



ALARM MONITORING & RESPONSE TERMS AND CONDITIONS

1. TERM

a) This Agreement commences on the Commencement Date set out in the Authorisation Form and shall continue in full force and effect until it is terminated in accordance with these terms and conditions.

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2. PAYMENT, FEES & CHARGES

a) Unless agreed otherwise in writing, the terms of payment are monthly in advance.

b) The Customer shall pay Obertech in cleared funds without any deduction or withholding whatsoever (whether by set-off, counterclaim or otherwise):

i) the Fees for the Services by payments in advance and in accordance with the Alarm Monitoring Authorisation Form.

ii) all GST levied on goods and services provided under this Agreement.

c) In regards to Monitoring Services, unless specified otherwise, We will commence invoicing You from the Commencement Date.

d) Notwithstanding any other term in this Agreement, We may vary Our charges to You at any time and from time to time once the minimum term has passed and You shall pay the varied charges subject always to Your right to terminate this Agreement once the minimum term has passed

3. MONITORING

a) Unless specifically agreed by Us, We will follow best practice industry procedures as accepted by Us in providing services to You.

b) You confirm that You have been advised of the different monitoring technologies available and You have elected based upon Your own judgement to choose the services and system specified in the Quote Letter or any other notification.

c) We cannot take any steps on receiving an Alarm Signal except as directed by You or specified in the Alarm Monitoring Authorisation form.

d) Any expenses associated with any Emergency Services Request Action provided to You including charges made by the fire service or the police must be paid by You directly to the specific emergency services requested.

e) We will use all reasonable endeavours to notify Your Key Holders specified in Your Instructions Form by telephone and carry out the Alarm Response Instructions requested by You.

f) Where a smoke detector System event signal is received by the Monitoring Station, We will only contact the fire brigade if You have requested such Emergency Service Request Action in Your Instructions Form.

g) The provision of Monitoring Services may involve You incurring telephone charges from Your telephone service provider due to regular test and alarm calls made from Your Security system to the Monitoring Station. You acknowledge that You will be liable to Your service provider for all communication costs incurred.

h) False Alarm Signals: The Customer shall indemnify Obertech for all losses damages costs and expenses suffered or incurred by Obertech in respect of a False Alarm Signal including charges for the Service call, Patrol Service Fees and fees and/or fines imposed by Emergency Services.

i) Obertech is entitled to take action to prevent the system communicating with the Monitoring Station in the event of a failure by the Customer to make payment in accordance with this Agreement, or otherwise may terminate this contract and Obertech shall not be liable for any and all losses or damages suffered or incurred by the Customer as a result of such action. Obertech shall take reasonable steps to try to give You notice of this suspension or termination.

4. RESPONSE SERVICES

a) If You have requested an Alarm Response Service as an Alarm Response Instruction then You acknowledge and agree that:

i) The Alarm Response Officer will visually inspect all reasonably accessible points of entry and reasonably accessible glazed areas, report any observed security breaches to the Key Holder, implement nominated after-hours instructions, and provide an attendance report.

ii) If the Alarm Response Officer holds keys for the Premises, the Alarm Response Officer will also inspect alarmed areas in accordance with Your response instructions, rearm or reset the alarm panel, and if instructed by the Key Holder, arrange to re-secure the Premises by placing an officer at the Premises or shuttering at Your cost. It should be noted that placement of an officer will result in a minimum four (4) hour charge at the standard rates applicable at the time.

iii) The Alarm Response Officer will not apprehend offenders or enter an area of potential risk or in cases where the Alarm Response Officer does not hold keys to the premises will not enter the site and including entry through secured gates or into areas where access cannot be gained, and will not re-arm the alarm system.

b) Each attendance at the Premises will be charged to and payable by the Customer separately to the fees and will be charged at the response service rates applicable at the time.

5. INSTALLATION, SERVICE AND MAINTENANCE OF SECURITY SYSTEM

a) Where We have been commissioned to do so We will carry out the Security System installation, service or maintenance at a time between the hours of 0830 and 1700 hours Monday to Friday except for public holidays ("Normal Working Hours") with all reasonable skill and care and perform the work in a workmanlike and professional manner.

b) Title to, and legal ownership of, any part or parts of the Security System purchased by You will pass to You upon full payment by You for the Security System. If payment is not made within 90 days of the due date, You authorise Us to enter Your premises and do all things necessary to take possession of the part or parts. We are not required to repair or compensate You for any damage caused by removal of the part or parts.

c) You acknowledge and agree that all cutting of ways, excavation, cable trenching, provision of 240v mains power connections, cable installation, alterations to existing equipment, interfacing with fire, heat or detection systems and lifting equipment required to work at heights are not included in the Security System installation, service and/or maintenance unless specified in any written offer We have made to You.

d) We will not be responsible for any disruption of a network, software or equipment caused by the impact of the interface, integration or addition of the Security System either during or after supply of such.

e) You shall make the premises available and in such form as to allow Us to commence and carry out the Security System installation by the date specified in the Quote letter or otherwise agreed by Us. This Agreement is conditional upon Us having free and uninterrupted access to the Premises at all times, and on the Security System being capable of being installed in a continuous sequence. Should We choose to cease or suspend work or leave the Premises due to restricted access and return to the Premises at a later time, the reasonable costs of doing so may be added by Us to the fees. You agree to ensure that the Premises must at all times be a safe working environment and (without limitation) will not contain asbestos or similar hazards.

f) You shall provide adequate facilities at the Premises (including, where required and not otherwise stated, site allowances, parking facilities, premises power, premises lighting, lifting and handling equipment, scaffolding, scissor lifts, elevated work platforms, and rubbish removal skips) at no cost to Us.

g) If it becomes necessary to pay any additional site allowances the cost of these shall be added to the Fees.

h) If We have agreed to carry out the Security System installation service and/or maintenance based on information provided by You in relation to the condition of the Premises and We have quoted on the basis of such advice, any unanticipated problems that might arise on the Premises involving extra work or materials may result in Us increasing the Fee.

i) Minor building works including trenching, backfilling and restoration, provision of penetrations, making good, flashing, chasing, console and joinery work, provision of mounting brackets and foundation plinths are to be performed by others organised and supervised by You and at no cost to Us.

j) If We are delayed in reaching completion of the Security System installation, service and/or maintenance by any target date (if any) agreed between the parties as a result of a delay which is outside our reasonable control then We shall be entitled to a reasonable extension of time to complete the Security System installation, service and/or maintenance.

k) Should We be delayed in carrying out our work by delays caused by acts or omissions of You, Your servants or agents, any contractors or consultants engaged by You or any head contractor or other party to which You have contracted, then We shall be entitled to claim the

reasonable costs of the delay from You, and the amount shall be a debt due and owing to Us.

- l) You may, before completion of the Security System installation, request in writing that we vary the scope of the work involved in the Security System installation which we may, at our sole discretion choose to accept. Such works will be conducted in accordance with Clause 7 "Additional Services".
- m) We may substitute products or equipment offered as part of the Security System with technically equivalent or superior products.
- n) Comprehensive maintenance will be covered in a separate agreement and are normally site specific.
- o) Unless You have notified Us in writing within 90 days of installation, You deem that the system (or part of) has been installed to Your expectations.

6. PPSA, OWNERSHIP AND RISK

- a) Clause 5 (b) above provides for when ownership in the Security System passes to the Customer.
- b) You acknowledge and agree that this Agreement constitutes a Security Agreement and that a security interest is granted by it to Obertech in the Security System and all other equipment and parts supplied by Obertech to You to secure Your obligations to make full payment to Obertech in respect of the Security System and all other equipment and parts supplied by Obertech.
- c) You shall:
 - (i) do all things necessary to ensure that Obertech has and maintains a perfected security interest in the Security System;
 - (ii) supply Obertech with all information required by Obertech to register and maintain a financing statement of the Personal Property Securities Register.
- d) You waive Your rights to receive a verification statement and rights under sections 116, 119, 120(2), 121, 125 to 127 129, 131 and 132 of the Personal Property Securities Act 1999 (PPSA) Sections 114(1) (a), 117 (1), 133 and 134 of the PPSA do not apply to this Agreement, or the security under this Agreement.
- e) Despite any other clause in this Agreement the risk in the Equipment passes from us to You when the Security System is delivered to the Premises.
- f) Until You have paid all money owing to us, We shall have the right at Our option to recover the Security System and upon exercise of that right, You shall deliver up the Security System to us and You grant Us by our employees or duly authorised agents the irrevocable right to enter the Premises for the purpose of collection and removal of the Security System.

7. Additional Services

- a) If You ask us to provide Additional Services and we agree, the terms of this Agreement apply to the Additional Services (defined as additional services or equipment provided by us to you not specifically requested by You at the date of this Agreement but offered by Us as part of Obertech's overall Services) and You must pay for the Additional Services at the rate agreed.
 - i) If We have quoted an amount before providing the Additional Services, the amount quoted will be charged; and
 - ii) If We have not given any quote, an amount calculated for the Additional

Services provided will be charged at Our standard rates for such Additional Services applicable at that time.

GENERAL TERMS

8. CREDIT CHECK AND PRIVACY

- a) If requested by Obertech, You will promptly supply without delay all information necessary to check the worthiness of Your credit rating, including current and up to date financials for commercial Customers, if requested.
- b) If Obertech considers it relevant to assessing this application, You agree to Obertech obtaining from a credit reporting agency a Credit Report containing personal information about You and/or commercial references for commercial Customers.
- c) You acknowledge and understand that any default in payment to Obertech may affect the Customer's credit rating.
- d) Privacy: By entering into this Agreement You authorise Obertech and/or its agents to:
 - (i) obtain all information and data from any person or organisation We consider relevant to assessing Your credit worthiness;
 - (ii) disclose any and all information You have provided to a credit agency;
 - (ii) use the information You have provided for any purpose connected with providing the Services, enforcing its rights under this Agreement and at law, to any potential purchaser of Obertech's business or for Obertech's marketing purposes;
 - (iv) record and store any telephone conversation made with You connected with the provision of the Services.

9. ASSIGNMENT AND SUB-CONTRACTING

- a) Obertech may assign or sub-contract any or all of its rights and/or obligations under this Agreement or novate this agreement. If Obertech wishes to novate this Agreement You are deemed to accept the novation and shall do all things necessary to give effect to that novation. You irrevocably appoint Obertech as Your attorney for this purpose.
- b) You may not in any way assign or otherwise deal with Your interest in this Agreement without obtaining the prior written consent of Obertech (which will not be unreasonably withheld).

10. WARRANTIES

- a) To the extent permitted by law, all conditions, warranties, guarantees and representations that could be implied into this Agreement are expressly negated and excluded. The parties agree that, to the extent that the Services are provided for the purpose of a business, the provisions of the Consumer Guarantees Act 1993 shall not apply.
- b) Without limiting the generality of clause 10a) new parts installed are warranted free from defective manufacturer's workmanship and material for a period of one year from delivery provided that such parts are correctly installed by Us, or our authorised agent and subject to normal use and service.

11. TERMINATION

a) Obertech may terminate this Agreement with immediate effect if:

i) You are in breach of any term of this Agreement and fail to remedy such breach within 14 days of request by Obertech; or

ii) You become insolvent, fail to pay debts as and when they become due, cease to carry on business, or proceedings are commenced to have it wound up, or a receiver or receiver and manager liquidator or any other administrator is appointed to all or any part of Your assets and undertakings; or

iii) Obertech shall following expiry of the minimum term have provided You with at least one months' notice of an intention to do

b) Without limiting any other rights of Obertech, in the event of termination of this Agreement by Obertech pursuant to Clauses 11 a) i) or ii) You shall pay to Obertech immediately upon demand by way of liquidated damages the sum equal to the Fees which would otherwise be payable by You pursuant to this Agreement for the remainder of the Minimum Term, or any shortened period of notice if termination is immediate..

c) If You terminate this Agreement at any time during the Term (other than by reason of breach by Obertech) You shall pay to Obertech immediately upon demand by way of liquidated damages a sum equal to the Fees which would otherwise be payable pursuant to this Agreement for the remainder of the Minimum Term or the notice period of one month if less notice than this is given to Obertech, as the case may be.

d) The provisions of Clauses 12 a), b) and c) and any other clauses intended by their nature to survive termination, shall survive the termination and expiry of this Agreement.

e) After termination of this Agreement You are solely responsible to ensure that the Security System ceases to communicate with the Monitoring Station. Any and all costs required to prevent the Security System from communicating with the Monitoring Station and all communication costs while the Security System is still communicating with the Monitoring Station are Your sole responsibility. You shall promptly and fully indemnify Obertech for any such costs, expenses or charges incurred by Obertech connected with any failure to prevent the Security System from communicating with the Monitoring Station after termination of this Agreement.

12. LIABILITY AND INDEMNITY

a) You shall indemnify and keep indemnified Obertech, its officers, employees, agents and subcontractors (each, an "Indemnified Party") from and against any and all liabilities, claims, damages, losses, costs and expenses ("Liabilities") of whatever nature, howsoever occurring, sustained or incurred by any such Indemnified Party arising from:

i) any breach of this Agreement by You;

ii) any act or omission by You or any employees, agents or contractors in the course of or related to the performance of, or failure to perform, any of Your obligations under this Agreement; or

iii) any fraud, dishonesty, misrepresentation or wilful default by you - and for the avoidance of doubt, Clause 12 a) ii) shall apply,

without limitation, to any claims against any Indemnified Party arising as a result of damage to a third party's property or injury to or death of any person as a result of Your default or negligence in the course of or related to the performance of (including any failure to perform) any of obligations under this Agreement.

b) Obertech shall not be liable to You or any other person in any circumstances whatsoever, whether in respect of claims, losses, damages or expenses or otherwise, whether arising in tort (including negligence or breach of statutory duty), contract or otherwise and including (but not limited to) any personal injury, sickness or death and consequential, indirect or economic damage or loss or loss of profits, anticipated savings, or loss or corruption of data.

c) In any event, should Obertech not be able to exclude liability to You for any reason then Obertech's total liability to You shall be limited to either our supplying the Services again or paying the cost of having the Services supplied again (at Our sole discretion).

d) You acknowledge that:

i) the Fees set by Us under this Agreement are based solely on the value of the Services provided and are not related to the value of your property or the property of others located at the Premises.

ii) We are not an insurer of the Premises, other property or risks and the Services cannot be guaranteed to prevent all or any unauthorised entry, loss or damage at the Premises.

iii) there is no guaranteed or warranted response time to any alarm activation; or other communication.

iv) You will effect and maintain all normal and prudent insurance policies for all usual risks, including fire, burglary, damage and destruction.

e) All costs expenses and charges of debt collection (including debt collection agencies), and legal costs incurred by Obertech enforcing or seeking to enforce any of Obertech's rights or remedies against You are fully and immediately payable by You to Obertech from the date they are incurred by Obertech without Obertech having to make demand on You for payment.

13. FORCE MAJEURE

Obertech shall not be liable to You for any failure or delay in providing the Services or otherwise complying with any obligation imposed on it under this Agreement if:

a) the failure or delay arises directly or indirectly from a cause reasonably beyond Obertech's control, including (without limitation) as a result of legislative requirements, power failure, communications failure or the carrying out of repairs or other maintenance work on the Equipment;

b) Obertech uses commercially reasonable endeavours to:

i) mitigate the effects of the cause on Obertech's obligations under this Agreement; and

ii) perform Obertech's obligations under this Agreement on time despite the cause.

14. NOTICES

a) Any notice or other communication to be given under this Agreement (other than signals sent by the Security System to the Monitoring Station) shall be in writing and addressed to the address of the parties shown in this Agreement or to such other address as a party may notify in writing to the other.

b) Every notice will be deemed to be duly received by or served on the addressee if:

i) delivered in person, when delivered;

ii) sent by post; three days from the date of postage;

iii) sent by facsimile transmission, on successful dispatch of the transmission;

iv) sent by email, at the time and date stamp sent; or

v) changes to information posted on the Obertech website (www.obertech.co.nz) are made, including variations of these Terms, when those changes are made on that website.

15. SPECIAL CONDITIONS

a) Any special conditions contained in any of the Schedules to this Agreement shall form part of this Agreement. In the event of any inconsistency between any of the special conditions and any other term of these terms and conditions, the special condition shall prevail.

16. NOTICE OF CHANGES AND ACCEPTANCE

a) We may amend these terms by changing or removing existing terms or by adding new ones, giving You fourteen (14) days' notice before any changes take effect. We will make reasonable efforts to notify You of any changes by:

i) displaying the changes on our website; or

ii) post (detailing the changes); or

iii) emailing to Your last known email address.

b) If We change any terms, Your continued use of the services concerned indicates acceptance of the changes.

17. MISCELLANEOUS

a) No waiver by Obertech of any default or breach nor the non-acceptance by Obertech of any repudiation of this Agreement by You shall affect the rights of Obertech in respect of any further or continuing default or breach or any subsequent repudiation You. No forbearance, delay or indulgence by Obertech in enforcing its rights under this Agreement will prejudice or restrict the future enforcement of those rights.

b) All terms of this Agreement which limit or exclude our liability are also for the benefit of, and are intended to be enforceable by each of our employees, agents, contractors and subcontractors and the provisions of the Contracts (Privacy) Act 1982 will apply.

c) This Agreement shall be binding on the parties' successors and permitted assigns.

d) In the event that any provision (or part thereof) contained in this Agreement is or becomes illegal, invalid or unenforceable for any reason, then such provision (or part thereof) shall be deemed to be severed from this Agreement without affecting the validity of the remainder of this Agreement or the enforceability, legality, validity or application of the remaining provisions of this Agreement.

- e) Where more than one person constitutes the Customer under this Agreement, the liability of each person shall be joint and several.
- f) This Agreement records the entire agreement and understanding between the parties and contains all of the representations, undertakings, warranties, covenants and agreements of the parties.
- g) This Agreement shall be governed by and construed in accordance with the laws of New Zealand.
- h) In this Agreement:
 - i) the singular includes the plural and vice versa;
 - ii) any gender includes any other gender;
 - iii) including and similar words do not imply limitation;
 - iv) a reference to a person includes a corporation or any other legal entity, and vice versa;
 - v) headings are for convenience of reference only and do not affect interpretation.
- i) You shall provide to Obertech all data specified by Obertech as necessary to allow Obertech to contact You at any time. If, during the Term of this Agreement, any of the data provided by You changes, You must immediately inform Obertech of those changes.
- j) Time is of the essence in respect of all of Your obligations under this Agreement.

DEFINITIONS

“Agreement” means these terms and conditions, together with the Schedules to these terms and conditions.

“Alarm Action” means the response that Obertech Security is to undertake in response to an Alarm Signal.

“Alarm Response Instruction” means the response type and action instructions as agreed in writing with Obertech in response to a System Event.

“Alarm Response Officer” means an officer that attends as part of an Alarm Response Service nominated by You in the Alarm Monitoring Authorisation Form.

“Alarm Response Services” means an option chosen by You in the offer which requires attendance at Your premises by our alarm response staff as soon as reasonably practicable during alarm response hours, depending on the location and availability of alarm response staff and which may include entry to Your premises if keys are held by Us.

“Alarm Signals” are signals transmitted from the Customer’s Alarm System to the Monitoring Station when the Customer’s Alarm System is activated or generally communicates with the Monitoring Station.

“Carrier” means each and any of the telecommunications carriers that provide services necessary for the provision of services by Obertech.

“Monitoring Station” means Obertech’s monitoring facility where Alarm Signals are received.

“Alarm Monitoring Authorisation Form” is that form which specifies connection, contract and response instruction and constitutes part of this Agreement.

“Contact” means a person or persons named by the Customer in the Monitoring Alarm Monitoring Authorisation Form.

“Customer” “You” means the person(s), company or organisation noted in this Agreement as the “Customer”.

“Duress/Panic” means an Alarm Activated that indicates the activation is done under duress or imminent danger.

“Emergency Services Request Action” means where fire, police, ambulance, or other services are requested or are part of the response plan requested by the client which may not be part of the current Alarm Action Plan.

“False Alarm Signal” means a signal sent from the Equipment to the Monitoring Station that is generated as a result of the Customer’s intentional, accidental or negligent activation of the Alarm Signal (including any signal generated as a result of the Customer’s layout of furniture, other chattels or fixtures within the Protected Premises), or as a result of a fault in the Equipment that is not required to be rectified by Obertech pursuant to this Agreement or under any New Zealand legislation, or as a result of any other act or omission of the Customer or occupant or guest within the Protected Premises.

“Fees” means the fees payable for the services or as a result of Emergency Services specified or referred to in this agreement and as may be varied in accordance with Clause 2.

“GST” means goods and services tax payable in accordance with the Goods and Services Tax Act 1985.

“Instructions Form” means specific written response instructions to each event.

“Monitoring Plan” means the monitoring service option selected by You.

“Monitoring Services” means the continuous twenty-four (24) hours per day, seven (7) days per week monitoring of Alarm Signals which transmit successfully to the Monitoring Station and upon receipt of Alarm Signals, initiation of the Alarm Action and such other services agreed by Obertech to be provided to You.

“Premises” means those premises described in the Quote Letter and in the Alarm Monitoring Authorisation Form.

“Priority Contact” means the Contact first listed in the data held by Obertech.

“Security System” means equipment, material and scope of work carried out or applicable.

“Services” means the supply of goods or services provided by Obertech under this Agreement.

“Term” means the , period of time applicable from the Commencement Date for each Premises as listed, until this Agreement is terminated in accordance with these terms and conditions.

“Us” “We” “Our” “Obertech” means Obertech Group Ltd and Obertech Group (New Plymouth) Ltd.