Means an Alarm Signal, which is caused by a technical fault, negligence or wilful default by or on behalf of the Customer or otherwise, which results in an unnecessary response and provision of the Services by KeyPlus.
"Writing"	Includes electronic mail and comparable means of communication as well as handwritten or typed correspondence or notice. " Written " shall be construed accordingly.

- 1.2 The masculine shall include the feminine gender and the singular shall include the plural and vice versa and a reference to a statutory provision will be interpreted as a reference to the provision as amended or re-enacted from time to time including any regulation or statutory instrument issued pursuant to such provision at any time.
- 1.3 The headings in these Conditions are for ease of reference only and shall not affect its interpretation.
- 1.4 Any words following the terms including, include, in particular, for example or any similar expression, shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.5 If any of the terms of the Schedule or the Quote Conditions conflict with any of the terms set out in these Conditions, then the terms shall be applied and interpreted in the following order of precedence and priority:
1. the Schedule;
 2. the Quote Conditions; and
 3. these Conditions.

2 APPLICABLE TERMS AND CANCELLATION OF AGREEMENT PRIOR TO SERVICES START DATE

- 2.1 Quotations by KeyPlus shall not constitute offers. Any quotation (including the Quote) issued by KeyPlus shall be valid only for the period stated on the quotation, or where no period is stated, for 30 days. Acceptance of KeyPlus' Quote by the Customer shall constitute an offer whose acceptance by KeyPlus must be in Writing to be effective, or by the active commencement and fulfilment of the Services by KeyPlus (whichever occurs first), at which point the Agreement shall come into existence ("**Commencement Date**").
- 2.2 The terms and conditions set out in the Agreement apply to the contract between the parties to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing. and KeyPlus shall not be deemed to accept such other terms nor to waive any of terms of this Agreement by failing to object to provisions contained in any request or quotation or purchase order or other communication from the Customer.

- 2.3 No variation of this Agreement shall be of any effect unless in Writing and signed by a duly authorised officer on behalf of KeyPlus and by or on behalf of the Customer respectively. No servant of KeyPlus has any authority to vary the provisions of this Agreement save as aforesaid.
- 2.4 The Customer shall be entitled to cancel or terminate the Agreement prior to the Services Start Date, provided that it makes a payment of £250 to KeyPlus on account of the administrative costs, Personnel costs and all other expenses incurred by KeyPlus up to the point of cancellation or termination of the Agreement. The parties agree that this is a fair and genuine pre-estimate of the losses suffered by KeyPlus in the event of such cancellation by the Customer prior to the Services Start Date.

3 COMMENCEMENT & DURATION

- 3.1 This Agreement will operate with effect from the Commencement Date and unless terminated earlier in accordance with clause 2.4 or clause 11, this Agreement shall continue until the expiry of the Initial Period and shall automatically extend for 12 months ("**Extended Period**") at the end of the Initial Period and at the end of each Extended Period. Either party may give to the other not less than 60 days' notice in Writing to terminate the Agreement, which must expire on or after the expiration of the Initial Period or the relevant Extended Period, as the case may be.

4 AGREEMENT

- 4.1 The Customer engages KeyPlus and KeyPlus agrees to carry out for the Customer, the Services at the Site commencing on the Services Start Date and continuing for the term set out in Clause 3 in consideration of the Charges in accordance with the terms of this Agreement.

5 THE SERVICES

- 5.1 KeyPlus agrees to:
- 5.1.1 use reasonable endeavours to supply the Services in accordance with this Agreement and, where applicable, any Service Levels in all material respects;
- 5.1.2 use reasonable endeavours to meet any performance dates agreed in Writing with the Customer but any such dates shall be estimates only and time for performance by KeyPlus shall not be of the essence of this Agreement;
- 5.2 KeyPlus may maintain records that relate to the Services (such as daily occurrence books, patrol records, incident reports, visit records or any other records ("**Records**") in accordance with KeyPlus record retention policies in effect from time to time. The Customer understands and acknowledges that KeyPlus may destroy Records subsequent to the expiration of applicable retention periods and KeyPlus accepts no liability for any Records, which have been destroyed pursuant to this paragraph.
- 5.3 KeyPlus will use reasonable commercial endeavours to provide personal intervention by its Personnel in response to the Alarm Signals. The personal mobile patrol intervention services provided by KeyPlus are shared in that they are provided simultaneously for a number of Customers using the same resources including Personnel. Therefore, the Customer acknowledges, agrees and accepts that interruptions or delays may occur if an event occurs at the premises of another Customer during the course of a response officer's duties. KeyPlus gives no assurances, warranties or representations that its Personnel will be available to provide prompt response to the Customer's Alarm Signals.
- 5.4 If in KeyPlus' reasonable opinion the number of Unnecessary Alarm Signals justifies this, KeyPlus will be authorised to suspend its response to Alarm Signals temporarily without entitling the Customer to any form of compensation or refund whatsoever. Where appropriate, the Customer shall be informed of this by telephone and, at Key Plus's discretion, in Writing. In the event of suspension, the Services will be resumed only when the Customer has demonstrated that the cause of the Unnecessary Alarm Signals has been addressed and will not occur again.
- 5.5 KeyPlus has no obligation to perform any duties or Services other than the Services detailed in the Schedule and shall accordingly bear no responsibility other than as expressly specified in the Agreement. Unless otherwise set forth herein, it is understood that KeyPlus is not engaged as a security consultant and has no overall responsibility for security at the Site. Nothing in this Agreement shall oblige KeyPlus to assume the powers of the civil police.
- 5.6 KeyPlus is an independent contractor. Personnel supplied by KeyPlus are its employees and not the Customer's. Nothing in this Agreement shall create a partnership or the relationship of principal or agent or employer and employees.
- 5.7 KeyPlus shall be entitled to change members of the Personnel from time to time. Where the Customer requests changes to the Personnel, these changes are required in Writing giving sufficient information to enable KeyPlus to provide the Personnel with reasons and reassign the Personnel in accordance with all current employment legislation and any other applicable law. KeyPlus shall have no liability for a failure to reassign any Personnel when to do so would be in breach of that individual's employment rights, any other applicable law or would incur costs, losses or any liabilities for KeyPlus.
- 5.8 If KeyPlus fails to provide the Services in accordance with the Service Levels directly due to the default of KeyPlus or its Personnel (and not, for the avoidance of doubt, where such failure is caused by or attributable to a failure by the Customer to comply with its obligations hereunder, any failure of the System and/ or any Service Provider or other third party not instructed by KeyPlus, KeyPlus following the directions of the Customer or a Force Majeure Event), it shall repay or re-credit (at KeyPlus' election) to the Customer that part of the Charges paid by the Customer relating to the relevant part of the Services (exclusive of any VAT).

6 THE CUSTOMER'S OBLIGATIONS

- 6.1 The System shall be provided at the Site by the Customer and KeyPlus shall have no responsibility for the supply, installation, maintenance or performance of the System.
- 6.2 The Customer shall check, approve and assume responsibility for the contents and detail of the Assignment Instructions prior to signature.
- 6.3 In no case shall any Service Provider be deemed to be the agent of KeyPlus and KeyPlus shall not be liable for any delay caused by or attributable to any Service Provider.
- 6.4 The Customer shall at all times:
- 6.4.1 promptly provide KeyPlus with any information that KeyPlus requires to enable KeyPlus to proceed without interruption with the performance of this Agreement; and
- 6.4.2 afford KeyPlus' Personnel full and safe access to the Site and be responsible for the safety of such adequate free working space and facilities as may be necessary for the performance of this Agreement; and
- 6.4.3 comply with all statutory requirements (including without limitation those relating to health and safety, data protection legislation, employment legislation and equal opportunities legislation) which apply directly or indirectly in respect of the performance of the Services; and
- 6.4.4 promptly inform KeyPlus in Writing of all changes to the Assignment Instructions and all material changes affecting the security of the Site including but not limited to changes affecting the layout, use, security and detection systems, reporting procedures and the Customer's own security personnel at the Site. This information will be deemed to have been accepted once a Written acknowledgement has been sent by KeyPlus; and
- 6.4.5 promptly inform KeyPlus of anything of which the Customer becomes aware which is likely to affect KeyPlus' obligations under this Agreement or lead to an increase in costs or in the Charges; and

- 6.4.6 maintain at its own cost a policy or policies of insurance to cover all potential liabilities to KeyPlus or otherwise under this Agreement; and
- 6.4.7 in the case of an Alarm Signal, ensure that either the Customer or one of the Designated Contacts can be contacted by KeyPlus by telephone. If necessary, this person must be able to go to the place where the risk has arisen and cut off or deactivate the System; and
- 6.4.8 in the case of an Unnecessary Alarm Signal or any Alarm Signal caused by a mistake made by the Customer, the Customer shall promptly contact KeyPlus to inform it of this; and
- 6.4.9 be responsible for ensuring that KeyPlus is contacted in the event of an Alarm Signal (including by notifying and instructing its alarm receiving centre, alarm installation company or any other such persons that KeyPlus is to be called on the KeyPlus Telephone in the event of an Alarm Signal).
- 6.5 If KeyPlus' performance of its obligations under this Agreement is prevented or delayed by an act or omission of the Customer its agents, subcontractors, consultants or employees, then, without prejudice to any other right or remedy it may have, KeyPlus shall not be liable for any such failure or delay and shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer.
- 6.6 Notwithstanding anything in this Agreement to the contrary, the Customer shall indemnify and hold KeyPlus harmless from and against any losses, liabilities, costs, claims, actions, demands or expenses (together "**Losses**") (including, but not limited to, all reasonable costs, legal fees, charges and expenses (together "**Expenses**") paid or incurred in disputing or defending any Losses) which KeyPlus may incur or which may be made against KeyPlus by any third party as a result of or in connection with its appointment or the exercise of its Services under this Agreement to the extent that such Losses and Expenses arise otherwise than from any negligent act or omission or wrongful act on the part of KeyPlus, including without limitation:
 - 6.6.1 costs owing to the abuse or faulty use of the System;
 - 6.6.2 the intervention costs of the police, the fire brigade and the intervention patrol;
 - 6.6.3 fines imposed on KeyPlus as a result of calling in the police or fire brigade.
- 7 CHARGES**
 - 7.1 The Customer shall pay the Charges in respect of the Services.
 - 7.2 The Charges shall be fixed for the Initial Period however thereafter KeyPlus may increase the Charges under this Agreement once in each 12 month period by no more than the higher of (i) 4% of the Charges in the previous 12 months and (ii) increases in line with the Retail Price Index (RPI). Variations of Charges under this paragraph may reflect any matters which KeyPlus (acting reasonably) believes applicable including, but not limited to, increased costs resulting from legislative or regulatory compliance, increases in fuel costs, increased taxation, labour costs and/or any other matters notified by KeyPlus to the Customer.
 - 7.3 In the event of an Unnecessary Alarm Signal or other Alarm Signal or disturbance due to the Customer's negligence or that of its agents, subcontractors, consultants or employees, KeyPlus will be entitled to invoice all costs incurred in responding to such incident to the Customer.
 - 7.4 KeyPlus shall be entitled to charge the Customer for any congestion charges or parking charges incurred in the course of providing the Services (other than any fines or penalties incurred by KeyPlus due to its negligence).
- 8 PAYMENT**
 - 8.1 Unless otherwise agreed and detailed in the Schedule, payment of the Charges shall be made as follows:
 - 8.1.1 all Set Up Charges (as detailed in the Schedule) shall be invoiced on or after the Commencement Date and shall be payable within 30 (thirty) days of the date of the invoice;
 - 8.1.2 all monthly and quarterly Charges (as detailed in the Schedule) shall be made by direct debit and shall be payable within 30 days of the date of the invoice, unless otherwise agreed in Writing by both parties;
 - 8.1.3 unless KeyPlus agrees that such Charges may be paid monthly by direct debit, Charges for key holding services are charged at an annual fee and may be invoiced on or after the Commencement Date shall be payable within 30 (thirty) days of the date of the invoice;
 - 8.1.4 invoices for Charges for attending to Alarm Signals shall be submitted monthly on or after the end of each calendar month in respect of the Services rendered in the previous month and shall be payable within 30 (thirty) days of the date of the invoice.
 - 8.2 An invoice shall be deemed to have been accepted by the Customer for all purposes if it has not been challenged in Writing within 5 (five) days of its date.
 - 8.3 In the event that the Customer agrees in paragraph 7 of the Schedule to pay an Advance Payment, KeyPlus will apply the Advance Payment against Charges incurred.
 - 8.4 Payment shall refer to the number of the invoice paid. Direct debit and standing orders shall not be cancelled without KeyPlus' prior Written consent. KeyPlus shall be entitled to be paid a surcharge to cover its administrative expenses in respect of each invoice paid by cheque.
 - 8.5 KeyPlus may (without prejudice to its other rights and remedies including for the avoidance of doubt the right to be paid the Charges during the period of suspension) suspend performance of any or all of the Services by giving Written notice to the Customer:
 - 8.5.1 if the Customer is in default of its payment obligations under this Agreement; or
 - 8.5.2 if the Customer is in material breach of any of its other obligations contained herein.
 - 8.6 KeyPlus shall be entitled to charge the Customer interest in respect of the late payment of any sum due under this Agreement on a day to day basis (both before and after any judgement) at the rate of 4% (four percent) per month from the due date for payment to the date of actual payment (both dates inclusive). The interest shall be paid by the Customer on demand. In addition, the Customer shall reimburse all reasonable costs incurred by KeyPlus (including but not limited to legal fees and other professional costs) in recovering payment from the Customer of any amounts overdue.
 - 8.7 All sums payable hereunder are exclusive of VAT or any other applicable tax or duty payable upon such sums, which shall be added if appropriate at the rate prevailing at the relevant tax point.
 - 8.8 Subject to clause 8.3. all sums payable hereunder shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 9 WARRANTY & LIMITATION OF LIABILITY – THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**
 - 9.1 KeyPlus shall perform the Services with reasonable skill and care and if it fails to so perform any part of the Services (other than where such breach or failure is caused by or attributable to a failure by the Customer to comply with its obligations hereunder, any of the factors detailed in clause 9.3 or a Force Majeure Event) it will repay or re-credit to the Customer that part of the Charges paid by the Customer relating to the relevant part of the defective Services (exclusive of any VAT).
 - 9.2 Subject always to Clauses 9.3, 9.4 and 9.5 KeyPlus' total liability to the Customer: -
 - 9.2.1 for damage to physical property caused by the negligence of its employees and agents in connection with this Agreement shall not exceed £5,000,000 for any one event or series of connected events;
 - 9.2.2 for loss arising from theft of intellectual properties caused by the negligence of its employees and agents in connection with this Agreement shall be limited to £5,000 (five thousand pounds);

- 9.2.3 for any loss, damage or expense suffered by the Customer by reason of any act of theft or a similar act of crime of property carried out by any employee, agent or sub-contractor of KeyPlus shall not exceed £25,000 (twenty-five thousand pounds);
- 9.2.4 for any loss, damage, fine, penalty or expense suffered by the Customer in connection with a breach by KeyPlus of clause 16 and/ or the Data Protection Legislation, shall not exceed £1,000,000; and
- 9.2.5 for all other loss or damage which does not fall within clauses 9.2.1 to 9.2.3, and which is not excluded, shall not exceed the total amount of Charges paid by the Customer in the 12 months preceding the date of the event giving rise to the claim.
- 9.3 KeyPlus shall not be liable to the Customer for any claims or losses arising from or connected with:
- 9.3.1 a default of the Customer or any of its employees, agents, sub-contractors or other representatives; or
- 9.3.2 KeyPlus following any direction or instruction from the Customer or any of its employees, agents or sub-contractors; or
- 9.3.3 Computer Viruses; or
- 9.3.4 the Customer's failure to implement the recommendations contained in any risk assessment report prepared by KeyPlus; or
- 9.3.5 a default of the alarm receiving centre ("ARC"), including but not limited to where the ARC fails to notify KeyPlus or gives inaccurate information or instructions to KeyPlus.
- 9.4 KeyPlus shall not be liable to the Customer for any loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of anticipated saving, loss or corruption of data or information or any indirect, special or consequential loss or damage suffered by the Customer that arises under or in connection with this Agreement.
- 9.5 KeyPlus shall not be liable for any loss damage or expense unless:
- 9.5.1 advised thereof in Writing within 10 (ten) Business Days and the claim is made in Writing within 20 (twenty) Business Days, after the provision of the relevant part of the Services, or the event giving rise to the claim (as applicable); and;
- 9.5.2 KeyPlus shall in any event be discharged from all liability for any loss damage or expense whatsoever and howsoever arising in respect of KeyPlus' performance of any part of the Services unless proceedings are issued and served upon KeyPlus within 6 (six) months of the date when that part of the Services complained of was performed.
- 9.6 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 and which but for this sub-Clause would be binding upon KeyPlus, all of which are excluded to the fullest extent permitted by law.
- 9.7 It is understood, agreed and acknowledged that:
- 9.7.1 KeyPlus' obligations under this Agreement are limited to the provision of the Services, that the Customer is in a better position than KeyPlus to foresee and evaluate any potential damage or loss that the Customer may suffer in connection with the Services or any other service provided by KeyPlus under this Agreement;
- 9.7.2 the Customer shall ensure that it has in place its own insurance in such amounts as to adequately protect the Site and all potential liabilities resulting from a security breach;
- 9.7.3 KeyPlus does not represent or warrant that the proper performance by KeyPlus of its obligations hereunder will result in any specific level of security;
- 9.7.4 the Customer's total security is dependant also on the Customer's equipment and resources;
- 9.7.5 the Charges have been calculated on the basis that KeyPlus will exclude or limit its liability as set out in this Clause 9; and
- 9.7.6 these exclusions and limitations are reasonable.
- 9.8 **NOTHING IN THIS AGREEMENT SHALL IN ANY WAY LIMIT OR EXCLUDE LIABILITY WHICH CANNOT LEGALLY BE LIMITED INCLUDING LIABILITY FOR:**
- 9.8.1 DEATH OR PERSONAL INJURY CAUSED BY KEYPLUS' NEGLIGENCE; OR
- 9.8.2 FRAUD OR FRAUDULENT MISREPRESENTATION.
- 9.8.3 AFFECT THE STATUTORY RIGHTS OF A CUSTOMER WHO DEALS AS A CONSUMER AS DEFINED BY THE CONSUMER RIGHTS ACT 2015
- 9.9 For the avoidance of doubt, references to liability in this Clause 9 include every kind of liability arising under or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 10 EMPLOYMENT ISSUES**
- 10.1 The Customer shall indemnify KeyPlus against all actions, proceedings, costs, claims, penalties, fines, liabilities, damage, expenses, demands and legal or professional fees in respect of:
- 10.1.1 any claim that KeyPlus has incurred liability by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the "**Regulations**") and which arises out of or is connected with the employment or termination of employment of any employee prior to, or on, the Commencement Date; and
- 10.1.2 a breach of the Customer's obligations under this Agreement and/or, where the Customer has engaged KeyPlus as a sub-contractor, under any Agreement under which the Customer has agreed to contract the Services of a sub-contractor to perform security or other Services; and
- 10.1.3 all losses arising as a result of any employee, agent or sub-contractor of KeyPlus acting upon the instructions of the Customer and requiring action to be taken outside the scope of the Services or omitting to take actions within the scope of the Services; and
- 10.1.4 negligent or wilful acts or omissions by the Customer, its employees, agents or sub-contractors.
- 10.2 If any contract of employment with any person shall be deemed by KeyPlus to have effect after the Commencement Date as if originally made between KeyPlus and that person by virtue of the Regulations KeyPlus may within 3 (three) months of this Agreement or within 30 (thirty) days of becoming aware of the operation of the Regulations (if later) terminate the contract of employment in question and the Customer agrees to indemnify KeyPlus against all actions, proceedings, costs, claims, penalties, fines, liabilities, damages, expenses, demands, and legal or professional fees arising out of the termination.
- 11 TERMINATION**
- 11.1 This Agreement may be terminated immediately by KeyPlus in Writing if the Customer:
- 11.1.1 being a company, has a receiver, administrative receiver, administrator or similar officer appointed, passes a resolution for winding-up (otherwise than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect, becomes subject to an administration order, enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business; or
- 11.1.2 being a partnership (and whether in respect of the partnership or of any one or more of the partners) or an individual (1) is involved in any legal proceedings involving their or his solvency or (2) commits an act of bankruptcy or is adjudicated bankrupt is sequestrated or a petition is presented to sequester him or any steps are taken by any person for his sequestration or (3) enters into any composition or other arrangement with its creditors generally (or any class of them) or (4) has proposals submitted for an individual voluntary arrangement or (5) has a receiver, administrative receiver or other creditors' representative appointed over any of their or his assets or property or (6) ceases to carry on business; or
- 11.1.3 fails to pay on its due date any sum due under this Agreement; or

- 11.1.4 commits any material breach of any term of this Agreement which, in the case of a breach capable of being remedied, is not remedied within 10 (ten) Business Days of a notice in Writing setting out in detail sufficient to identify each and every breach complained of and requiring that it be remedied; or
- 11.1.5 no longer owns, leases or otherwise occupies the Site; or
- 11.1.6 has not procured or has lost any consents necessary to enable KeyPlus to lawfully provide the Services at the Site;
- 11.1.7 does not maintain the safety of the Site and in KeyPlus's reasonable opinion is not suitable for the safe provision of the Services by its Personnel.
- 11.2 Notwithstanding anything to the contrary in this Agreement, KeyPlus shall have the right to terminate this Agreement with immediate effect by notice in Writing to the Customer in the event of (1) a material change in the terms and conditions of KeyPlus' insurance coverage relevant for this Agreement; or (2) a change in the applicable rules or legislation or an issue of binding orders or instructions by the relevant authorities that would constitute or require a material change of the duties or services to be provided by KeyPlus hereunder.
- 11.3 The Customer may terminate this Agreement by giving notice in Writing to KeyPlus if KeyPlus commits any material breach of any term of this Agreement which, in the case of a breach capable of being remedied, is not remedied within 10 (ten) Business Days of a notice in Writing setting out in detail sufficient to identify each and every breach complained of and requiring that it be remedied.
- 12 NON-SOLICITATION**
- 12.1 The Customer agrees that at no time during this Agreement or for a period of 12 (twelve) months after its termination will it either directly or indirectly employ, or offer to employ, or conclude a contract for services with, any person employed by KeyPlus who has been engaged in providing any services under this Agreement within the preceding period of 2 (two) months.
- 12.2 If during this Agreement or for a period of 12 (twelve) months after its termination, the Customer either directly or indirectly, on its own behalf or on behalf of any person, firm, company, or other entity employs or enters into a contract for Services with a person employed by KeyPlus to provide Security Services under this Agreement, the Customer shall on demand pay KeyPlus an amount equal to 25% (twenty five percent) of that person's annual gross salary as liquidated damages.
- 13 CONSEQUENCES OF TERMINATION**
- 13.1 Upon termination of this Agreement howsoever arising:
- 13.1.1 all arrears of Charges and other monies accrued due and unpaid under the terms of this Agreement together with interest thereon on the basis specified in Clause 8.6 of this Agreement; and
- 13.1.2 KeyPlus shall be discharged from liability for further performance of this Agreement and shall be entitled to enter the Site or any premises owned or occupied by the Customer and recover any equipment and materials, which are KeyPlus' property. The Customer irrevocably licenses KeyPlus, KeyPlus' employees and KeyPlus' agents to enter the Site or other such or premises for such purpose. For the avoidance of doubt all equipment and materials supplied by KeyPlus will remain the sole property of KeyPlus;
- 13.1.3 KeyPlus shall as soon as reasonably practicable surrender the Customer's keys to an authorised representative of the Customer if requested by the Customer in Writing; and
- 13.1.4 KeyPlus will retain Customer's keys for collection by the Customer for a maximum period of 4 (four) weeks after the cessation of Services. Unclaimed keys will be separated and disposed of.
- 13.2 Termination of this Agreement shall not affect any accrued rights or liabilities of either party or affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after termination.
- 13.3 Upon the termination of this Agreement under Clause 11.1 or otherwise by the Customer in breach of this Agreement, without prejudice to KeyPlus' rights to claim damages the Customer shall become immediately liable to pay to KeyPlus an amount comprising the aggregate of:
- 13.3.1 any costs and expenses incurred by KeyPlus in locating and recovering KeyPlus' property pursuant to Clause 13.1 or collecting any payments due under this Agreement or otherwise in obtaining the due performance of the obligations of the Customer hereunder; and
- 13.3.2 a sum calculated as 100% (one hundred percent) of the Charges that would have been payable under this Agreement for the period from the date of actual termination until the earliest date upon which this Agreement could have been terminated pursuant to Clause 3.1. The parties agree that the said sum constitutes a genuine and reasonable pre-estimate of KeyPlus' damages for such early termination; and
- 13.3.3 all and any other sums due under this Agreement including all arrears of Charges and other monies accrued due and unpaid under the terms of this Agreement together with interest thereon on the basis specified in Clause 8.6 of this Agreement.
- 14 FORCE MAJEURE**
- 14.1 Notwithstanding any other terms of this Agreement KeyPlus shall have no liability to the Customer, nor shall KeyPlus be deemed to be in breach of this Agreement if KeyPlus or the ARC is prevented, hindered or delayed from or in performing any of its obligations under this Agreement by an event beyond KeyPlus' reasonable control including, without limitation, epidemic, pandemic diseases (such as but not limited to COVID 19) as well as any law, governmental order, rule, regulation, direction, curfew restriction or other act of the competent authorities implemented to combat such pandemic diseases), fuel shortages, fire, flood, storm, exceptionally adverse weather conditions or other natural events; war, terrorist action, hostilities, revolution, riot or civil disorder, any destruction, breakdown (permanent or temporary) or malfunction of, or damage to any premises, plant, equipment, materials (including any computer hardware or software or any records or the ARC) unless by an act or omission of KeyPlus' employees, agents or sub-contractors; the introduction of, or any amendment to, a law or regulation, or any change in its interpretation or application by any authority; any strike, lockout or other industrial action; any obstruction of any public or private highway or road or any event which prevents or obstructs access to the Site or the ARC or any breach of contract or default by, or insolvency of, a third party (including an agent or sub-contractor) other than KeyPlus.
- 14.2 KeyPlus shall be entitled by notice to the Customer to suspend its performance under this Agreement for a period equal to the duration of the event preventing or hindering KeyPlus from/in performing its obligations under this Agreement.
- 14.3 Either party shall be entitled by giving not less than 4 weeks' Written notice to the other to terminate this Agreement if an event beyond KeyPlus' reasonable control prevents/hinders KeyPlus from/in performing its obligations under this Agreement for a period in excess of 90 (ninety) days.
- 15 CONFIDENTIALITY**
- 15.1 Each of the parties shall keep confidential all information, whether written or oral, concerning the business and affairs of the other that it obtains receives as a result of the discussions leading up to, the entering into or the operation of this Agreement unless it is (1) already in its possession otherwise than as a result of this Agreement or a breach of this Clause; or (2) in the public domain otherwise than as a result of a breach of this Clause or (3) required by law to disclose such information. Each of the parties shall take all such steps as are from time to time reasonable to ensure compliance with this provision by its employees, agents and sub-contractors.

16 DATA PROTECTION

- 16.1 Each party shall comply with its respective obligations under the Data Protection Legislation in relation to all Personal Data (as defined in the relevant Data Protection Legislation) that is processed by it in the course of performing its obligations under this Agreement.
- 16.2 Without prejudice to the generality of Clause 16.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of Personal Data to KeyPlus for the duration and purposes of this Agreement.
- 16.3 Without prejudice to the generality of Clause 16.1, KeyPlus shall:
- 16.3.1 having regard to the state of technological development and the cost of implementing any measures, implement and maintain sufficient technical and organisational measures to prevent unauthorised or unlawful processing of Personal Data and to prevent any loss, destruction or unauthorised disclosure of Personal Data appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected. Those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it;
 - 16.3.2 notify the Customer without undue delay on becoming aware of a Personal Data breach;
 - 16.3.3 notify the Customer as soon as reasonably possible if it receives a request from a data subject for access to that person's Personal Data and, assist the Customer, at the Customer's cost, in responding to any request from a data subject;
 - 16.3.4 subject to clauses 16.3 and 16.4, process the Personal Data in accordance with the Customer's documented written instructions from time to time unless KeyPlus is required by applicable law to otherwise process that Personal Data. Where KeyPlus is relying on the laws of a member of the European Union or European Union law as the basis for processing Personal Data, KeyPlus shall promptly notify the Customer of this before performing the processing required by the applicable law unless the applicable law prohibits KeyPlus from so notifying the Customer;
 - 16.3.5 not transfer Personal Data outside of the EEA, unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (i) the Customer or KeyPlus has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) KeyPlus complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) KeyPlus complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
 - 16.3.6 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by applicable law to store the Personal Data;
 - 16.3.7 without prejudice to clause 15, ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
 - 16.3.8 maintain complete and accurate records and information to demonstrate its compliance with this Clause 16 (Data protection) and allow for audits by the Customer or the Customer's designated auditor provided that KeyPlus is provided with reasonable notice of any potential audit, that not more than one (1) audit is undertaken in any 12 month period (save where the Customer reasonably suspects a breach).
- 16.4 The Customer consents to KeyPlus appointing sub-processors as a third-party processor of Personal Data under this Agreement. KeyPlus confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business and in either case which KeyPlus undertakes reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Customer and KeyPlus, KeyPlus shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 16.3.
- 16.5 The Personal Data the Customer passes on to KeyPlus will be saved in the files of KeyPlus. This information is used with a view to ensuring the proper performance of the Services and for invoicing and Customer administration. The Customer has agreed that this information can also be used to inform the Customer of Services, products and special offers by KeyPlus.
- 16.6 The Customer shall be responsible for notifying KeyPlus in writing of any changes to its instructions as regards the processing of Personal Data and shall protect and indemnify KeyPlus for and against any request given by the Customer to KeyPlus to conduct any unlawful processing, including but not limited to where the Customer has not procured the necessary consents of provided complaint data processing notices.
- 16.7 KeyPlus may, at any time on not less than 30 days' notice, revise this clause 16 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

17 GENERAL

- 17.1 **Severability.** If at any time any part of this Agreement (including any one or more of the Clauses or sub-Clauses of this Agreement or any part thereof) is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this Agreement and the validity and/or enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired as a result of that omission.
- 17.2 **Waiver.** The failure to exercise, or the delay in exercising, a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or law prevents a further exercise of the right or remedy or the exercise of another right or remedy.
- 17.3 **Joint and Several Liability.** Where more than one person is included within the definition of the Customer herein the obligations on the part of the Customer arising hereunder shall at times be joint and several on the part of each such person.
- 17.4 **Assignment or Assignment**
- 17.4.1 This Agreement shall benefit and be binding on the parties, their respective successors and any permitted assignee or transferee of some or all of a party's rights or obligations under this Agreement. Any reference in this Agreement to any party shall be construed accordingly.
 - 17.4.2 This Contract shall not be assignable by the Customer without the prior Written consent of KeyPlus which shall not be unreasonably refused in the event that the Customer moves home or premises and the new occupant satisfies KeyPlus' requirements as a contracting party.
 - 17.4.3 KeyPlus may assign all or part of its rights and obligations under this Agreement. Any such assignment or assignment shall become effective when notified to the Customer and any such assignee or transferee shall be and be treated as KeyPlus for all purposes of this Agreement and shall be entitled to the full benefit of this Agreement to the same extent as if it were an original party in respect of the rights or obligations assigned or transferred to it.
- 17.5 **Sub-Contracting.** KeyPlus shall be entitled to perform its obligations contained herein by its sub-contractors or agents.
- 17.6 **Notices.** All notices which are required to be given under this Agreement shall be in Writing and shall be sent to the address or email address of the recipient set out in this Agreement or such other address or email address as the recipient may designate by notice given

in accordance with the provisions of this Clause. Notice may be delivered personally or by first class pre-paid letter and shall be deemed to have been served if by hand when delivered, if by first class post 48 hours after posting. Notice may be served by email and shall be deemed to have been served at the time of transmission (provided that the email is not recalled and that the sender does not receive notification of failed delivery), or, if this time falls outside business hours in the place of receipt, when business hours resume. Business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt. If the sender receives notification of delayed delivery or an "out of office" notification, delivery will be deemed to have occurred in accordance with the notification.

17.7 **Entire Agreement.** This Agreement including its Schedules and any appendices thereto constitute the entire agreement between the Customer and KeyPlus in relation to the subject matter of this Agreement to the exclusion of any other terms and supersedes any previous agreement relating to the same. The Customer further warrants to KeyPlus that the Customer has not been induced to enter into this Agreement by any prior representations whether oral or in writing, except as specifically contained in this Agreement and the Customer hereby waives any right it may have to claim damages for, and/or to rescind this Agreement because of any breach of any warranty not contained in this Agreement, or any misrepresentation whether or not contained in this Agreement unless such misrepresentation was made fraudulently.

17.8 **Governing Law and Jurisdiction**

17.8.1 Subject to clause 17.8.2, this Agreement and all matters arising from or connected with it are governed by English law, all disputes and claims arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the English Courts to which the parties irrevocably submit.

17.8.2 Nothing in this Agreement shall prevent KeyPlus from bringing proceedings against the Customer in a jurisdiction other than those of the English Courts.