

CARE CAMERA LIMITED

Terms and Conditions

1. INTERPRETATION

- 1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions (**Conditions**).

Equipment: any equipment, systems, cabling or facilities provided by the Supplier and used directly or indirectly in the supply of the Services.

Initial Term: the initial minimum period of this agreement as specified in the Schedule.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Location: the premises at which the equipment is installed.

Licensed User: the Customer and such persons as are authorized by the Customer to have access to the Services.

Resident/Property: the person/property who/which the Customer wishes to monitor.

Services: the services to be provided by the Supplier under this agreement as set out in the Schedule.

Schedule: the schedule attached to the front of these Terms and Conditions.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

The Website: URL www.carecamera.net being the site owned by the Supplier and to which the Customer will be given access to monitor the Resident/Property.

- 1.2 Headings shall not affect the interpretation of this Agreement.

- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.

1.4 The Schedule forms part of this agreement and shall have effect as if set out in full in the body of these Terms and Conditions and any reference to this Agreement includes the Schedule.

1.5 Words in the singular shall include the plural and vice versa.

1.6 Any obligation in this agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

2. COMMENCEMENT AND DURATION

2.1 The Services supplied under this agreement shall be provided by the Supplier to the Customer from the date of installation of the Equipment.

2.2 This agreement shall continue for a minimum initial period of 12 months and, after that, shall continue unless terminated by one of the parties giving to the other not less than one month's notice.

3. SUPPLIER'S OBLIGATIONS

3.1 The Supplier shall use reasonable endeavours to provide the Services and ensure that all Supplier's Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services

4. CUSTOMER'S OBLIGATIONS

4.1 The Customer shall:

- (a) co-operate with the Supplier in all matters relating to the Services;
- (b) provide, for the Supplier, its agents, sub-contractors and employees, in a timely manner and at no charge, access to the Location as requested by the Supplier on reasonable notice in order to remove and/or replace the Equipment;
- (c) inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Location;
- (d) procure that all notices supplied by the Supplier are displayed prominently at the Location as directed by the Supplier;
- (e) comply with all data protection legislation (including registering under the Data Protection Act) and codes of practice in connection with the use of the Services; and

- (f) be liable for any damage to the Equipment while it is at the Location. The Customer may wish to check whether the Equipment is covered under the Resident's household insurance.

4.2 If the Supplier's performance of its obligations under this agreement is prevented or delayed by any act or omission of the Customer, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer arising directly or indirectly from such prevention or delay.

5. ACCESS TO SERVICES

5.1 The Services may be accessed and used solely by Licensed Users. It is the Customer's responsibility to ensure that any passwords are kept secret.

5.2 The Website with live video from installed camera(s) will be provided online 24/7. This may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic telecommunications, which are outside the control of the Supplier. The Supplier is not responsible for any delays, delivery failures, or other damage resulting from such problems.

5.3 The Services may be interrupted from time to time for the purposes of development and maintenance work by the Supplier's third party suppliers. While the Supplier will endeavour to provide the Customer with notice of interruptions to the Service it cannot guarantee to do so.

5.4 The Supplier will provide a Broadband connection and a Router at the Location to upload data to the Website. To access the Website, the Customer must obtain and pay any fees for access to the World Wide Web and provide all equipment necessary to make such connection, including a computer and modem or other access device. Although the Services are generally accessible worldwide, access may not be available to all persons or in all locations. The Supplier reserves the right to limit access to the Services by any Licensed User, or from any location.

6. CHARGES AND PAYMENT

6.1 The price for the Services shall be the amount set out in the Schedule. The Supplier shall invoice the Customer for the charges payable, together with VAT, where appropriate on commencement of this Agreement and at the beginning of each month after the first year. The charges shall be payable as set out in the Schedule.

6.2 The charges payable for the Initial Term shall be non-refundable in any event.

- 6.3 After the Initial Term fees will be payable to the Supplier pro rata on a monthly basis in advance by Direct Debit. The Supplier will contact the Customer prior to the end of the Initial Term to confirm that the Customer wishes to continue with the Services and to set up the Direct Debit.
- 6.4 Without prejudice to any other right or remedy that it may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:
- (a) charge interest on such sum from the due date for payment at the annual rate of 3% above the base lending rate from time to time of Santander, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment; and
 - (b) suspend all Services until payment has been made in full.
- 6.5 Time for payment shall be of the essence of this agreement.
- 6.6 All sums payable to the Supplier under this agreement shall become due immediately on its termination, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under this agreement.

7. CONFIDENTIALITY

- 7.1 The parties agree to keep all information relating to the Services which are of a confidential nature ("Confidential Information") confidential and will not except with the other party's prior written consent use or disclose such Confidential Information except for the purpose of fulfilling their obligations under this Agreement. The Confidential Information shall only be disclosed to each party's employees, agents or sub-contractors and professional advisers on a need to know basis and the parties shall procure that each party to whom such Confidential Information is disclosed in accordance with this Agreement are subject to obligations of confidentiality corresponding to those set out in this Agreement.
- 7.2 This condition 7 shall survive termination of this agreement, however arising.

8. SUPPLIER'S PROPERTY

- 8.1 All materials and Equipment supplied by the Supplier to the Customer shall, at all times, be and remain as between the Supplier and the Customer the exclusive property of the Supplier, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to the Supplier, and shall not be disposed of or used other than in accordance with the Supplier's written instructions or authorisation.

9. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION

9.1 This condition sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer and the Resident in respect of:

- (a) any breach of this agreement;
- (b) any use made by the Customer of the Services or any part of them; and
- (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this agreement.

9.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this agreement.

9.3 Nothing in these Conditions limits or excludes the liability of the Supplier:

- (a) for death or personal injury resulting from negligence; or
- (b) for any damage or liability incurred by the Supplier as a result of fraud or fraudulent misrepresentation by the Supplier.

9.4 Subject to condition 9.2 and condition 9.3

- (a) the Supplier shall not be liable for any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- (b) the Supplier's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this agreement shall be limited to the price paid for the Services during the immediately preceding 12 months.
- (c) For the avoidance of doubt the Supplier shall not be liable for how the Customer uses any data supplied as part of the Services or the quality of the Supplier's decision making based on such data.

10. BACK UP

10.1 If the Customer has subscribed to the log service giving access to the immediately preceding 3 days recordings, the Supplier will regularly back up data stored on behalf of the Customer in accordance with good computing practice. However, the Supplier will have no liability for any failure to back up or restore such data, or for interruptions, delay or suspension of access to or unavailability of such data, or any loss of such data.

11. DATA PROTECTION

The Resident acknowledges and agrees that personal data may be processed by and on behalf of the Customer and the Supplier in connection with the Services. The Customer and the Supplier each warrant that they will at all times comply with any provisions and requirements of applicable personal data and privacy legislation and shall only use the Resident's data for the purposes of proper fulfilment of the Services.

12. TERMINATION

12.1 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this agreement without liability to the other immediately on giving notice to the other if:

- (a) the other party commits a material breach of any of the terms of this agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or
- (c) the other party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

12.2 On termination of this agreement for any reason:

- (a) the Customer shall, immediately return all of the Supplier's Equipment. If the Customer fails to do so, then the Supplier may enter the Location and take possession of them. Until they have been returned or repossessed, the Customer shall be solely responsible for their safe keeping; and
- (b) the accrued rights of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.

13. FORCE MAJEURE

The Supplier shall have no liability to the Customer under this agreement if it is prevented from or delayed in performing its obligations under this agreement or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.

14. VARIATION

No variation of this agreement or these Conditions shall be valid unless it is in writing and signed by or on behalf of each of the parties.

15. WAIVER

15.1 A waiver of any right under this agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given. Unless specifically provided otherwise, rights arising under this agreement are cumulative and do not exclude rights provided by law.

16. SEVERANCE

16.1 If any provision (or part of a provision) of this agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

16.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

17. STATUS OF PRE-CONTRACTUAL STATEMENTS

Each of the parties acknowledges and agrees that, in entering into this agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to these terms and conditions or not) relating to the subject matter of this agreement, other than as expressly set out in this agreement.

18. ASSIGNMENT

18.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

18.2 The Supplier may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this agreement.

19. RIGHTS OF THIRD PARTIES

This agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else.

20. NOTICES

Notice given under this agreement shall be in writing, sent for the attention of the person, and to the address or fax number, given in this agreement (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting and, if deemed receipt under this condition is not within business hours (meaning 9.00 am to 5.30 pm Monday to Friday on a day that is a business day), at 9.00 am on the first business day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

21. GOVERNING LAW AND JURISDICTION

21.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.

21.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter.

This agreement has been entered into on the date stated at the beginning of it.

Signed by [NAME]
for and on behalf of
CARE CAMERA LIMITED

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Director

Signed by [NAME]
CUSTOMER

.....

Signed by [NAME]
RESIDENT

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