

1. INTRODUCTION

1.1 Application of Terms

These Terms apply to and govern the supply of Products and Services by Spectur to the Customer, to the exclusion of any other terms or conditions put forward by the Customer (including in a purchase order or similar document) at any time.

1.2 Acceptance of Terms

An Order, or the Customer's acceptance of Products or Services supplied by Spectur, is deemed acceptance of these Terms.

1.3 Quotations

A Quote:

- (a) is indicative only, and not an offer to contract;
- (b) is valid for 30 days from the date of the Quote; and
- (c) may be withdrawn or varied by Spectur prior to a Contract for those Products and/or Services being formed in accordance with these Terms.

1.4 Components of Contracts

The Contract comprises the following, listed in order of priority, with the document higher in priority to prevail to the extent of any inconsistency with any lower priority document:

- (a) the Supply Document;
- (b) these Terms; and
- (c) the Order.

1.5 Blended Contracts

A Contract may be a Sale Contract, a Fixed Lease Contract, a Periodic Rental Contract, or any combination of the same.

1.6 Multiple Customers

Where a Customer comprises more than one person, those persons are jointly and severally liable for all obligations and liabilities (including the obligation for moneys payable) under the Contract.

1.7 Relationship

- (a) The relationship between the Customer and Spectur is that of principal and contractor respectively. Nothing in the Contract constitutes, or will be deemed to constitute, a relationship of agency, employment, partnership or joint venture between the parties.
- (b) The Customer does not have any authority to, and must not, bind or attempt to bind Spectur to any agreement or legally binding commitment. The Customer may not make any representation or promise on behalf of Spectur.

2. DESCRIPTION OF PRODUCTS AND SERVICES

2.1 The Products or Services (as applicable) will be as described in the relevant Supply Document.

2.2 Spectur may make such changes to the specifications, design or construction of the Products, or the specifications or performance of the Services, (as applicable) as it deems fit, provided that the changes do not have any material adverse effect.

3. RISK AND TITLE

3.1 Sale Contract

The Customer acknowledges and agrees that under a Sale Contract:

- (a) Spectur retains all legal and equitable title in and to a Product until payment for that Product is received by Spectur in full, notwithstanding:
 - (i) the Product being made available for collection by the Customer;
 - (ii) the possession and use of the Product by the Customer; or
 - (iii) any temporary attachment of the Product to any land or buildings to facilitate use of the Product;
- (b) the Customer has the right to use a Product as a bailee only, until the transfer of title under clause 3.1(a); and
- (c) risk in a Product passes to the Customer upon delivery of the Product.

4. DELIVERY AND ACCEPTANCE

4.1 Unless the Supply Document specifies an Off-Site Delivery Location, Spectur will deliver the Products to the Customer by making them available for collection by the Customer (or to a carrier, freight forwarder or other transportation service provider nominated by the Customer) 'ex works' at a Spectur business premises or other location nominated by Spectur, during ordinary business hours at that location.

4.2 Spectur will notify the Customer of an estimated delivery date for the Products.

4.3 The Customer must make all arrangements necessary to take delivery of the Products, at the Customer's own cost.

4.4 Delivery of the Products to a carrier, freight forwarder or other transportation service provider nominated by the Customer, constitutes delivery of the Products to the Customer.

4.5 If the Products are to be delivered to an Off-Site Delivery Location:

- (a) Spectur will transport or arrange transportation of the Products to the Off-Site Delivery Location, during ordinary business hours at that location;
- (b) Spectur may use a third-party carrier, freight forwarder or other transportation service provider to deliver the Products;
- (c) delivery of the Products is complete when the Products have been delivered and unloaded to the Off-Site Delivery Location;
- (d) if the Customer is unable or otherwise fails to take delivery of the Products when tendered for delivery:
 - (i) those Products are deemed to have been delivered when tendered; and
 - (ii) Spectur may charge a reasonable fee (including its costs) for storage, insurance and re-delivery (as applicable) of those Products; and
- (e) Spectur will be entitled to charge the Customer the Delivery Fee.

4.6 Spectur will use reasonable endeavours to deliver the Products by any date requested by the Customer but does not give any assurance that it will do so. Spectur will not be liable to the Customer if it does not deliver the Products by the date requested

- by the Customer, and its failure to do so does not entitle the Customer to terminate the Contract or make any Claim for Loss.
- 4.7 The Products will be deemed to have been accepted by the Customer unless the Customer notifies Spectur to the contrary in writing within 5 Business Days of those Products being delivered.
- 5. INSTALLATION**
- 5.1 Unless the Supply Document states otherwise, the Customer is responsible for installing Products.
- 5.2 To the maximum extent permitted by law, Spectur will not be liable for any damage to the Products installed by the Customer.
- 5.3 The Customer will be responsible for ensuring that:
- (a) the selected ground position at the Installation Site is free of any electrical cables, pipes, reticulation devices, other structures or any utility infrastructure;
 - (b) the Customer has all Authorisations necessary to conduct the Installation at the Installation Site; and
 - (c) installation by or on behalf of the Customer is performed in accordance with any instructions provided by Spectur which are available on Spectur's website or on request.
- 5.4 If Spectur is to install any Products:
- (a) Spectur will provide to the Customer a pre-install information document together with the invoice for the relevant Products;
 - (b) Spectur will install or arrange installation of the relevant Products at the Installation Site;
 - (c) the Customer is responsible for ensuring that the Installation Site is freely accessible to Spectur Personnel;
 - (d) Spectur is entitled to charge the Customer the Installation Fee; and
 - (e) Spectur may charge the Customer additional amounts if the Customer's failure to provide adequate information or perform its obligations under the Contract result in additional costs or delays to Spectur.
- 6. SUBSCRIPTION SERVICES**
- 6.1 Interface Licence**
- (a) Spectur grants to the Customer a subscription-based, non-exclusive, non-transferrable/non-assignable, non-sublicensable, revocable, limited licence to install, access, and use the User Interface in conjunction with relevant Products, for the term of the Contract (**Interface Licence**).
 - (b) The Interface Licence is granted on and subject to these Terms and the terms and conditions of the EULA.
 - (c) The Customer acknowledges and agrees that they will require the Interface Licence to operate a Surveillance Product.
 - (d) The Customer is responsible for the acts of omissions of any of its Personnel who access or use the User Interface on behalf of the Customer. The Customer must ensure that its Personnel use the User Interface in accordance with the EULA.
- 6.2 Data Plan**
- (a) If the Contract provides for Spectur to supply a Data Plan to the Customer:
 - (i) Spectur will use its best endeavours to arrange a month-to-month Data Plan, to be held in Spectur's name;
 - (ii) the Customer will be provided the use of the Data Plan with Surveillance Products on a monthly subscription basis, subject to the relevant data limit specified in the Supply Document (**Data Plan Limit**);
 - (iii) the Customer acknowledges and agrees that:
 - A. the Data Plan will be provided by a third-party telecommunications service provider and not by Spectur;
 - B. Spectur does not guarantee the network connectivity of the relevant telecommunications service provider will be uninterrupted; and
 - C. Spectur is not liable for any act or omission on the part of a telecommunications service provider;
 - (iv) if the Customer exceeds their maximum monthly Data Plan Limit, the data performance under the Data Plan may progressively be reduced (or "shaped"), including removal of the LiveView function; and
 - (v) Spectur is entitled to charge the Customer the Data Plan Fee.
 - (b) The Customer may, at their own cost, procure for a data plan, SIM card, or similar service for use with Surveillance Products through a third party telecommunications service provider, in which case:
 - (i) if the Customer has an existing Data Plan, the Customer:
 - A. must give Spectur at least 30 days' prior written notice of the Customer's intention to procure its own data plan, SIM card, or similar service; and
 - B. is liable for all unrecoverable costs and fees in relation to the cancellation of the Data Plan;
 - (ii) the Customer will be subject to the data limit under such plan, SIM card, or similar service; and
 - (iii) if the Customer exceeds the relevant data limit, Spectur reserves the right to limit the monthly downloads of System Data, or alternatively to charge an additional fee for incremental storage, System Data processing and Artificial Intelligence service costs.
- (c) Spectur may cease to provide the Data Plan to the Customer by giving the Customer at least 30 days' written notice to that effect.
- 6.3 System Data**
- (a) Unless the Contract provides otherwise, Spectur will arrange for the storage and processing of Customer's System Data (including the application of standard object identification-based Artificial Intelligence applications) on a monthly subscription basis in accordance with this clause 6.3.

- (b) Spectur may store and process the Customer's System Data using cloud computing services (e.g. Microsoft Azure), in-house servers, offsite servers, or in any other manner as Spectur may determine.
- (c) Spectur will take all reasonable steps to store the Customer's System Data for at least 6 months, unless the Contract expressly provides otherwise (**Minimum Storage Period**).
- (d) Spectur may, but is not obliged to:
 - (i) store and/or archive any the Customer's System Data beyond the Minimum Storage Period, at its discretion; or
 - (ii) permanently delete any of the Customer's System Data after the expiry of the Minimum Storage Period, at its discretion.
- (e) Spectur is entitled to charge the Customer the Subscription Services Fee for processing of the Customer's System Data for the duration of the subscription period and for storage of the Customer's System Data for the Minimum Storage Period.
- (f) Spectur may, but is not obliged to, retrieve and provide on request by the Customer, any of the Customer's System Data which Spectur has stored beyond the Minimum Storage Period, in which case Spectur is entitled to charge the Customer a fee equal to Spectur's costs of retrieving and providing the relevant System Data to the Customer.
- (g) Spectur will take all reasonable steps to store the Customer's System Data so as to prevent it from becoming corrupted or degrading during the Minimum Storage Period but does not provide any guarantee or assurance that the Customer's System Data will not become corrupted or degrade.
- (h) To the maximum extent permitted by law, Spectur's liability for any of the Customer's System Data which becomes corrupted or degraded during the Minimum Storage Period will be a refund of the SpecturConnect Fee for storage of such data.
- (i) Nothing in this clause limits clause 13.

7. USE OF PRODUCTS

- 7.1 The Customer must handle, transport, store, install, maintain, service, use and operate (as applicable) the Products:
 - (a) in accordance with all applicable laws;
 - (b) in accordance with instructions provided by Spectur (if any), and otherwise recognised methods, industry guidelines and/or standards for goods of the same or substantially similar type (if any); and
 - (c) where applicable, only by competent and properly qualified Personnel who have been instructed in safe and proper use and, where necessary, who hold a current certificate of competency and/or are licensed to use/operate the Products.
- 7.2 Without limiting clause 7.1, the Customer must:
 - (a) comply in all respects with the instructions and recommendations of any third party manufacturer of the Products, in particular where any failure to comply would limit the obligations of that manufacturer to Spectur or the Customer under any statute, agreement or otherwise;

- (b) not permit the Products to be used for any illegal purpose or in any manner that would amount to a breach of any applicable law; and
- (c) use and operate the Products safely and only for their intended use.

8. PERIODIC RENTAL CONTRACTS

8.1 Application

This clause 8 applies in relation to Products and/or Services to the extent they are supplied under a Periodic Rental Contract.

8.2 Nature of rental

Under a Periodic Rental Contract, Spectur will lease the relevant Rented Product to the Customer on a rolling month-to-month basis, in consideration of the Rental Fee.

8.3 Risk and title

The Customer acknowledges and agrees that under a Periodic Rental Contract:

- (a) Spectur retains all legal and equitable title in and to a Rented Product notwithstanding:
 - (i) the Rented Product being made available for collection by the Customer;
 - (ii) the possession and use of the Rented Product by the Customer; or
 - (iii) any temporary attachment of the Rented Product to any land or buildings to facilitate use of the Leased Product;
- (b) the Customer has the right to use a Rented Product as a bailee only; and
- (c) risk in a Rented Product passes to the Customer upon delivery of the Product and remains with the Customer until that Rented Product is collected by or returned to Spectur.

8.4 Possession

The Periodic Rental Contract is personal to the Customer. The Customer must not sub-lease, part with possession of, or otherwise allow any other person to use or have possession of a Rented Product at any time.

8.5 Markings

The Customer must not alter, deface or erase any identifying marks (including Spectur logos) or serial number on the Rented Product.

8.6 Delivery, installation and removal

Unless the Supply Document states otherwise, Spectur will deliver to, install at, and remove from, the Installation Site, the Rented Product in consideration of the Installation Fee.

8.7 Inspection

Spectur and its Personnel may access and enter the premises or Installation Site at any time upon giving the Customer prior reasonable notice (not less than 2 Business Days) to inspect, maintain and/or repair the Rented Products. The Customer must provide Spectur's Personnel with all reasonable assistance in exercising its rights under this clause 8.5.

8.8 Maintenance

- (a) During the Rental Period, the Customer must:
- (i) keep the Rented Products in proper and working order and condition, and in good and substantial repair (fair wear and tear excepted), having regard to the ordinary use of those Rented Products and their age and condition as at their delivery to the Customer, in accordance with all instructions provided by Spectur (if any); and
 - (ii) not alter, modify, tamper, replace, repair or make any addition (including attaching or affixing anything) to the Rented Products.
- (b) Spectur may charge the Customer a fee to repair any damage (excluding fair wear and tear) to a Rented Product which occurs during, or relates to, the Rental Period. Such fee will include the costs of collecting and returning the Rental Product to Spectur, labour, materials, travel and accommodation.

8.9 Rental Security Bond

- (a) Spectur may require that the Customer prepay up to 90 days (or 3 months) of the Rental Fees prior to commencement of the Rental Period (**Rental Security Bond**), as security for the due performance by the Customer of its obligations under these Terms, including payment of the Rental Fee when due.
- (b) A Rental Security Bond must be paid within 5 Business Days of request by Spectur for the same. Spectur is not under any obligation to make the Rented Products available to the Customer unless a requested Rental Security Bond has been received.
- (c) Spectur does not hold the Rental Security Bond on trust for the Customer or any other person.
- (d) The Rental Security Bond (and any interest earned on it) may, at Spectur's sole discretion and without prejudice to any other rights or remedies that it may have, at any time during the Rental Period, be applied by Spectur towards arrears of the Rental Fee or any other amounts that may become due and payable by the Customer to Spectur.
- (e) If any portion of the Rental Security Bond is applied by Spectur to an amount pursuant to clause 8.7(d), Spectur may require the Customer to replenish such amount of the Rental Security Bond within 5 Business Days of request.
- (f) Spectur must return any balance of the Rental Security Bond to the Customer within 30 Business Days of the Leased Products being returned to Spectur, provided that all amounts due to Spectur under the Periodic Rental Contract have been paid in full and the Customer is otherwise not default of its obligations under the Periodic Rental Contract.

8.10 Termination

The Customer may terminate a Periodic Rental Contract by giving Spectur at least one month's notice in writing to that effect.

8.11 Collection

- (a) Spectur will remove and collect the Rented Products during normal business hours, within 10 Business Days of the expiry or termination of the Rental Period (or if that

day is not a Business Day, the next Business Day after expiry of the Rental Period).

- (b) The Customer must ensure that the Rental Products are in substantially the same condition as when the Customer received the Products from Spectur, excluding fair wear and tear.

- (c) If the Customer fails to provide Spectur with access to collect and remove the Rented Products, Spectur and its Personnel may, without notice, liability or legal process, enter upon or into any premises or site on which the Rented Products are located and for which the Customer has a right of access, including breaking open any gate, door or fastening and detaching or dismantling and removing the Rented Products from any part of that location to which the Rented Products have been affixed.

9. FIXED LEASE CONTRACTS

9.1 Application

This clause 9 applies in relation to Products and Services to the extent they are supplied under a Fixed Lease Contract.

9.2 Nature of lease

Under a Fixed Lease Contract, Spectur will lease the relevant Leased Product to the Customer for the Lease Period, in consideration of the Lease Fee.

9.3 Risk and title

The Customer acknowledges and agrees that under a Fixed Lease Contract:

- (a) Spectur retains all legal and equitable title in and to a Leased Product notwithstanding:
- (i) the Leased Product being made available for collection by the Customer;
 - (ii) the possession and use of the Leased Product by the Customer; or
 - (iii) any temporary attachment of the Leased Product to any land or buildings to facilitate use of the Leased Product;
- (b) the Customer may use a Leased Product as a bailee only; and
- (c) risk in a Leased Product passes to the Customer upon delivery of the Product and remains with the Customer until that Leased Product is returned to Spectur.

9.4 Possession

The Fixed Lease Contract is personal to the Customer. The Customer must not sub-lease, part with possession of, or otherwise allow any other person to use or have possession of a Leased Product at any time.

9.5 Markings

The Customer must not alter, deface or erase any identifying marks (including Spectur logos) or serial number on the Leased Product.

9.6 Inspection

Spectur and its Personnel may access and enter the premises or Installation Site at any time upon giving the Customer prior reasonable notice (not less than 2 Business Days) to inspect, maintain and/or repair the Leased Products. The Customer must

provide Spectur's Personnel with all reasonable assistance in exercising its rights under this clause 9.5.

9.7 Maintenance

- (a) During the Lease Period, the Customer must:
 - (i) keep the Leased Products in proper and working order and condition, and in good and substantial repair (fair wear and tear excepted), having regard to the ordinary use of those Leased Products and their age and condition as at their delivery to the Customer, in accordance with all instructions provided by Spectur (if any); and
 - (ii) not alter, modify, tamper, replace, repair or make any addition (including attaching or affixing any thing) to the Leased Products.
- (b) Spectur may charge the Customer a fee to repair any damage (excluding fair wear and tear) to a Leased Product which occurred during, or relates to, the Lease Period. Such fee will include the costs of collecting and returning the Rental Product to Spectur, labour, materials, travel and accommodation.

9.8 Lease Security Bond

- (a) Spectur may require that the Customer prepay up to 90 days (or 3 months) of Lease Fees prior to commencement of the Lease Period (**Lease Security Bond**), as security for the due performance by the Customer of its obligations under these Terms, including payment of the Lease Fee when due.
- (b) A Lease Security Bond must be paid within 5 Business Days of request by Spectur for the same. Spectur is not under any obligation to make the Leased Products available to the Customer unless a requested Lease Security Bond has been received.
- (c) Spectur does not hold the Lease Security Bond on trust for the Customer or any other person.
- (d) The Lease Security Bond (and any interest earned on it) may, at Spectur's sole discretion and without prejudice to any other rights or remedies that it may have, at any time during the Lease Period, be applied by Spectur towards arrears of the Lease Fee or any other amounts that may become due and payable by the Customer to Spectur.
- (e) If any portion of the Lease Security Bond is applied by Spectur to an amount pursuant to clause 9.7(d), Spectur may require the Customer to replenish such amount of the Lease Security Bond within 5 Business Days of request.
- (f) Spectur must return any balance of the Lease Security Bond to the Customer within 30 Business Days of the Leased Products being returned to Spectur, provided that all amounts due to Spectur under the Fixed Lease Contract have been paid in full and the Customer is otherwise not default of its obligations under the Fixed Lease Contract.

9.9 Early termination

- (a) The Customer may terminate a Fixed Lease Contract prior to the expiry of the Lease Period by giving Spectur at least 10 Business Days' prior notice in writing to that effect.
- (b) If the Customer terminates a Fixed Lease Contract under clause 9.9(a), the Customer must pay Spectur an amount equal to the Lease Fee that would otherwise be payable

under that Fixed Lease Contract had it continued to operate for the balance of the Lease Period.

9.10 Collection

- (a) Spectur will collect and remove the Leased Products during normal business hours, within 10 Business Days of the expiry or termination of the Lease Period (or if that day is not a Business Day, the next Business Day after expiry of the Lease Period).
- (b) The Customer must ensure that the Leased Products are in substantially the same condition as when the Customer received the Products from Spectur, excluding fair wear and tear.
- (c) If the Customer fails to provide Spectur with access to collect and remove the Leased Products, Spectur and its Personnel may, without notice, liability or legal process, enter upon or into any premises or site on which the Leased Products are located and for which the Customer has a right of access, including breaking open any gate, door or fastening and detaching or dismantling and removing the Leased Products from any part of that location to which the Leased Products have been affixed.

9.11 Offer to purchase

- (a) The Customer may offer to purchase a Leased Product by giving Spectur written notice to that effect, during the Lease Period or before the Leased Product is returned to Spectur (**Purchase Offer**). Spectur may accept or reject the Purchase Offer, at its absolute discretion.
- (b) The price payable for the Leased Product under the Purchase Offer is equal to the aggregate of:
 - (i) the Lease Fee (excluding GST) that would otherwise be payable under the Fixed Lease Contract had it continued to operate for the balance of the Lease Period; and
 - (ii) an additional amount equal to 3 months of the relevant Lease Fee (excluding GST) for that Leased Product.

Such price must be paid to Spectur within 5 Business Days of the Customer issuing the Purchase Offer. Title to the Leased Product will pass to the Customer upon full payment being received by Spectur.

- (c) A Leased Product, the subject of an accepted Purchase Offer, is sold on an 'as is, where is' basis without any warranty as to condition or otherwise (other than Mandatory Rights).

10. PAYMENTS

10.1 Purchase Price – Sale Contracts

The Customer must pay the Purchase Price for the Products supplied under a Sale Contract.

10.2 Rental Fee

- (a) The Customer must pay the Rental Fee for Rental Products supplied under a Periodic Rental Contract.
- (b) The Customer acknowledges that the Rental Fee payable under a Periodic Rental Contract may be higher than those which may otherwise apply for the lease of the same Product under Fixed Lease Contract because the Rental Period is short-term or indeterminate.

10.3 Lease Fee

The Customer must pay the Lease Fee for Leased Products supplied under a Fixed Lease Contract.

10.4 Subscription Services Fee

- (a) The Customer must pay the Subscription Services Fee for subscription Service supplied by or on behalf of Spectur under a Contract.
- (b) Unless the Supply Document states otherwise, the Subscription Services Fees are payable in addition to all other amounts payable by the Customer to Spectur under the Contract.

10.5 Delivery Fee

- (a) The Customer must pay the Delivery Fee for Products delivered by or on behalf of Spectur under a Contract.
- (b) Unless the Supply Document states otherwise, the Delivery Fee is payable in addition to all other amounts payable by the Customer to Spectur under the Contract.

10.6 Installation Fee

- (a) The Customer must pay the Installation Fee for Products installed by or on behalf of Spectur under a Contract.
- (b) Unless the Supply Document states otherwise, the Installation Fee is payable in addition to all other amounts payable by the Customer to Spectur under the Contract.

10.7 Calculation of prices and fees

- (a) The Purchase Price, Rental Fee, Lease Fee, SpecturConnect Fee, Delivery Fee or Installation Fee (as applicable) will be the amount stated in the Supply Document or, if the Supply Document does not specify the amount, then:
 - (i) Spectur's publicly advertised price or fee for the same, as at the date of the Supply Document; or
 - (ii) if no price or fee has been published, Spectur's usual price or fee for the same, as at the date of the Supply Document.
- (b) Unless the Supply Document states otherwise, the Purchase Price, Rental Fee, Lease Fee, SpecturConnect Fee, Delivery Fee, and Installation Fee each exclude GST, insurance costs, storage costs, 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.
- (c) Spectur may change its publicly advertised prices or fees for Products or Services (or both).
- (d) Spectur may adjust the Rental Fee and/or Subscription Services Fee payable under the Contract once in every 6-month period by providing the Customer with at least 30 days' prior written notice to that effect.
- (e) Despite clause 10.9(d), Spectur may, before receiving payment, adjust and increase any price or fee quoted to or payable by the Customer under the Contract to account for any variation in currency exchange rates, taxes or government charges.
- (f) Spectur may charge the Customer for any variation to scheduled works or specifications in relation to the Products or Services.

10.8 Invoicing and payment

- (a) Spectur will issue the Customer a tax invoice for all prices, fees and other amounts payable by the Customer under the Contract.
- (b) Unless the Supply Document states otherwise:
 - (i) all prices, fees and other amounts payable by the Customer are payable in advance;
 - (ii) the Rental Fee, Lease Fee, and Subscription Services Fee (as applicable) will be invoiced on a monthly basis;
 - (iii) subject to clause 10.10(b)(iv), the Customer must pay an amount invoiced by Spectur within 14 days of the date of the invoice; and
 - (iv) the Customer must pay all monthly fees on or before the first Business Day of each month.
- (c) All prices, fees and other amounts payable by the Customer under the Contract must be paid by way of electronic funds transfer into a bank account nominated by Spectur, or, at Spectur's discretion, by credit card, direct debit or any other requested method of payment, in cleared funds, without set-off, counterclaim or deduction.
- (d) Time is of the essence in relation to payment of amounts invoiced by Spectur under the Contract.
- (e) 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 to Spectur under the Contract, from the date when payment becomes due until the earlier of payment or judgment.
- (f) If the Customer disputes any amount invoiced by Spectur under the Contract, the Customer remains liable to pay the undisputed portion of that invoice in accordance with the Contract.
- (g) Spectur is not required to supply, or to continue the supply of, any Products or Services until all invoiced amounts are received in full.

10.9 Deposits

- (a) Without limiting clause 9.7(a), Spectur may require the Customer pay a deposit of up to 100% of the Purchase Price, Delivery Fee and Installation Fee for any Products ordered by the Customer (**Deposit**).
- (b) Spectur is not under any obligation to commence or continue any work in relation to the supply of Products (whether the subject of a requested Deposit or otherwise) unless a requested Deposit has been received.

10.10 Credit Facility

- (a) Spectur may, in its absolute discretion, grant the Customer a credit facility on such terms and conditions as Spectur may determine (**Credit Facility**).
- (b) As a condition of granting a Credit Facility, Spectur may require the Customer to complete and sign a credit application, and provide any relevant supporting documents or information, as Spectur may require in its absolute discretion. A credit application may require a personal guarantee or other security be provided by or on behalf of the Customer.

- (c) Without limiting clause 9.9(a), Spectur may, in its sole and absolute discretion:
- (i) specify the maximum amount that may be charged to the Credit Facility within a specified time (**Credit Limit**); and
 - (ii) having regard to its reasonable legitimate business interests and in consultation with the Customer:
 - A. regularly assess the Credit Limit, and adjust it accordingly by increasing or decreasing it; or
 - B. suspend or terminate the Credit Facility.
- (d) Spectur is not liable for any Loss whatsoever in relation to Spectur's refusal to provide a Credit Facility or Spectur's increase, decrease, suspension, cancellation or termination of the Credit Facility or Credit Limit (as applicable).
- (e) The Customer must not charge to the Credit Facility amounts that exceed the Credit Limit.
- 11. WARRANTIES**
- 11.1 Limited warranties**
- (a) Spectur gives the warranties for Products and Services as specified in the Supply Document, on and subject to the terms of its Warranty Statement current at the date of the Supply Document.
 - (b) If the Supply Document does not specify the warranties given by Spectur for any Products or Services, then Spectur gives the minimum warranties for those Products or Services (as applicable) under its Warranty Statement current at the date of the Supply Document.
 - (c) Nothing in the Contract is intended to have the effect of excluding or modifying any Mandatory Rights.
 - (d) All warranty claims by the Customer must be made in accordance with the Warranty Statement.
 - (e) A copy of the Warranty Statement can be obtained free of charge at <https://spectur.com.au/terms-and-conditions/> or by request to Spectur at sales@spectur.com.au.
- 11.2 Exclusion of implied warranties**
- Other than Mandatory Rights, all terms, conditions, guarantees and warranties (including as to the condition, suitability, quality, fitness for any purpose, safety of, or title to, goods or services (as applicable)) which would, but for this clause, be implied into the Contract, are excluded to the maximum extent permitted by law.
- 12. LIABILITY AND INDEMNITY**
- 12.1** Spectur does not give any warranty or make any representation in relation to the Products or the Services other than Mandatory Rights or those expressly set out 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 user of the Services.
- 12.2** Spectur is not liable to the Customer:
- (a) for any Excluded Loss in relation to the Contract or otherwise, regardless of whether such Excluded Loss was in the contemplation of the parties at the time of entering into the Contract;
- (b) for any loss of or damage to property, including due to the failure of a Surveillance Product to activate or issue a notification;
 - (c) to the extent any liability is directly or indirectly caused by:
 - (i) any default or negligence on the part of the Customer or its Personnel;
 - (ii) the Customer's failure to provide an accurate shipping/delivery address or other information that they are requested to provide in relation to the Contract;
 - (iii) acts or omissions of third parties; or
 - (iv) delayed delivery of Products.
- 12.3** To the maximum extent permitted by law, Spectur's maximum aggregated liability to the Customer in relation to the Contract (whether under statute, under common law (including negligence) or in equity) is limited to the higher of:
- (a) the aggregate amount payable by the Customer under the Contract;
 - (b) the aggregate amount paid or payable by the Customer for Products and Services in the 6 month period prior to the relevant liability accruing; and
 - (c) the proceeds of insurance received or payable under an insurance policy held by Spectur in respect of such liability.
- 12.4** Spectur's liability is not limited by clause 11.3 in relation to:
- (a) any breach of the Contract by Spectur which was known by it at the time of the breach, to be a breach in the circumstances, but intentionally done or persisted with by Spectur in reckless indifference as to the likely consequences of the breach; or
 - (b) any fraudulent or criminal act by Spectur.
- 12.5** Spectur's liability under the Contract is reduced proportionately to the extent that any act or omission of the Customer, the Customer's Personnel or any third party whom Spectur does not control, has caused or contributed to a Loss.
- 12.6** To the maximum extent permitted by law, the Customer's remedies in relation to any cause of action that the Customer may have against Spectur in relation to the Contract is limited to damages.
- 12.7** The Customer indemnifies Spectur, and holds Spectur harmless from and against, all Losses incurred or suffered by Spectur directly or indirectly in relation to the Customer's use of the Products or Services. Such indemnity does not apply to the extent any Loss is directly caused by Spectur's negligence or default.
- 13. CUSTOMER'S ACKNOWLEDGEMENTS**
- The Customer acknowledges and agrees that:
- (a) subject to any express provisions of the Contract and to the extent permitted by law, the Customer relies solely upon the Customer's own skill and judgment in selecting and ordering Products and the Services (as applicable);
 - (b) the Surveillance Products are intended to assist the Customer with safety, warning, security, surveillance and related applications in relation to geographical areas near where they are installed;
 - (c) the Surveillance products may, but are not guaranteed to, provide warning via visual and audible methods, 2-way

communications and situational awareness for the Customer, but Spectur does not provide any guarantee that these functions will be effective in all circumstances;

- (d) the Surveillance Products may, but are not guaranteed to, deter persons from unauthorised access to, or engaging in unlawful conduct in, certain geographical areas near whether they are installed, or reduce the risk of the same;
- (e) if an unauthorised access or other security breach event is detected by Surveillance Products, the system may 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;
- (f) Spectur does not give any warranty or representation, or make any other stipulation, about the effectiveness or otherwise of the Surveillance Products in relation to the apprehension, identification or curtailment of illegal, unauthorised or unwanted activities by persons not permitted to be on any particular geographical areas at the time an event or events are recorded; and
- (g) any information provided by Spectur to the Customer in relation to safety systems, security systems, security monitoring services, security personnel, property modifications or similar matters is not a recommendation or advice by Spectur.

14. SYSTEM DATA

- (a) All System Data is, or will become on its creation, the property of the Customer.
- (b) The Customer grants to Spectur a perpetual, irrevocable, worldwide, royalty-free, fee-free, assignable, sub-licensable licence to collect, store, use and exploit the System Data, including for the purposes of the Contract.
- (c) Spectur will collect, store, transfer, use, dispose of or otherwise deal with the System Data in accordance with its Privacy Policy, as applicable.

15. SURVEILLANCE LAWS

- 15.1 The Customer acknowledges and agrees that the Products and 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 legislation in other relevant jurisdictions.
- 15.2 The Customer is responsible for determining the application of Surveillance Laws and steps required to comply with the same when using the Products and Services.
- 15.3 Spectur will not provide any advice to the Customer in relation to the legal or regulatory requirements (including Surveillance Laws) applicable to any Products and Services or their use.
- 15.4 The Customer must comply at all times with applicable Surveillance Laws in relation to the Products and Services, and their use by the Customer (or any third party on behalf of the Customer). The Customer indemnifies Spectur from and against any Loss or Claims 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.

16. PRIVACY

The Customer acknowledges and agrees:

- (a) to the Privacy Policy, a copy of which can be obtained free-of-charge at <https://spectur.com.au/privacy-policy> or by request to Spectur at sales@spectur.com.au; and
- (b) that Spectur may collect, store, process, analyse, use and disclose Personal Information of the Customer in accordance with the Privacy Policy, including:
 - (i) to supply the Products and/or Services;
 - (ii) for marketing of Products and/or Services by Spectur;
 - (iii) analysing, verifying and checking the Customer's credit, payment and status in relation to provision of Products and/or Services;
 - (iv) processing of any payment instructions, direct debit facilities or credit facilities requested by the Customer; or
 - (v) enabling the daily operation of the Customer's account and the collection of amounts outstanding in the Customer's account in relation to the Products and/or Services.

17. USE OF ARTIFICIAL INTELLIGENCE

The Customer acknowledges and agrees that:

- (a) certain features of the Products and/or Services may utilise Artificial Intelligence;
- (b) Spectur may use, process and store Artificial Intelligence content that is processed by each of the Artificial Intelligence features and services to maintain and provide the applicable Artificial Intelligence feature or service (including development and improvement of such Artificial Intelligence feature or service and its underlying technologies);
- (c) unless the Supply Document states otherwise, Spectur may store or process such Artificial Intelligence content outside the region where the Customer is using such Artificial Intelligence feature or service, solely in relation to the development and improvement described in clause 17(b); and
- (d) the output generated by Artificial Intelligence is probabilistic and should be checked by the Customer for accuracy, including by employing human review of such output.

18. PROTECTION OF TECHNOLOGY

- 18.1 Spectur retains ownership of all Intellectual Property Rights in relation to the Products or the Services (or both), including any improvements, adaptations or modifications of the same. Nothing in the Contract assigns, transfers or otherwise conveys any right, title or interest in such Intellectual Property Rights to the Customer or any other person.
- 18.2 Ownership of 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 the Services (or both), will immediately vest in Spectur.
- 18.3 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 Loss suffered or incurred by Spectur directly or

- indirectly resulting from a breach of this clause 17.3 by the Customer.
- 18.4 Spectur grants to the Customer a non-exclusive, non-transferrable/non-assignable, non-sublicensable, revocable, limited licence to use Spectur's Intellectual Property Rights comprised in the Products solely for and to the extent required to use and enjoy the benefit of those Products under the Contract.
- 18.5 For the purpose of this clause 18, Spectur acts in its own right and as agent for and on behalf of each of its Affiliates, and it may enforce this clause 18 on behalf of and for the benefit of each such Affiliate.
- 19. CONFIDENTIALITY**
- 19.1 Subject to clause 19.2, a party (**Recipient**) must:
- (a) not disclose, or allow any person to disclose, the other party's (**Discloser**) Confidential Information to any third party;
 - (b) not use or reproduce the Discloser's Confidential Information for any purpose of performing the Contract;
 - (c) not use the Discloser's Confidential Information to the commercial disadvantage of the Discloser; and
 - (d) ensure that any authorised person to whom the Recipient discloses the Discloser's Confidential Information (unless disclosed under clause 19.2(c)) acknowledges and complies with the confidentiality obligations under this clause 19 as if that person were bound by it.
- 19.2 The obligations to maintain confidentiality under clause 19.1 apply except for a disclosure:
- (a) permitted with the prior written consent of Discloser;
 - (b) by Spectur permitted under its Privacy Policy;
 - (c) required by law, the rules of any recognised stock exchange, or the order of a court, tribunal or equivalent; or
 - (d) to the Discloser's legal or other professional advisers, or to its bank or insurers, on a confidential basis.
- 19.3 The Recipient agrees that damages may not be an adequate remedy for breach of this clause 19 and that the Discloser will be entitled to equitable relief, including temporary and permanent injunctive relief.
- 19.4 The obligations under this clause 19 survive the termination of the Contract.
- 20. PPS ACT**
- 20.1 Words and phrases that are defined in the PPS Act have, when used in this clause 20, the meanings given to them under the PPS Act.
- 20.2 The Contract constitutes a 'security agreement' for the purposes of the PPS Act.
- 20.3 Possession of Products is transferred to the Customer by Spectur on the basis that Spectur holds a security interest in the Products, proceeds of the Products, and any other goods with which the Products are commingled.
- 20.4 The Customer consents to Spectur registering a financing statement on the Personal Property Securities Register in relation to any security interest in Spectur's favour under or in relation to the Contract.
- 20.5 The Customer:
- (a) must provide Spectur with reasonable assistance to register and perfect any security interest arising under or in relation to the Contract;
 - (b) undertakes not to amend or seek to amend (including by way of removal), or interfere, including exercise any right to object to, the registration or validity of any such security interest;
 - (c) agrees to notify Spectur in writing of any change to the Customer's name and contact details in the Contract within 5 days from the date of such change;
 - (d) in the case of Products under a Sale Contract, must not grant or create any security interest over Products prior to payment of the full Purchase Price of those Products, or otherwise allow a security interest to come into existence which is inconsistent with the rights and interests of Spectur under this clause 20;
 - (e) in the case of Leased or Rental Products under a Lease or Periodic Rental Contract, must not to grant or create any security interest over Products, or otherwise allow a security interest to come into existence which is inconsistent with the rights and interests of Spectur under this clause 20;
 - (f) agrees to keep all information of the kind mentioned in section 275(1) of the PPS Act confidential and will not authorise the disclosure of such information except in accordance with section 275(7) of the PPS Act;
 - (g) waives its right under section 157 of the PPS Act to receive notice of any verification statement relating to the registration of any financing statement or any related financing change statement;
 - (h) agrees that the following provisions of the PPS Act do not apply and the Customer does 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; and
 - (i) agrees that Spectur is required to give a notice under the PPS Act only if the notice is obligatory and the right to receive such notice cannot be waived.
- 21. LIEN**
- In the case of a Product under a Sale Contract, without limiting clause 20 or Spectur's other legal rights, if Spectur has not received the whole of the Purchase Price for the Product, or the payment has been dishonoured, Spectur has a lien over the Product and may do any of the following:
- (a) retain the other Products ordered by the Customer for the unpaid Purchase Price;
 - (b) stop other Products ordered by the Customer that are in transit, whether or not delivery has been made or ownership has passed; and/or
 - (c) sell or dispose of other Product and deduct its costs of doing so from any proceeds.
- 22. DISPUTE RESOLUTION**
- 22.1 **Application**

A party claiming that a dispute has arisen from or in relation to the Contract (**Dispute**) must not commence legal proceedings arising from or relating to the Dispute unless it has first complied with the procedure in this clause 22. This clause does not restrict a party from seeking urgent injunctive relief.

22.2 Notice and meeting

- (a) The party claiming that the Dispute has arisen must give a written notice to the other party specifying the nature of the Dispute and requesting a meeting of the senior representatives of each party to discuss the Dispute (**Dispute Notice**).
- (b) Within 5 Business Days of a Dispute Notice being issued, senior representatives of each party must meet (in person or using communications technology) with a view to discussing and resolving the Dispute expeditiously and without recourse to legal proceedings (**Dispute Meeting**). Such senior representatives must have lawful authority and power to negotiate on behalf of, and to bind to any settlement agreement, their respective parties.

22.3 Mediation

If the Dispute is not resolved within 10 Business Days (or such longer period as the parties may agree in writing) of the Dispute Meeting, the parties will attempt to settle it in good faith by mediation administered by the Resolution Institute in accordance with its then current mediation rules (**Mediation**).

22.4 Expert determination

Notwithstanding clauses 22.3 and 22.5, a party may refer a Dispute that is a Financial Matter or a Technical Matter to an independent expert (**Expert**) for determination on the following basis:

- (a) the Dispute has not been resolved:
 - (i) within 10 Business Days (or such longer period as the parties may agree in writing) of the Dispute Meeting;
 - (ii) if the Dispute has been referred to Mediation, within 30 Business Days (or such longer period as the parties may agree in writing) of the Mediation commencing;
- (b) the Expert must have appropriate experience, qualifications and expertise in Financial Matters or Technical Matters so as to be capable of determining the Dispute, and must not have any interest or duty which conflicts with their appointment as Expert or affects his, her or their ability to act impartially in determining the Dispute;
- (c) if the parties are unable to agree upon an Expert, a party may request that the chair of the Western Australian Chapter of the Resolution Institute (or his or her delegate) appoint the Expert;
- (d) the Expert will act as an expert and not as an arbitrator;
- (e) each party is entitled to produce to the Expert any materials or evidence which that party believes is relevant to the Expert's determination of the Dispute;
- (f) each party must make available to the Expert all materials requested by the Expert and all other materials which are relevant to the Expert's determination of the Dispute;

- (g) the Expert must make a determination in relation to the Dispute within 20 Business Days of appointment (or such longer period as agreed in writing by the parties);
- (h) a determination of the Expert must be in the form of a written report setting out the reasons of the decision, and will be final and binding upon the parties except in the case of bias, fraud, or manifest mistake or error;
- (i) if the Expert does not determine the Dispute within the timeframe under clause 22.4(g), either party may terminate the Expert's appointment by giving the Expert and the other party written notice to that effect, and a new Expert will be appointed in accordance with the procedure in this clause;
- (j) the costs of the Expert will be apportioned equally between the parties; and
- (k) the parties will each bear their own costs incurred in the preparation and presentation of any submissions or evidence to the Expert.

22.5 Legal proceedings

If a Dispute is not resolved within 30 Business Days (or such longer period as the parties may agree in writing) of the Mediation commencing, or by determination of an Expert under clause 22.4, then either party may commence legal proceedings in relation to the Dispute.

23. FORCE MAJEURE

Spectur is not liable for any delay or failure to perform any of its obligations under the Contract where such delay or failure is caused by a Force Majeure Event provided that:

- (a) as soon as reasonably practicable, it gives the Customer a notice which specifies the Force Majeure Event and the relevant obligations which cannot be performed or are delayed; and
- (b) it takes all reasonable steps to remedy or mitigate the effects of the Force Majeure Event (excluding settling any industrial disputes) and resumes performance of its obligations as soon as reasonably practicable.

24. DEFAULT AND TERMINATION

24.1 Suspension

Without prejudice to its other rights, Spectur may suspend the supply of Products or Services to the Customer if and for so long as the Customer is in breach of any obligation under the Contract (including those relating to payment). Spectur is not liable to the Customer for any Loss the Customer suffers or incurs due to a suspension.

24.2 Termination for default or insolvency

A party (**Terminating Party**) may terminate the Contract immediately by giving the other party written notice to that effect if any of the following events occurs:

- (a) the other party breaches a material term of the Contract and fails to remedy that breach within 10 Business Days of written notice to do so from the Terminating Party, if such breach is capable of remedy;
- (b) the other party breaches a material term of the Contract and such breach is not capable of being remedied;

- (c) if Spectur is the Terminating Party, the Customer fails to pay an amount due under the Contract within 5 Business Days of the due date for payment; or
- (d) the other party suffers an Insolvency Event.
- 24.3 Termination on notice**
- Spectur may terminate the Contract by giving the Customer at least 60 days' prior written notice to that effect.
- 24.4 Effect of termination**
- (a) Termination of the Contract is without prejudice to any rights or Claims that accrue to a party prior to the date of such termination.
- (b) A party is not liable for any Loss suffered or incurred by the other party resulting from termination of the Contract by the first-mentioned party in accordance with this clause 23.
- 25. GST**
- 25.1 A reference in this clause 25 to a term defined or used in the GST Law has the meaning given to that term in the GST Law.
- 25.2 Any amount referred to in the Contract which is relevant in determining a payment to be made by the Customer to Spectur is exclusive of any GST unless stated otherwise.
- 25.3 The Customer must pay to Spectur the amount equal to the GST liability on any taxable supply by Spectur to the Customer under the Contract, at the same time as the Customer is required to pay the consideration for that taxable supply to Spectur under the Contract.
- 25.4 The GST liability for any taxable supply is the amount equal to the consideration attributable to the taxable supply made by Spectur to the Customer multiplied by the rate at which GST is imposed in relation to that taxable supply.
- 26. GENERAL PROVISIONS**
- 26.1 **Governing law:** The Contract is governed by the laws applicable in Western Australia. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in Western Australia. Any dispute or legal proceedings in relation to the Contract must be held in Perth, Western Australia.
- 26.2 **Variation:** The parties may vary the Contract only if the variation is in writing and signed by each of the parties.
- 26.3 **Assignment:** A party must obtain the prior written consent of the other party before it transfers, assigns, novates or otherwise disposes of a right or obligation under the Contract. Notwithstanding, Spectur may assign or novate all rights and obligations under the Contract to any of its Affiliates, or to any purchase of Spectur's business, by giving the Customer written notice to that effect, and provided such Affiliate or purchaser (by deed in favour of the Customer) undertakes to be bound by and comply with Spectur's obligations under the Contract.
- 26.4 **Cumulative rights:** Spectur's rights under the Contract are in addition to its rights at law.
- 26.5 **Severability:** If any provision of the Contract is invalid, illegal or unenforceable, that provision must be severed from and ignored in the interpretation of the Contract to the minimum extent necessary and to the intent that the remaining provisions of the Contract remain in full force and effect.
- 26.6 **Entire agreement:** The Contract constitutes the entire agreement between the parties and supersedes all previous discussions, undertakings and agreements in relation to the subject matter of the Contract.
- 26.7 **Survival:** The warranties in the Contract survive the termination of the Contract. Each indemnity in the Contract survives the performance of obligations relating to the Contract and the termination of the Contract. To the extent that a party has not satisfied an obligation under the Contract or that obligation is a continuing obligation, that obligation survives the termination of the Contract.
- 26.8 **Further assurances:** Each party at its own expense must do everything necessary to give full effect to the Contract.
- 26.9 **Relationship:** The parties acknowledge and agree that the relationship between them is that of principal and contractor. Nothing in the Contract constitutes, or will be deemed to constitute, a relationship of agency, partnership or employment between the parties.
- 26.10 **Subcontracting:** Spectur may engage subcontractors (including Affiliates of Spectur) to perform any of Spectur's obligations under the Contract.
- 26.11 **Communications:** Each communication (including each notice, consent, approval, request and demand) given by a party to another party in relation to the Contract:
- (a) must be in writing and in the English language;
- (b) must be signed by the party making it or by that party's lawyer, attorney, director, secretary or authorised agent;
- (c) must be delivered by hand, sent by prepaid post or sent by email to the recipient party using the contact details of the recipient party specified in the Contract or as otherwise notified by the recipient party to each other party from time to time; and
- (d) is taken to be received by the recipient party:
- (i) in the case of delivery by hand, upon delivery;
- (ii) in the case of prepaid post sent to a recipient party in the same country as the sending party, on the date of actual receipt or otherwise the 3rd Business Day after the date of posting;
- (iii) in the case of prepaid post sent to a recipient party in another country to the sending party, on the date of actual receipt or otherwise the 7th Business Day after the date of posting; and
- (iv) in the case of email, at the time it is delivered to the recipient party's host server.
- 26.12 **Receipt:** Notwithstanding clause 24.11(d), if a communication given under clause 24.11 is taken to be received on a day that is not a Business Day or after 5.00pm in the place where the communication is received, it will be taken to be received at 9.00am on the next Business Day.
- 26.13 **Counterparts:** The Contract may be executed in any number of counterparts which taken together are one and the same document. The Contract is binding on the parties on the exchange of counterparts.
- 27. DEFINITIONS**
- The following definitions apply in the Contract, unless the context requires otherwise:

Affiliate in relation to a party, means a corporation or other legal entity that directly or indirectly Controls, is Controlled by, or is under common Control with, that party.

Artificial Intelligence means any artificial intelligence, machine learning or similar process, including those used to generate predictions based on patterns in Data.

Authorisation means an authorisation, approval, registration, consent, clearance, permit, licence, certification, exemption or other requirements (as applicable) from, by or with a governmental or regulatory body.

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

Claim means an action, suit, proceeding or demand of any kind and any actual or alleged entitlement or right of any kind arising out of or in relation to the Contract or a breach of it, whether arising at common law, in equity or under statute.

Confidential Information means information in whatever form:

- (a) which relate to the business, affairs or activities of a party or the party's Affiliates;
- (b) that is marked by or behalf of a party as being confidential or is of a confidential nature;
- (c) relating to the Contract and the transactions which it contemplates; or
- (d) that would be protected as confidential under law,

including trade secrets, know-how, customer lists, supplier lists, proposals, reports, plans, blueprints, designs, inventions, technology, pricing/fee information (including any discounts, rebates or cost saving measures), financial information or proprietary information, but excluding information:

- (e) 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
- (f) is acquired from a third party entitled to disclose it on a non-confidential basis.

Contract means a Sale Contract, a Fixed Lease Contract, or a Periodic Rental Contract (or any combination thereof), as the context requires.

Control in relation to a body corporate, means either:

- (a) holding 50% or more of voting shares or equivalent rights of the body corporate; or
- (b) the ability to (directly or indirectly) control the determination of the financial and operating policies of the body corporate.

Customer means a person who orders Products or Services (or both) from Spectur.

Data means any and all data, records, materials or other information whatsoever, however created, collected, recorded, stored, or generated, whether in physical, digital or other format, including:

- (a) video footage, moving images, still images, photographs and sound recordings, including System Data under clause 6.3;
- (b) data which has undergone processing, either manually or through automated computer software, or a change to its

format so that it can be analysed, interpreted and visualised; and

- (c) raw data that has been handled, extracted, merged, sorted, analysed, graphed, tabularised, compiled, manipulated or otherwise processed.

Data Plan means a mobile/cellular telecommunications network data plan or other contract for connection to such network provided by a third-party telecommunications service provider, to be used in conjunction with a Surveillance Product.

Delivery Fee means the fee payable for the delivery of Products, calculated in accordance with clause 10.7. **Excluded Loss** means any:

- (a) 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), or damage to reputation; or
- (b) any other consequential, indirect or special loss not otherwise covered in paragraph (a) of this definition,

related in any way to the Contract or its subject matter, whether actual, anticipated or otherwise.

EULA means Spectur's End User Licence Agreement in relation to the User Interface.

Financial Matter means a matter which is capable of determination by audit or reference to financial or accounting records, knowledge or practice.

Fixed Lease Contract means an agreement between Spectur and the Customer for Spectur to supply the Customer with Products by way of a lease for a fixed period of more than 12 months, including the supply of associated Services, as applicable.

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, typhoon or similar), earthquake, fire, subsidence, land slide, mud slide, wash-out, explosion, radioactive contamination or natural disaster;
- (b) epidemic, pandemic or other similar health emergency;
- (c) 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;
- (d) industrial dispute of any kind, strike, lock-out, ban, limitation or other industrial disturbances;
- (e) 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
- (f) adverse application of any law or enforcement actions of any court, regulatory body or governmental agency.

GST means goods and services tax levied under the GST Law.

GST Law has the meaning given to that term in the *A New Tax System (Goods and Services) Tax Act 1999* (Cth).

Insolvency Event in relation to a part (**Relevant Party**), means any of the following events occurring:

- (a) a receiver, receiver and manager, controller (as that term is defined in the *Corporations Act 2001* (Cth)), administrator, bankruptcy trustee, liquidator, provisional liquidator, or similar officer is appointed to the Relevant Party or any of the Relevant Party's assets, or an application to court for such appointment is made and not permanently stayed, withdrawn or dismissed within 30 days;
- (b) the Relevant Party enters into, or resolves to enter into, a deed of company arrangement, scheme of arrangement, compromise or composition with any class of creditors, other than for a solvent corporate restructure;
- (c) a resolution is passed or an application to a court is taken or an order is made for the winding up or dissolution of the Relevant Party;
- (d) the Relevant Party ceases to (or is unable to) pay its creditors (or any class of them) in the ordinary course of business, or announces its intention not to pay its creditors;
- (e) the Relevant Party is (or states that it is) insolvent (or is deemed to be insolvent), commits an act of bankruptcy or is declared bankrupt under applicable bankruptcy or insolvency Law; or
- (f) anything having a substantially similar effect to any of the events specified in this definition above happens under the law of any applicable jurisdiction.

Installation Fee means the fee payable for the installation of a Product, calculated in accordance with clause 9.6

Installation Site means the site or location at which a Product is, or is to be, installed, as specified in the Supply Document.

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 has the meaning given to that term in clause 6.1(a).

Lease Fee means the fee payable for the lease of a Lease Product under a Fixed Lease Contract, as set out in the Supply Document.

Lease Period means the period over which Leased Products are to be leased under a Fixed Lease Contract, as set out in the Supply Document.

Leased Product means a Product that is, or is to be, leased by Spectur to the Customer under a Fixed Lease Contract.

Loss means any loss, liability, damages (of any nature, including aggravated and punitive damages), compensation, cost (including all legal costs on a full indemnity basis), charge or expense,

whether direct or indirect, present or future, actual, contingent or prospective, and whether known or unknown, howsoever arising.

Mandatory Rights means any mandatory consumer rights and remedies under:

- (a) in Australia – the *Competition and Consumer Act 2010* (Cth) (including the Australian Consumer Law set out in Schedule 2 of the Act) and similar state and territory legislation (including the *Fair Trading Act 2010* (WA)); or
 - (b) in New Zealand – the *Consumer Guarantees Act 1993* (NZ),
- which may not be excluded or modified by contract.

Off-Site Delivery Location means a location for the delivery of Products which is not a premises, facility or other location controlled by Spectur.

Order means an order, request or other instructions from the Customer to Spectur for the supply of Products or Services.

Periodic Rental Contract means an agreement between Spectur and the Customer for Spectur to supply the Customer with Products by way of a lease for an indefinite period, including the supply of associated Services, as applicable.

Personal Information has the meaning given to that term under the *Privacy Act 1988* (Cth).

Personnel in relation to a party, means any of that party's employees, officers, directors, contractors, agents and its representatives involved directly or indirectly in the matters related to the Contract.

PPS Act means the *Personal Property Securities Act 2009* (Cth).

Privacy Policy means Spectur's privacy in relation to the collection, use, storage, security, destruction, de-identification and/or disclosure of Personal Information.

Product means any product or goods (including a component part) supplied by Spectur to the Customer, the subject of an Order.

Purchase Price means the price payable for the purchase of a Product, calculated in accordance with clause 9.6.

Quote means a quotation or proposal by Spectur for the supply of Products and/or Services by sale or lease/rental.

Rental Fee means the fee payable for the lease of a Rental Product under a Periodic Rental Contract, as set out in the Supply Document.

Rental Period means the term of a Periodic Rental Contract.

Rental Product means a Product that is, or is to be, leased by Spectur to the Customer under a Periodic Rental Contract.

Spectur means Spectur Limited (ACN 140 151 579), including its successors and assigns.

Sale Contract means an agreement between Spectur and the Customer for Spectur to supply the Customer with Products by way of sale, including the supply of associated Services, as applicable.

Special Conditions means any term or conditions in the Supply Document which are expressed to be special conditions for the purposes of the Contract.

Subscription Fee means the fee payable for the provision of Data Plans, System Data processing (including use of Artificial Intelligence services), System Data storage, and other subscription Services (including the SpecturConnect services)

provided by Spectur for the Customer, calculated in accordance with clause 10.7.

Supply Document means:

- (a) a contract or other document provided by Spectur to the Customer in response to an Order or on acceptance of a Quote by the Customer, offering or otherwise confirming the terms and conditions upon which Spectur will supply Products and/or Services; or
- (b) otherwise, a Quote.

Services means any that Spectur may agree to perform for the Customer from time to time, or that are the subject of an Order, including any one or more of the following:

- (a) grant of an Interface Licence under clause 6.1;
- (b) provision of a Data Plan under clause 6.2;
- (c) storage and/or processing of System Data under 6.3, including the provision of Artificial Intelligence services; or
- (d) any other services ancillary to the Products supplied by Spectur to the Customer.

Surveillance Product means a Product that is a security camera or similar surveillance device developed or supplied by Spectur.

System Data means any Data which is recorded, collected, processed, analysed, created or generated by or on behalf of Spectur using a Surveillance Product, the User Interface or an Artificial Intelligence service.

Technical Matter means a matter which is capable of determination by reference to engineering, scientific, information technology or other technical expertise, knowledge or practice, other than a Financial Matter.

Terms means these Standard Terms of Trade.

User Interface the cloud-based software platform and user interface developed and operated by Spectur (including web and mobile applications) which facilitates remote access to and use of a Surveillance Product using an internet browser or mobile telecommunications device, including access to footage and data captured through the Surveillance Product.

Warranty Statement means a written statement, policy or other document setting out the terms and conditions for Spectur's warranties in relation to goods and services.

28. INTERPRETATION

28.1 This clause 26 applies to the interpretation of the Contract.

28.2 If a word or phrase is defined, then its other grammatical forms have a corresponding meaning.

28.3 The singular includes the plural and vice versa.

28.4 A reference to:

- (a) a gender includes any gender;
- (b) a living thing includes a reference to an inanimate thing and vice versa;
- (c) a clause, schedule or annexure is a reference to a clause, schedule or annexure to the Contract;
- (d) a document includes a variation or replacement of that document;
- (e) a statute includes its subordinate legislation and a modification, replacement or re-enactment of either;

(f) the Contract includes a schedule or annexure to the Contract;

(g) "supply" or "supplied" in relation to a Product includes sale, rental/lease/hiring or other supply of that Product;

(h) "deliver" or "delivery" of a Product includes making Product available for collection;

(i) "use", "exploit", "exercise" or similar words in relation to Intellectual Property Rights includes the use, exploitation or exercise of any rights, privileges, powers and/or benefits relating to or granted under those Intellectual Property Rights, whether under statute or otherwise;

(j) person includes a reference to:

(i) 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

(ii) the person's personal representatives, successors and assigns;

(k) a thing, including a right, is a reference to either the whole thing or a part of the thing;

(l) Australia is to the Commonwealth of Australia, including any state or territory of the same;

(m) New Zealand includes its external territories;

(n) currency is to Australian dollars unless specified otherwise;

(o) time is to the time in Perth, Western Australia unless specified otherwise;

(p) a day is a reference to the period which starts at midnight and ends 24 hours later;

(q) a right includes a benefit, remedy, discretion or power, and vice versa; and

(r) an obligation includes a duty, and vice versa.

28.5 The words "include", "includes", "including" and similar words are not words of limitation and do not restrict the interpretation of a word or phrase in the Contract.

28.6 Part performance of an obligation does not constitute performance of an obligation.

28.7 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.

28.8 If the date on which a thing must be done is not a Business Day, then that thing must be done on the next Business Day.

28.9 If a period of time runs from a given date, act or event, then the time is calculated exclusive of the date, act or event.

28.10 A clause is not to be construed against a party on the ground that the party is responsible for the preparation of the Contract or that clause.

28.11 The phrase "in relation to" has the widest possible import and encompasses the phrases "in relation to", "in connection with", "in respect of", "arising out of", "caused by" and "resulting from".

28.12 In the event of an inconsistency between the main body of the Contract and any of the schedules, the main body of the Contract prevails to the extent of that inconsistency.

- 28.13 A heading in the Contract is for convenience only and does not affect the interpretation of the Contract.
- 28.14 A Special Condition prevails to the extent of any conflict or inconsistency with another provision of the Contract.