

Raytec CCTV Limited

Terms and Conditions of Business for delivery of goods and services

General

Raytec CCTV Limited is a Company Registered in England under Company Number 5532798 whose Registered Office is at Unit 3, Wansbeck Business Park, Rotary Parkway, Ashington, Northumberland, NE63 8QW ('the Company')

These terms and conditions of business form the contract between the Company and the client. These terms and conditions will prevail over any other terms and conditions between the company and the client whether implied by law; by custom and practice or previous course of dealing in any previous contractual relationship that may exist between the Company and the client.

Recitals

The Client wishes to receive the Goods or Products, or the Goods or Products and Services of the Company, and the Company has the skills, background and experience in providing the Goods or Products and Services and is willing to provide the Goods or Products and Services all subject to the provisions of these terms and conditions of business.

NOW IT IS AGREED as follows:

1 Definitions

In these terms and conditions of business the following words shall have the following meanings:

'Goods or Products' means Raytec Infra-Red; Raylux White-Light; Fusion Low Voltage Lighting; Voyager 2 ANPR/LPR Camera; Hybrid; and or any Specialist Application or any other product manufactured or supplied by the Company from time to time.

'Services' means the Company providing installation or servicing of the Goods or Products supplied to the Customer, or commissioning or site surveys.

'Completion Date' means the date or dates specified in the agreement or order form between the parties, if any, or such other date as the Parties may subsequently agree in writing.

'Price' means the total amount specified in the agreement or in the order form. The Price is subject to V.A.T at the rate prevailing at the date the Company invoices for the Goods or Products or the Goods or Products and Services.

2 The Goods Products and Services

- 2.1 The Company shall provide the Goods or Products or the Goods or Products and Services to the Client subject to these terms and conditions of business.
- 2.2 Prior to the supply of the Goods or Products or prior to the supply of the Goods or Products and commencement of the Services, the Client shall submit to the Company a completed order form detailing the Goods or Products and/or Services to be provided.
- 2.3 The Customer will submit an Order Form to the Company which will signify the Customer's agreement as to the supply of Goods or Products and/or Services to be provided and the fees or costs payable to the Company. The Customer acknowledges and agrees that no Goods or Products and/or Services will be provided until the Company has received a copy of the Order Form from the Customer. The Customer acknowledges and accepts that the full extent of the Goods or Products and/or Services to be provided is stated in the Order Form and subject to these Terms and Conditions.
- 2.4 The specification of the Goods or Products and/or the supply of the Services may be changed, varied, or added to, from time to time, in the absolute discretion of the Company. In such case a further payment may be due from the Client and this shall be notified to the Client by the Company in advance of the supply of any Goods or Products or Services.
- 2.5 The Client acknowledges and accepts that the Company reserves the right in its absolute discretion to cancel the Agreement between the Company and the Client forthwith should there be any matter not previously made known to the Company by the Client that may affect the Price or the quality of the Goods or Products and/or Services provision or the ability of the Company to provide the Goods or Products and/or Services.

3 Delivery of the Goods or Products and/or Performance of the Services

- 3.1 The Parties shall agree the time and place (if not specified in the Order Form) for the delivery of the Goods or Products and/or performance of the Services, subject to the availability of the Company's staff; suppliers, and or agents.
- 3.2 The Company shall use best endeavours to complete the delivery of the Goods or Products and/or Services as quickly as possible. However, unless it is expressly agreed otherwise, it is agreed that time is not of the essence for the delivery of the Goods or Products and/or the provision of

the Services and this shall always be subject to the matters specified in clause 3.2 above, and subject to the quality and clarity of the instructions given by the Client.

3.3 Unless it is expressly agreed otherwise between the Parties, time shall not be of the essence:

3.3.1 for any times for when the Goods or Products are to be delivered, whether given or agreed to by the Company; or

3.3.2 for any times for when the Services are to be performed, whether given or agreed to by the Company; or

3.3.2 for the length of time that any of the Services are to take, whether specified in the Order Form or otherwise; or

4 Fees and payment

4.1 For Customers who are dealing with the Company for the first time, or for Customers who have not yet been offered account facilities with the Company, the Customer may, on request to do so by the Company, be required to pay 'Pro-forma' or an agreed deposit. Such sum must be paid to the Company by the Customer in advance of the delivery of the Goods or Products and/or Services commencing, and the Deposit shall be non-refundable except in exceptional circumstances, as determined and agreed by the Company in its absolute discretion.

4.2 For Customers who have established an account with the Company, the Price shall be paid on terms of 30 days EOM, or as specified in the Order Form.

4.2 All amounts stated are exclusive of VAT and/or any other applicable taxes or levy, which shall be charged in addition at the rate in force at the date any payment is required from the Customer.

4.3 If payment of the Price is not received by any due date, the Company may be entitled (without prejudice to any other right or remedy):

4.3.1 to charge interest on the outstanding amount at the rate of 8% per annum above the base lending rate of HSBC Bank plc, accruing daily;

4.3.2 to require that the Customer make a payment or the full payment of the Price in advance of delivery of any of the Goods or Products and/or any Services or part of the Services not yet made or supplied or part of the Goods or Products not yet delivered; or

4.3.3 not to provide any further Goods or Products and/or Services or part of the Services not yet made or supplied or part of the Goods or Products not yet delivered;

4.4 All payments shall quote the Company's invoice number and other reference numbers.

5 The Customer's obligations

5.1 The Customer acknowledges and agrees that for the Company to be able to deliver the Goods or Products and/or to provide the Services the Customer shall, strictly for the purposes of performance of this contract:-

5.1.1 co-operate with the Company and the Company's employees and sub-contractors as the Company reasonably requires;

5.1.2 provide to the Company such information and documentation as the Company reasonably requires;

5.1.3 provide all data, materials and if appropriate for the performance of the Services.

5.2 The Company may charge the Customer for any additional justifiable reasonable costs and expenses incurred by the Company caused by the Customer's instructions, failure to provide instructions, or failure to comply with Clause 5.1.

6. Protection of Confidential Information

6.1 Each Party ('Receiving Party') shall keep the confidential information of the other party ('Supplying Party') confidential and secret, whether disclosed to or received by the Receiving Party. The Receiving Party shall only use the confidential information of the Supplying Party for performing the Receiving Party's obligations under the Agreement.

6.2 The Obligations of clause 6.1 shall not apply to any information which:-

6.2.1 was known or in possession of the Receiving Party before it was provided to the Receiving Party by the Providing Party;

6.2.2 is, or becomes, publicly available through no fault of the Receiving Party;

6.2.3 is provided to the Receiving Party without restriction or disclosure by a third party, who did not breach any confidentiality obligations by making such a disclosure;

6.2.4 was developed by the Receiving Party who had no direct access to, or use or knowledge of the Confidential Information supplied by the Supplying Party; or

6.2.5 is required to be disclosed by order of a court of competent jurisdiction.

6.3 This clause 6 shall survive termination of this Agreement for a period of 6 years.

7 Warranties, liability and indemnities

- 7.1 The Company warrants that it will use utmost care and skill in providing the Goods or Products and/or performing the Services and to a standard which conforms to generally accepted industry standards and best practices.
- 7.2 If any of the Goods or Products is defective (the question as to whether there is any defect shall be determined in the absolute discretion of the Company) or if any part of the Services is performed negligently or in breach of the provisions of the Agreement between the Parties then, at the request of the Customer (if the request is given within 6 weeks of the Completion Date), the Company will endeavour to correct any defect in the Goods or Services and/or will endeavour to re-perform the relevant part of the Services, always subject to Clause 7.4 and Clause 7.5 below.
- 7.3 The Company expressly does not warrant that any result or objective whether stated in this Agreement or not shall be achieved, be achievable or be attained at all or by a given date, or any other date.
- 7.4 Except in the case of death or personal injury caused by the Company's negligence, the Company's liability under or in connection with this Agreement whether arising in contract, tort, negligence, breach of statutory duty or otherwise howsoever, shall not exceed the Price paid to the Company under each specific Order Form or any individual Agreement between the Parties. The provisions of this Clause 7.4 shall not apply to Clause 7.6.
- 7.5 Neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other Party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill. The provisions of this Clause 7.5 shall not apply to Clause 7.6.
- 7.6 The Customer shall indemnify and hold harmless the Company from and against all claims and losses arising from loss, damage, liability, injury to the Company, or the Company's employees, and third parties,

infringement of third party intellectual property, or third party losses by reason of or arising out of any information supplied to the Company by the Customer, within or without the scope of this Agreement. 'Claims' shall mean all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise); and 'Losses' shall mean all losses including without limitation financial losses, damages, legal costs and other expenses of any nature whatsoever.

7.7 Each of the Parties acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law. Nothing in this Agreement excludes liability for fraud.

7.8 Any Guarantees that may be given by the Company given in favour of the Customer shall only be valid if expressly given to the Customer by the Company in written form. The Company reserves the right in its absolute discretion to revoke, withdraw, withhold, or amend any guarantee at any time with reasonable notice to the Company.

8 Termination

The Company will use all reasonable endeavours to complete the delivery of Goods or Products and/or Services under any individual Order Form or any individual Agreement between the Parties. If the Company is unable to do so for reasons beyond its reasonable control then the Company may terminate the Agreement immediately and the Customer shall not be entitled to any payment or redress except as expressly specified in this Agreement unless expressly agreed to the contrary between the Parties.

9 Cancellation Fees

Where the Customer cancels any Order or any Agreement before the Goods or Products have been delivered or completely delivered, and/or Services have been commenced or completed by the Company the Customer may in the absolute discretion of the Company still be required to pay the full Price (or any part thereof) for the Goods or Products and/or Services agreed under this Agreement. The Customer shall not be entitled to any refund of the Price paid.

10 General

10.1 Force majeure

Neither Party shall have any liability under or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party. 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 this Agreement by written notice to the other Party.

10.2 Amendments

Any Agreement between the Company and the Customer may only be amended in writing signed by a duly authorised representative of the Company and the Customer.

10.3 Assignment

Subject to the following sentence, neither Party may assign, delegate, sub-contract, mortgage, charge or otherwise transfer any or all of its rights and obligations under any Agreement without the prior written consent of the other Party. A Party may, however, assign and transfer all its rights and obligations under any Agreement to any person to which it transfers all of its business, provided that the assignee undertakes in writing to the other Party to be bound by the obligations of the assignor under any Agreement.

10.4 Entire agreement

These terms and conditions of business contain the whole terms and conditions applicable to any agreement between the Parties in respect of the subject-matter of any agreement and supersedes and replaces any prior written or oral terms and conditions of business or agreements, representations or understandings between them relating to such subject-matter. The parties confirm that they have not entered into any Agreement on the basis of any representation that is not expressly incorporated into these terms and conditions of business. Nothing in these terms and conditions of business excludes liability for fraud.

10.5 Waiver

No failure or delay by the Company or the Customer in exercising any right, power or privilege under any Agreement shall impair the same or operate as a waiver of the same nor shall any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege. The rights and

remedies provided in these terms and conditions of business are cumulative and not exclusive of any rights and remedies provided by law.

10.6 Agency, Partnership etc

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

10.7 Severance

If any provision of these terms and conditions of business is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from these terms and conditions of business and rendered ineffective as far as possible without modifying the remaining provisions of these terms and conditions of business, and shall not in any way affect any other circumstances of or the validity or enforcement of any Agreement.

10.8 Interpretation

In these terms and conditions of business unless the context otherwise requires:

- 10.8.1 words importing any gender include each gender;
- 10.8.2 words importing the singular number include the plural number and vice versa;
- 10.8.3 words importing persons include firms, companies and corporations and vice versa;
- 10.8.4 references to numbered clauses are references to the relevant clause in these terms and conditions of business;
- 10.8.5 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done;
- 10.8.6 the headings to the clauses and paragraphs of these terms and conditions of business are not to affect the interpretation;

10.8.7 where the word 'including' is used in these terms and conditions of business, it shall be understood as meaning 'including without limitation'.

10.9 Law and jurisdiction

The validity, construction and performance of these terms and conditions of business and any Agreement shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit.

10.10 Third parties

For the purposes of the Contracts (Rights of Third Parties) Act 1999 these terms and conditions of business and any Agreement is not intended to, and does not, give any person who is not a party to it any right to enforce any of its provisions.

10.10 Retention of Title

Ownership of the goods provided as part of the Service which form the subject of the Agreement between the Parties shall not pass to the Customer until they are fully paid for, but the risk in the goods shall be borne by the Customer from the date of the delivery by the Company or its agents to the Customer. The Company shall always retain all copyright and all and any intellectual property rights in the Goods or Products and these shall under no circumstances be transferred to the Customer whether on payment of the full amount for the Goods or Products or at all.