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**STANDARD TERMS OF SALE**  
SPECTUR PTY LTD (ACN 140 151 579)

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**1. APPLICATION OF TERMS**

**1.1 Application of Terms**

- (a) These Standard Terms of Sale (**Terms**) apply to and govern the purchase and supply of Products and Support Services as between Spectur and the Customer under a Contract.

**1.2 Contract**

- (a) Any order, purchase order, request or other instructions received by Spectur from the Customer for the supply of Products or Support Services (**Request Form**) is only a document setting out the required information to enable Spectur to prepare a Works Documents. The Request Form does not form part of the Contract.
- (b) Upon receipt of the Request Form, Spectur may decline to prepare a Work Document if, in its opinion acting reasonably, Spectur will not be able to deliver the Products and/or Support Services due to technical, safety, logistical or other related matters.
- (c) In the event Spectur is able to provide the Products and/or Support Services to the Customer, Spectur will issue to the Customer a Work Document.
- (d) Acceptance of the Work Document, whether in writing, by payment of invoice or by acceptance of delivery of Products or Support Services (whichever occurs earlier) is an acceptance of these Terms and an agreement is made which will comprise of the following documents:
- (i) The Work Document; and
  - (ii) These Terms; and
  - (iii) The End User Licence Agreement.
- (e) Where there is more than one Customer, those Customers are jointly and severally liable for all money payable under the Contract.
- (f) The Customer may not cancel or alter, in whole or in part, any order, request or other instructions provided to Spectur without Spectur's prior written consent.
- (g) Except to the extent expressly provided in these Terms, the Contract may not be amended or varied except in writing signed by both parties.
- (h) The Customer accepts that these Terms are the sole basis of the sale of Products and Support Services to the exclusion of any conditions of purchase appearing on any document of the Customer whether issued by the Customer before or after the date of the Work Document (including but not limited to those printed on the Request Form). If the Customer provides terms and conditions in respect of the Products and/or Support Services, those terms and conditions will have no legal effect and will not comprise any part of the agreement between the Customer and Spectur in respect of the Products and/or Support Services.

**1.3 Variation to Works Document by Customer**

- (a) Any changes by the Customer to the Work Document (including Products, and Support Services, addresses, for installation or delivery) must be communicated to Spectur 30 days prior to the estimated date of installation date or proposed delivery date.
- (b) Upon receipt of the Customer's request for changes, Spectur will issue an updated Work Document to the Customer setting out any changes to the price, Products and/or Support Services as well as any changes to the

estimated date of installation date or proposed delivery date which Spectur is offering to provide the Customer. The Customer is deemed to have accepted the updated Work Document unless the Customer rejects the updated Work Document expressly in writing within 5 days of receipt.

**1.4 Changes to Terms by Spectur**

- (a) Spectur may modify, supplement, or replace these Terms at any time, effective prospectively upon posting on its website and notifying customers by email. When changes to these Terms are posted, Spectur will revise the "Last Updated" date at the bottom of these Terms. If the changes result in a material adverse effect on the Customer, the Customer may within 30 days of receipt of notice from Spectur of the change issue a 30 days notice to terminate the Contract and must immediately stop using Spectur Products or Support Services. The continued use of the Products and Support Services shall constitute an acceptance of and agreement to the revised Terms.

**2. DESCRIPTION OF PRODUCTS AND SUPPORT SERVICES**

- 2.1 The Products or Support Services (as applicable) are as described in the relevant Work Document. Spectur may make such alterations to the specifications, design or construction of the Products or Support Services (as applicable) as it deems fit, provided that the alterations do not have any material adverse effect.

**3. DELIVERY OF PRODUCTS AND PERFORMANCE OF SUPPORT SERVICES**

- 3.1 Unless the Work Document states otherwise Spectur will deliver and install the Products to the locations set out in the Work Document in accordance with clause 6.
- 3.2 Prior to delivery and installation (where applicable) of the Products, Spectur will issue to the Customer a pre-install information document to the Customer together with the Invoice.
- 3.3 Where the Work Document provides that the Customer is responsible for installation of the Products:
- (a) Spectur will deliver the Products on a 'ex works' basis to the Customer or to a carrier or freight forwarder nominated by the Customer. The Customer must make all arrangements necessary to take delivery of the Products whenever they are tendered for delivery.
  - (b) Spectur will use reasonable endeavours to deliver Products or complete Support Services by the delivery date/completion date specified in the Work Document, or if a delivery date/completion date is not specified, as soon as practicable. Failure of Spectur to deliver the Products by a deliver date or complete the Support Services by the completion date in the Work Document does not entitle the Customer or Spectur to treat the Contract as repudiated.
  - (c) Delivery of the Products to a carrier or freight forwarder nominated by the Customer is deemed to be delivery of the Products to the Customer.
  - (d) All Products are deemed accepted by the Customer if the Customer does not notify Spectur to the contrary within 7 days of those Products being delivered.
  - (e) The Customer is responsible for installing the Products in accordance with the setup and install instructions

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- provided with the Product or which are available on the Spectur's website.
- (f) The Customer accepts that Spectur is not liable for any damage or defects in the Products or Support Services which are caused by or arise as a result of or is in connection with the installation conducted by the Customer.
- 3.4 Spectur is not liable in relation to loss or damage to Products in transit from Spectur's premises or otherwise in relation to the transportation of Products, except where the transportation is provided as part of installation or relocation Support Services.
- 3.5 Spectur will use reasonable endeavours to deliver the Products by the relevant date specified in the Work Document, or if a date is not specified, as soon as practicable. Failure of Spectur to deliver the Products and/or Support Services by a particular date in the Work Document does not entitle the Customer or Spectur to treat the Contract as repudiated.
- 4. RISK AND TITLE**
- 4.1 Unless otherwise stated in a Work Document, all risk for the Products passes to the Customer on delivery of those Products under clause 3 or, if the Products are delivered to the Customer (or an agent or contractor of the Customer) at an earlier point, at that earlier point.
- 4.2 Title in Products will not pass until the Customer has paid all amounts owing for the particular Products.
- 5. USE OF PRODUCTS**
- 5.1 The Customer must only handle, store, use and operate (as applicable) the Products:
- (a) in accordance with all applicable laws;
- (b) in accordance with instructions provided with the Products (if any) and otherwise recognised methods, industry guidelines and/or standards for goods of the same or substantially similar type (if any); and
- (c) if applicable, only by competent and (where appropriate) properly qualified, trained and licensed personnel.
- 5.2 Without limiting clause 5.1, the Customer must comply in all respects with the instructions and recommendations of the manufacturer or other supplier relating to the Products and to their use, in particular where any failure in compliance would limit the obligations of that person to Spectur or the Customer under any statute, agreement or otherwise.
- 6. INSTALLATION**
- 6.1 If specified in the Work Document, Spectur may install a Product (**Installation**) at the location specified in the Work Document (**Location**).
- 6.2 The cost of performing an Installation will be specified in the Work Documentation and is in addition to the Product Price.
- 6.3 The Customer is responsible for:
- (a) ensuring that the selected ground position at the Installation Location is free of any electrical cables, pipes, reticulation devices, other structures or any utility infrastructure; and
- (b) ensuring that the Customer has all permits, licenses and authorisations necessary to conduct the Installation at the Installation Location; and
- (c) ensuring that the Installation Location is freely accessible to Spectur personnel.
- 6.4 Additional charges will be levied to the Customer if their failure to provide adequate information results in additional costs / delays to Spectur.
- 7. DEFECTS**
- 7.1 The Customer must notify Spectur of any Products (other than materials used in Spectur's Products and other consumables) or Support Services that the Customer reasonably considers to be defective in any material respect, by giving written notice to Spectur to that effect (**Defect Notice**). The Customer must afford Spectur an opportunity to inspect all alleged defective Products or Support Services as soon as practicable following the issue of a Defect Notice.
- 7.2 Subject to clause 7.3, if Spectur, acting reasonably, determines that Products or Support Services are defective in any material respect, Spectur's liability is limited to (at Spectur's discretion):
- (a) for Products – either replacing the Products or repairing the Products, provided that:
- (i) the Customer has provided the Defect Notice within:
- A. 12 months; or
- B. Where if it indicated in the Work Document that the Customer has taken up an extended warranty in respect of specific Products, then in respect of those specified products, for the period of time in which the extended warranty is valid.
- (ii) the Products are returned to Spectur within 14 days of request by Spectur in the condition in which they were delivered and with all packaging material, brochures and instruction material in as new condition as is reasonably possible in the circumstances; and
- (b) for Support Services – re-perform or otherwise remedy the Support Services, provided that the Customer has complied with clause 7.1.
- 7.3 Spectur's obligation to take the actions in clause 7.2 is conditional upon the following:
- (a) Spectur is not liable to the extent that any damage or defect is caused, directly or indirectly, by any act or omission on the part of the Customer, nor in relation to Products which have not been transported, stored or used in accordance with any instructions by Spectur and otherwise with reasonable care and skill;
- (b) defects or damage which are caused or relate to any of the following are excluded:
- (i) failure on the part of the Customer to properly maintain any Products or to follow any instructions or directions provided by Spectur;
- (ii) If Products were installed by Customer, failure on the part of the Customer to install the Products in accordance with instructions

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provided by Spectur or which the Customer ought reasonably have known;

- (iii) use of Products other than in accordance with Spectur's instructions or directions, or their ordinary intended use;
- (iv) continued use of Products after any defect becomes apparent or would have become apparent to a reasonably prudent operator or user; or
- (v) fair wear and tear, an accident, or Force Majeure Event;

- (c) To the extent permitted by law, Spectur will not be liable in respect of Product repairs or alterations by an unauthorised third party without Spectur's consent.

7.4 Spectur's obligations under clauses 7.1 and 7.2 are limited to the original Customer and will not extend to any subsequent purchaser or owner of Products or Support Services.

7.5 For Products not manufactured by Spectur, to the extent permitted by law, the only warranty will be the current warranty provided by the manufacturer/supplier of those Products or Support Services (if any). Spectur is not under any liability whatsoever, except to the extent of any express conditions detailed and stipulated in the third-party manufacturer's/supplier's warranty agreed to by Spectur. The Customer may be liable for additional charges by Spectur in relation to repairs for such Products or Support Services.

## 8. SUPPORT SERVICES

### 8.1 Provision of Support Services

- (a) Spectur will provide the Customer with the Support Services on a month-to-month basis for the term as set out in the Work Document that:
  - (i) the Customer will require the Interface Licence to operate a Spectur System;
  - (ii) Data Plans are provided at a limit specified in the Works Documents / Customer Contract.
  - (iii) Data Plans are provided by a third-party telecommunications provider and Spectur does not guarantee the network connectivity of any such telecommunication providers and will not be liable for any act or omission on the part of a telecommunication providers; and
- (b) Customers exceeding their maximum monthly data limit will progressively receive "shaped" performance, including removal of the LiveView function.
- (c) Customer may request to provide their own data plans / SIM cards which will allow unlimited scheduling and LiveView at the customers cost, which can be provided with 30 days written notice to Spectur.
- (d) Spectur may, but is not obliged to, store, hold or archive footage and data collected by Spectur in relation to the Spectur User Interface (**Data**) at its discretion. Spectur may permanently delete any archived Data at any time and at its sole discretion. Spectur does not guarantee that any Data will be stored, held or archived such that a Customer may access it. Spectur may charge the Customer a fee equal to Spectur's costs of retrieving or providing any

Data to the Customer. The Customer may download and/or archive any data it retrieves.

### 8.2 Spectur User Interface

- (a) For the purposes of the Support Services, Spectur grants to the Customer a non-exclusive and non-transferrable licence for the period during which the Support Services are provided to the Customer, to access and use the Spectur User Interface (**UI Licence**). The UI Licence is granted subject to the Customer accepting and complying with the End User Licence Agreement of the Spectur User Interface (being the version as at the date the Customer first accesses the Spectur User Interface) which is available to the Customer on request and otherwise on Spectur's website, [www.spectur.com.au](http://www.spectur.com.au) (**End User Licence Agreement**).
- (b) By entering into this Contract or by otherwise accessing and using the Spectur User Interface, the Customer acknowledges and agrees that it has read and agrees to be bound by the terms of the End User Licence Agreement which apply to use of the UI Licence.

### 8.3 Termination of Support Services

- (a) The Customer may cancel its request for the Support Services by giving Spectur a minimum of 30 days' written notice to that effect or paying to Spectur a full month's Support Fee in lieu of notice.
- (b) Spectur may cease to provide the Support Services on 7 days' prior written notice if any of the events in clause 19.3 occur, or otherwise without cause by giving the Customer 30 days' written notice to that effect.

## 9. INVOICING AND PAYMENT

### 9.1 Price

- (a) The Product Price for Products and the Support Fee for Support Services (each being a **Price**) is Spectur's publicly advertised list price for those Products or Support Services at the date that they are delivered or otherwise supplied, unless indicated otherwise in the Work Document for the Products or Support Services.
- (b) Spectur may charge the Customer for any variation to scheduled works or specifications in relation to the Products or Support Services.
- (c) Unless expressly stated in a Work Document, the Price excludes all transport/freight costs, storage costs, installation costs, security costs, insurance, customs and import duties and other out-of-pocket expenses. Spectur may charge the Customer an additional amount for any such items or expenses, if applicable.
- (d) Spectur may adjust the Support Fee at the end of each anniversary of the Contract or on such other date for a review as specified in the Work Document (**Review Date**). The adjusted Support Fee has effect as and from the relevant Review Date.

### 9.2 Payment

- (a) Time is of the essence in relation to payment of the Price.

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- (b) Spectur will invoice the Customer for the Products prior to installation and Support Services for the month in advance of their supply.
- (c) The Customer must pay the invoiced amounts within the number of days specified on the invoice in cleared funds and without set-off, counterclaim or deduction and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges (including intermediary bank charges), fees and withholdings of any nature.
- (d) The Customer is required to pay in full the Price for Products or Support Services prior to their delivery. The Payment must be made (subject to clause 9.2(f)) to Spectur within 5 business days prior to the scheduled delivery date of the Products and, in relation to Support Services, the Support Fee is to be paid 5 business days in advance of the monthly Support Service being provided by Spectur to the Customer.
- (e) Payment must be made from the Customer to Spectur by electronic funds transfer or, at Spectur's discretion, by credit card, direct debit or any other requested method of payment.
- (f) Any Payment amount must also be paid within 5 Business Days of Spectur making a request for the same and is not refundable after Spectur has commenced work and incurred costs in relation to the supply of the Products or Support Services to which the amount pertains. Spectur is not under any obligation to commence or continue work in relation to the supply of Products or Support Service unless a payment requested under this clause has been received.
- (g) In certain circumstances Customers may be extended credit terms. Customers seeking credit may apply via an application for credit provided to Spectur in the specified manner. If credit terms are extended to the Customer, they will be notified in writing and the Customer will be advised of the relevant payment terms for the Products and Support Services. Failure of the customer to adhere to the extended credit terms may result in them being withdrawn.

**10. STATUTORY WARRANTIES**

- 10.1 Any term, condition, guarantee or warranty which would otherwise be implied into the Contract is excluded to the maximum extent permitted by law. Nothing in the Contract is intended to, or will, have the effect of contracting out of any applicable provisions of the *Competition and Consumer Act 2010* (Cth) or *Fair Trading Act 2010* (WA) (or equivalent legislation in any other applicable jurisdiction), except to the extent permitted by those Acts.
- 10.2 The liability of Spectur for any breach of any mandatory term, condition, guarantee or warranty implied into the Contract by statute is, to the extent permitted by law, limited at the option of Spectur, to any one or more of the following:
  - (a) if the breach relates to the supply of goods: the replacement value of the goods or the supply of equivalent goods, or payment for the same; or the repair of such goods, or payment for the same; and
  - (b) if the breach relates to the provision of Support Services, the value the customer paid for the supplying of the services or their supply again.

**11. DISCLAIMERS**

- 11.1 The Customer acknowledges and agrees that:
  - (a) the Products and Support Services are only intended to reduce the risk of loss of and damage to property and entry to persons in, on, or near the premises in which the Products are installed, to the extent that is reasonably practicable by use of such Products;
  - (b) Spectur does not make any warranty, representation or other stipulation about the effectiveness or otherwise of the Products and Support Services and associated security systems in relation to the apprehension, identification or curtailment of illegal or unwanted activities by persons not permitted to be on any particular premises at the time an event or events are recorded;
  - (c) Spectur will not be liable for any one of more of the following incurred or suffered by the Customer, whether arising under statute, common law or equity, from or related in any way to the Contract or its subject matter:
    - (i) any loss of profit, loss of revenue, loss of product, loss of expected savings, loss of income, rent or holding costs, loss of expected production, opportunity costs, loss of business (including loss or reduction of goodwill or opportunity); and damage to reputation, whether actual, direct, indirect, anticipated or otherwise;
    - (ii) any loss or damage to a property or person due to the failure of a Product to activate; and
    - (iii) any indirect or consequential loss which is not covered by clause 11.1(c)(i);regardless of whether the loss was within the contemplation of the parties at the time of entering into this Contract or not;
  - (d) if an unauthorised access or other security breach event is detected by Spectur Systems, Spectur's UI will attempt to contact and send images to designated representatives of the Customer, but Spectur cannot guarantee that those persons will be contacted or will ultimately receive the images; and
  - (e) Spectur will not make any recommendation in relation to security personnel, repair personnel or associated business in the event that the Customer's premises are damaged as a result of illegal or other unlawful activity, unless specifically contracted to do so by the Customer, and in any event, Spectur will not be liable for any third party or its personnel.
- 11.2 Subject to any express provisions of the Contract and to the extent permitted by law, the Customer acknowledges that the Customer relies solely upon the Customer's own skill and judgment in ordering Products or Support Services, and that Spectur is not bound by nor responsible for any term, condition, representation or warranty other than those expressly stated in the Contract, each of which is personal to the Customer and not capable of assignment to any subsequent purchaser or owner of the Products or Support Services.
- 11.3 The Customer acknowledges that (except as provided by law) Spectur's suppliers are expressly excluded from all liability to the Customer in relation to any Products or Support Services provided by Spectur to the Customer, or any delay or any failure to provide the Services to the Customer.

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**12. SURVEILLANCE LAWS**

12.1 The Customer acknowledges and agrees that the Products and Support Services, and their use, may be subject to surveillance device legislation and associated laws (**Surveillance Laws**), including the *Surveillance Devices Act 1998* (WA) or equivalent laws in other jurisdictions. The Customer is responsible for identifying applicable Surveillance Laws and procedures for its compliance with those laws, and Spectur does not provide any advice to the Customer in relation to the legal or regulatory requirements (including Surveillance Laws) applicable to any Products and Support Services or their use.

12.2 The Customer must comply at all times with applicable Surveillance Laws in relation to the Products and Support Services, and their use by the Customer (or any third party on behalf of the Customer). The Customer indemnifies Spectur from and against any claims or liability incurred by Spectur in relation to any failure by the Customer (or any of the Customer's officers, employees, agents or contractors) to do so.

**13. PRIVACY**

The Customer agrees that personal information (as that term is defined in the *Privacy Act 1988* (Cth)) provided may be used and retained by Spectur in accordance with Spectur's privacy policy set out at <https://spectur.com.au/privacy-policy/> and may be used for: provision of Support Services and Products; marketing of Support Services and Products by Spectur; analysing, verifying and checking the Customer's credit, payment and status in relation to provision of Support Services and Products; processing of any payment instructions, direct debit facilities or credit facilities requested by the Customer; or enabling the daily operation of the Customer's account and the collection of amounts outstanding in the Customer's account in relation to the Support Services and Products.

**14. PROTECTION OF TECHNOLOGY**

14.1 All Intellectual Property Rights of Spectur (or licensed to Spectur by a third party), including in relation to its Products or Support Services, remain vested in Spectur. All Intellectual Property Rights created, discovered, developed, derived or that otherwise come into existence in relation to performance of a contract between the Customer and Spectur or otherwise in relation to the supply of the Products or Support Services, vest in Spectur upon creation.

14.2 The Customer must not use or exploit any Intellectual Property Rights of Spectur other than as expressly permitted by Spectur in writing. The Customer must not (nor permit, allow or cause any third party to) copy, reproduce, reverse engineer or duplicate any Products or other products of Spectur. The Customer indemnifies Spectur in relation to any breach of this clause 14.2 by the Customer.

14.3 In relation to this clause 14, Spectur acts in its own right and as agent for and on behalf of each of its Related Bodies Corporate, and it may enforce this clause 14 on behalf of and for the benefit of each of Spectur's Related Bodies Corporate.

14.4 This clause 14 survives the termination of any contract between the Customer and Spectur.

**15. CONFIDENTIALITY**

15.1 Subject to clause 15.2, the Customer must at all times:

(a) hold in strict confidence all Confidential Information and not disclose nor permit or cause the Confidential Information to be disclosed to any person, other than

any of the Customer's employees who require that Confidential Information for the purposes of ordering, receiving and applying (for their ordinary use) the Products and Support Services (**Approved Purpose**);

(b) not make use of the Confidential Information (including duplicating, reproducing, distributing, disseminating or directly or indirectly deriving information from that Confidential Information) except and solely to the extent necessary for the Approved Purpose; and

(c) ensure that any permitted person to whom the Customer passes any of the Confidential Information (unless disclosed under 15.2(b)) acknowledges and complies with the confidentiality obligations under this clause 15 as if that person were the Customer.

15.2 The obligations in clause 15.1 do not apply to the Customer to the extent that:

(a) Spectur has provided its prior written consent to the use or disclosure of the Confidential Information in a manner that would, but for the consent, be contrary to clause 15.1;

(b) disclosure of the relevant Confidential Information is required to comply with any law or order of a court, arbitrator or government body; and

(c) disclosure of the relevant Confidential Information made to any legal counsel, accountant, insurance advisor, bank or other professional adviser in relation to the Customer's affairs provided that the professional adviser is bound by an obligation or confidentiality regarding the information disclosed.

15.3 The Customer agrees that damages may not be an adequate remedy for breach of this clause 15 and that Spectur will be entitled to equitable relief, including temporary and permanent injunctive relief.

15.4 The obligations under this clause 15 survive the termination of any contract between the Customer and Spectur.

**16. SECURITY INTERESTS**

16.1 Possession of Products is transferred to the Customer by Spectur on the basis that Spectur retains a purchase money security interest pursuant to the *Personal Property Securities Act 2009* (Cth) (**PPSA**) or any equivalent legislation in another applicable jurisdiction in the Products, proceeds of the Products and any other goods with which the Products are commingled.

16.2 The Customer:

(a) must promptly do anything Spectur requires to ensure that any security interest arising under the Contract is a perfected security interest and has priority over all other security interests;

(b) undertakes not to register a financing change statement or make an amendment demand pursuant to section 178 of the PPSA in respect of such registration;

(c) agrees that the following provisions of the PPSA will not apply and the Customer will not have any rights under them: section 95 (to the extent that it requires the secured party to give notices to the grantor); section 121(4); section 125; sections 129(2) and (3); section 132; section 142; and section 143;

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- (d) agrees to keep all information of the kind mentioned in section 275(1) of the PPSA confidential and will not authorise the disclosure of such information except in accordance with section 275(7) of the PPSA;
- (e) waives its right under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any financing statement or any related financing change statement;
- (f) agrees that Spectur is required to give a notice under the PPSA only if the notice is obligatory and the giving of the notice cannot be excluded under the PPSA, and the Customer waives any rights to receive any notices unless they are required to be given and cannot be excluded; and
- (g) agrees to notify Spectur in writing of any change to the Customer's details within 5 days from the date of such change.
- 16.3 The parties agree that the Contract constitute a security agreement for the purposes of the PPSA and, without prejudice to Spectur's rights under the PPSA:
- (a) Until the time when ownership of the Products passes from Spectur to the Customer, Spectur may give notice in writing to the Customer to return the Products to Spectur. Upon that notice being given, the rights of the Customer to obtain ownership or any other interest in the Products will cease.
- (b) If the Customer fails to return the Products to Spectur, then Spectur or Spectur's agent as the invitee of the Customer, may enter land and premises owned, occupied, leased or otherwise used by the Customer, or any premises where the Products are situated and take possession of the Products without being responsible for any damage caused by that entry.
- (c) The Customer is a bailee only of the Products and until the time when Spectur receives payment in full for the Products, the Customer must hold any proceeds from the sale or disposal of the Products on trust for Spectur.
- 16.4 The Customer must not charge the Products in any way nor grant or otherwise give any interest (including a security interest) in the Products while they remain the property of Spectur.
- 17. GST AND DUTIES**
- 17.1 All amounts payable by the Customer to Spectur and all other references to monetary amounts under the Contract are exclusive of any goods and service tax, valued added tax, sales tax, excise tax, consumption tax or other tax calculated on or by reference to the value added to goods, services and materials, including the tax levied under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (**GST**), unless expressly stated otherwise. The Customer must pay to Spectur an additional amount equal to the GST liability on a supply or transaction to which GST applies. Unless otherwise agreed in writing, the GST amount under this clause 17.1 must be paid within 5 Business Days of Spectur issuing to the Customer a tax invoice for the supply or transaction to which the GST liability applies.
- 17.2 The Customer is responsible for compliance with, and payment of the following applicable after the point at which Products are delivered:
- (a) all applicable taxes or tariffs imposed, claimed, levied or assessed by, or payable to, any applicable government bodies or agencies in relation to the import or export of goods and/or services or the production or manufacture of goods applicable to the supply under the Contract; and
- (b) all other applicable import and export laws of any jurisdiction relating to the supply of the Products to the Customer.
- 18. LIEN**
- Without limiting clause 16, if Spectur has not received the whole of the Product Price, or the payment has been dishonoured, Spectur will have a lien over the Products and may: retain the Products for the Product Price while Spectur is in possession of them; stop the Products in transit whether or not delivery has been made or ownership has passed; or sell or dispose of the Products and deduct its costs of doing so from any proceeds.
- 19. DEFAULT & CONSEQUENCES OF DEFAULT**
- 19.1 Without prejudice to any other remedies Spectur may have, Spectur may suspend the supply of Products or Support Services to the Customer and any of its other obligations under the Contract, if the Customer is in breach of any obligation under the Contract (including those relating to payment). Spectur will not be liable to the Customer for any loss or damage the Customer suffers because Spectur exercised its rights under this clause 19.1.
- 19.2 Interest at the rate of 10% per annum (calculated daily) accrues, and must be paid by the Customer to Spectur, on overdue amounts owed by the Customer, from the date when payment becomes due until the earlier of payment or judgment.
- 19.3 Spectur may immediately upon notice to the Customer, cancel the supply of any Products or Support Services and terminate the Contract (or both) if either of the following occurs, in which case all amounts owing to Spectur will, whether or not due for payment, immediately become due and payable:
- (a) the Customer does not remedy any breach of the Contract (including the obligation to make any payment to Spectur when due and payable) within 7 days of receiving notice from Spectur to do so; or
- (b) where permitted by the Corporations Act 2001 (Cth), the Customer becomes insolvent or a receiver, receiver and manager, liquidator (provisional or otherwise), administrator, bankruptcy trustee or similar person is appointed in relation to the Customer or any asset of the Customer.
- 20. CANCELLATION BY SPECTUR**
- Spectur may cancel the Contract or cancel the delivery of Products or performance of Support Services, by giving 30 days' written notice to the Customer without the need to furnish a reason. Spectur will not be liable for any loss or damage arising from any cancellation.
- 21. LIMITATION OF LIABILITY**
- 21.1 In any event, under no circumstance shall Spectur's liability exceed the amount paid for the Products or Support Services purchased and paid for during the six months (6) prior to the time the cause of action giving rise to the liability arose and is subject to clause 21.2.
- 21.2 Any action must be commenced within 1 year after the cause of action has accrued.
- 21.3 To the maximum extent permitted by law, Spectur will not be responsible or liable under any circumstances for any loss,

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liability, expenses or damages incurred in connection with the Purchase of Products or Support Services to the extent caused by:

- (a) The Customer's acts, defaults or omissions;
- (b) Violation by the Customers of any term, condition, representation or warranty contained in this Contract;
- (c) The Customer's failure to provide an accurate shipping address or other information that they are requested to provide in connection with the sale of Products or Services;
- (d) Acts or omissions of third parties, including third parties contracted by Spectur; or
- (e) Non-Delivery, mis-delivery or late delivery.

## 22. INDEMNIFICATION

The Customer agrees to indemnify, defend, and hold Spectur harmless from and against any and all claims, demands, damages, or other losses, including reasonable attorneys' fees, resulting from or arising out of their use of the Products or Support Services including but not limited to their negligent or intentional misuse of the Products, Support Services or UI Interface, or any breach or alleged breach by them of this Contract or any applicable law.

## 23. FORCE MAJEURE

Spectur is not liable for failure to perform any obligations under the Contract during the time and to the extent that such performance is prevented, wholly or substantially, by a Force Majeure Event.

## 24. GENERAL

- 24.1 The Contract is governed by the laws of Western Australia and the parties submit to the exclusive jurisdiction of the courts of Western Australia.
- 24.2 If any provision of the Contract is invalid, void, illegal or unenforceable, then that provision is to be ignored in the interpretation of the Contract such that the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.
- 24.3 The Customer does not have any right to set-off against the Product Price or Support Fee any amounts due or claimed to be due from Spectur.
- 24.4 The Customer authorises and consents to Spectur licensing or sub-contracting all or any part of its rights and obligations under the Contract.

## 25. INTERPRETATION

- 25.1 The following words have the meaning given to them below when used in these Terms:

**Business Day** means a day other than a Saturday, Sunday, public holiday or bank holiday in Perth, Western Australia.

**Confidential Information** means, other than to the extent that it constitutes Excluded Information, all records, documents or other information, in whatever form, which relate to the business, affairs or activities of Spectur (including a Related Entity of Spectur) or that is marked by or behalf of Spectur as being confidential or is of a confidential nature, including methods of operation, Intellectual Property Rights, customer lists, products, prices, fees, costs, technology, inventions, trade secrets, know-how, software, marketing methods, plans, personnel, suppliers, competitors, markets or other specialised information or proprietary matters.

**Contract** means the agreement for the supply of Products or Support Services (or both) by Spectur to the Customer. Upon the issue of a Work Document in response to a Request Form, a new contract is formed comprising (to be interpreted in the following order of precedence) that Work Document and these Terms.

**Customer** means a person who orders or otherwise requests Products or Support Services (or both) from Spectur and any other person acting on behalf of and with the authority of the first-mentioned person.

**Data Plan** means a mobile/cellular telephone network data plan or other contract for connection to such network, for a Spectur System, provided through a third-party telecommunication provider.

**End User Licence Agreement** has the meaning set out in clause 8.2(a).

**Excluded Information** means any records, documents or other information to the extent that such information becomes publicly available (except if it is in the public domain by reason of the failure of a party to perform and observe its obligations under the Contract), or is acquired from a third party entitled to disclose it on a non-confidential basis.

**Force Majeure Event** means an event beyond Spectur's reasonable control which, by exercise of reasonable diligence and precautions, could not have been prevented or reasonably foreseen by Spectur, including any:

- (a) act of God, unusually severe weather (including a cyclone/hurricane), earthquake, fire, subsidence, land slide, mud slide, wash-out, explosion, radioactive contamination or natural disaster;
- (b) terrorism, insurrection, revolution or civil disorder, act of public enemies, malicious damage, sabotage, vandalism, war (whether declared or undeclared) or a military operation, blockade or riot;
- (c) industrial dispute of any kind, strike, lock-out, ban, limitation or other industrial disturbances;
- (d) any failure, delay or suspension by any third party supplier of the supply in whole or in part of fuel, electricity, equipment, machinery, infrastructure (including telecommunications or internet infrastructure and systems) or materials to Spectur provided that Spectur has acted in a timely manner in endeavouring to secure the same (which does not require Spectur, to secure the same if the alternative supply is only available to Spectur at a materially increased or additional cost to it); or
- (e) adverse application of any law or enforcement actions of any court, regulatory body or governmental agency.

**Intellectual Property Rights** means all rights and interests throughout the world vesting or otherwise in relation to industrial or intellectual property protectable under law (including in relation to trade marks, designs, patents, circuit layouts, copyright, confidential information, and all other intellectual property rights as defined in Article 2 of the convention establishing the World Intellectual Property Organisation of July 1967), whether registered, unregistered or registrable, and whether now existing or that come into existence in the future.

**Interface Licence** means a licence to access and use the Spectur User Interface.

**Product** means any good, product or accessory (as applicable) sold, licensed or otherwise supplied, or the subject of a Work Document, by Spectur to the Customer

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(and where the context permits includes any supply of any ancillary or related services).

**Product Price** means the price payable for a Product, excluding GST.

**Request Form** has the meaning given to that term in clause 1.2(a).

**Spectur** means Spectur Pty Ltd (ACN 140 151 579) trading as 'Spectur' or 'Spectur HD Monitoring', and its successors and assigns.

**Spectur System** means a security surveillance camera or similar product developed or supplied by Spectur.

**Spectur User Interface** means the user interface and associated software developed by or on behalf of Spectur (including web and mobile applications) which facilitates remote access and operation of a Spectur System, including access to footage and data captured through the Spectur System.

**Support Fee** means the price payable for the Support Services, excluding GST.

**Support Services** means any one or more of the following services, as specified in a Work Document or otherwise ordered by the Customer:

- (a) the grant of an Interface Licence; and
- (b) the procurement of a Data Plan.

**Work Document** means a quotation, invoice, work authorisation, work confirmation or other order confirmation issued from Spectur to the Customer in relation to the supply of Products or Support Services (or both).

25.2 In these Terms:

- (a) if a word or phrase is defined, then its other grammatical forms have a corresponding meaning;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a gender includes any gender;
- (d) the words "includes" and "including" are not words of limitation;
- (e) a reference to "deliver" or "delivery" in clause 3 includes making Products available for collection;
- (f) a reference to "supply" in relation to services includes performance of those services;
- (g) a reference to a statute includes its subordinate legislation, proclamations, ordinances and a modification, replacement or re-enactment of the same;
- (h) a reference to person, includes a reference to: an individual, a body corporate, a trust, a partnership, a joint venture an unincorporated body or other entity, whether or not it is a separate legal entity; and the person's personal representatives, successors and assigns;
- (i) a term, condition or warranty in the Contract in favour of or on the part of two or more people, benefits or binds them jointly and severally;
- (j) a reference to currency is to the Australian currency;
- (k) a reference to time is to Australian Western Standard Time in Perth, Western Australia;

- (l) if the date on which an act, matter or thing must be done or take place is not a Business Day, then that act, matter or thing must be done or take place on the next Business Day;
- (m) a provision in these Terms must not be construed adversely to a party solely on the ground that the party was responsible for the preparing these Terms or that provision;
- (n) the terms **Related Bodies Corporate** and **Related Entity** has the meaning given to those terms in the *Corporations Act 2001* (Cth).