

Netfit Terms & Conditions for Business

1 Services

- 1.1. Netfit Communications Limited is incorporated and registered in England and Wales with company number **12120051** whose registered office is at Apex House, Wonastow Road Industrial Estate (East), Monmouth, Monmouthshire, Wales, NP25 5JB ("**Netfit**").
- 1.2. Netfit is in the business of providing security systems and data communication services. This includes the installation of CCTV, intruder alarm, access systems, electronic gates and barriers, wireless networks, intercom systems and data communication systems. Netfit also provides maintenance and annual service agreements for such systems.
- 1.3. The Customer wishes to obtain the Services from Netfit on the terms set out in these Terms and Conditions and the Application Form.
- 1.4. The agreement between Netfit and the Customer shall consist of these Terms and Conditions and the Netfit application agreement (the "**Agreement**"). These Terms and Conditions shall be read in conjunction with the applicable agreement.

2 Commencement and Duration

- 2.1. The Agreement shall commence on the date when the Application Form and/or quote has been accepted by both parties (the "**Commencement Date**"). The Installation Services shall complete upon Netfit fulfilling its obligations in respect of such Services and notifying the Customer of the completion by the formal sign-off document. The Annual Services shall continue for 12 months from the Commencement Date if applicable.

3 Netfit's Rights and Responsibilities

- 3.1. Netfit shall use reasonable endeavours to supply the Services under the Agreement in all material respects.
- 3.2. Netfit shall use reasonable endeavours to meet any performance dates specified in the Quote or otherwise agreed with the Customer, but any such dates shall be estimates only and time for performance by Netfit shall not be of the essence of the Agreement. Netfit reserves the right to choose the method and means of performing the Services under the terms of the Agreement.
- 3.3. Netfit will provide a hardware warranty for any defects in the Equipment (excluding cables which are not covered by this warranty) for twelve (12) months from the Commencement Date (the "**Warranty Period**"), provided that such defects are not caused by the Customer's acts or omissions. During the Warranty Period, Netfit will repair, or replace, such faulty Equipment, additional call-out fees may apply.
- 3.4. The provision of the Installation Services is subject to Netfit carrying out health and safety risk assessment on the Customer's premises on the first day of the provision of Services. If Netfit identifies any health and safety risks (such risks are set out in the Quote for Installation Services), then either Netfit will not provide the Services in that area, or the Customer will undertake to promptly remedy any such risks to Netfit's satisfaction.

- 3.5. Netfit shall use reasonable endeavours to observe all health and safety and security requirements that apply at any of the Customer's premises and that have been communicated to it under clause 4.1 (g), provided that it shall not be liable under the Agreement if, as a result of such observation, it is in breach of any of its obligations under the Agreement.
- 3.6. Netfit has the right to engage sub-contractors, including without limitation the Netfit Engineers, for part or all of providing the Services.

4 Customer Obligations

- 4.1. The customer shall:
- a. co-operate with Netfit in all matters relating to the Services (including without limitation any documentation that Netfit may require the Customer to sign in connection with the completion of the Installation Services);
 - b. provide, for Netfit and the Netfit Engineers, promptly and at no charge, access to the Customer's premises as required by Netfit;
 - c. provide a safe working environment and conditions on its premises, and adequate and appropriate welfare facilities to Netfit and the Netfit Engineers;
 - d. provide a safe and secure location for storing the equipment during the provision of the Installation Services;
 - e. ensure that any waste arising from the Installation Services (e.g. packaging) is removed after installation is complete;
 - f. provide scaffold or access platforms if required by Netfit for the provision of the Services;
 - g. provide to Netfit in a timely manner all information, items and materials in any form (whether owned by the Customer or a third party) reasonably required by Netfit in connection with the Services and ensure that they are accurate and complete;
 - h. inform Netfit of all health and safety and security requirements that apply at any of the Customer's premises;
 - i. obtain and maintain all necessary licenses, consents and insurances, and comply with all relevant legislation as required to enable Netfit to provide the services before the date on which the Services are to start;
 - j. be responsible for any charges raised by third parties that may be payable as a result of Netfit providing the Services (e.g. telephone and broadband charges, IT setup or reconfiguration); and
 - k. keep, maintain and ensure that the equipment is in good and clean condition. Netfit shall not be responsible for the removal of cobwebs or other debris that might impact the usage of the Equipment.
- 4.2. If Netfit's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer, its agents or employees, or Netfit suffers loss as a result of such actions or omissions, then, without prejudice to any other right or remedy it may have, Netfit shall be allowed an extension of time to perform its obligations equal to the delay caused by the Customer, and the Customer shall promptly compensate Netfit for any such loss.

5 Charges and Payment

- 5.1. In consideration of the provision of the Services by Netfit, the Customer shall pay the Charges under provisions of the Agreement. If during the provision of the Installation Services the Customer authorises additional services to be undertaken, such services will be subject to the Agreement and the parties will agree on the additional charges applicable to such services.
- 5.2. Where the Charges are calculated on a time and materials basis:

- a. Netfit shall be entitled to charge an overtime rate set out in the Quote for any time worked outside the hours set out in the Quote; and
 - b. Netfit shall indicate any overtime spent in its invoices.
- 5.3. The Charges exclude the following which shall be payable by the Customer following submission of an appropriate invoice:
 - a. the cost of travelling and any other ancillary expenses (including without limitation any legal and administrative expenses) reasonably incurred by Netfit in connection with the Agreement; and
 - b. the cost to Netfit of any materials (including without limitation all Equipment) for the provision of the Services as such items and their cost are notified to the Customer in advance from time to time;
 - c. replacement of any Equipment that is not included within manufacturer's warranty, software upgrades, and repairs or rerun of cables that may be damaged after the installation and sign-off of the Services;
 - d. a restocking fee of up to 15% in respect of any Equipment in the event of (a) any cancellations before the commencement of the Installation Services, or (b) any change to the Customer's specification agreed by Netfit during the provision of the Installation Services; and
 - e. any contingency charges that are set out in the Quotation which may arise as a result of unforeseen circumstances

(together with the "**Other Expenses**").
- 5.4. Netfit shall invoice the Customer for the Charges and any Other Expenses as soon as reasonably practicable after the provision of the Installation Services, except where installation works take more than 30 days, in which case Netfit will submit interim invoices equal to the percentage of works carried out at that time. In respect of the Annual Services, Netfit shall invoice the Customer for the Charges and any Other Expenses as soon as reasonably practicable after the Customer accepts the Quote.
- 5.5. The Customer shall pay each invoice submitted to it by Netfit within the period set out in the Quotation. In each case, payment shall be made to a bank account nominated in writing by Netfit from time to time.
- 5.6. In respect of the Installation Services, Netfit reserves the right to submit an invoice for 50% of the Quotation amount before the installation date.
- 5.7. Without prejudice to any other right or remedy that it may have if the Customer fails to pay Netfit any sum due under the Agreement on the due date:
 - a. the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 5.7(a) will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%;
 - b. Netfit may suspend all or part of the Services until payment has been made in full.
- 5.8. All sums payable to Netfit under the Agreement:
 - a. are exclusive of VAT, and the Customer shall, in addition, pay an amount equal to any VAT chargeable on those sums on delivery of a VAT invoice; and

- b. shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

5.9. Excluding hardware warranty, Netfit reserves the right to charge a call-out fee for any remediation activities carried out after a customer sign-off of the job agreed is confirmed. This can include but is not limited to; additional hardware requirements, customer damage and/or alterations or additional training.

6 Intellectual Property Rights

6.1. Concerning the Services, Netfit shall retain ownership of all Intellectual Property Rights in any documents, materials and information that it discloses to the Customer concerning the performance of the Services.

7 Data Protection

7.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 7 is in addition to and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. Please refer to Netfit's privacy notice (Netfit Website) which describes how Netfit may collect and use personal information about the Customer during and after the term of this Agreement, under its obligations under Data Protection Legislation.

8 Confidentiality

8.1. Each party undertakes that it shall not at any time during the Agreement, and for five years after termination of the Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 8.2.

8.2. Each party may disclose the other party's confidential information:

- a. to its employees, officers, representatives or advisers who need to know such information to exercise the party's rights or carry out its obligations under or in connection with the Agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 8; and
- b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

8.3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Agreement.

9 Limitation of Liability

9.1. The restrictions on liability in this clause 9 apply to every liability arising under or in connection with the Agreement including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.

9.2. Nothing in the Agreement limits any liability which cannot legally be limited, including liability for:

- a. death or personal injury caused by negligence;
 - b. fraud or fraudulent misrepresentation; and
 - c. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession).
- 9.3. Subject to clause 9.2, Netfit's total liability to the Customer shall not exceed the amount of the Charges payable under the Agreement.
- 9.4. Subject to clause 9.2, the following types of loss listed are wholly excluded:
- a. loss of profits;
 - b. loss of sales or business;
 - c. loss of agreements or contracts;
 - d. loss of anticipated savings;
 - e. loss of use or corruption of software, data or information;
 - f. loss of or damage to goodwill; and
 - g. indirect or consequential loss.
- 9.5. The Customer agrees that Netfit cannot be held liable for any security threats to the Customer's property (including the Equipment). Any monitoring undertaken by Netfit is solely for the purpose of system analysis and not for monitoring the security of the Customer's premises.
- 9.6. Netfit cannot guarantee that the Equipment will not fail, be circumvented, or otherwise rendered ineffective and in any event, Netfit shall not be responsible for any loss arising as a result of such circumstances. Netfit cannot be held liable for losses arising in connection with emergency repairs.
- 9.7. Netfit does not take responsibility for any loss of, or damage caused to, the Equipment (including but not limited to damage caused as a result of loss of electrical power, a surge of electrical power, electrical or radio interference, lightning strikes, water ingress, vandalism, animal damage, third party equipment failure [e.g. alarm receiving centres failures) during its installation and after installation is complete.
- 9.8. The Customer agrees that Netfit shall not be responsible for any non-performance of the Services that arise from the failure or malfunction of (i) any third-party software, and (ii) any third party providing services to the Customer.
- 9.9. Unless the Customer notifies Netfit that it intends to make a claim in respect of an event within the notice period, Netfit shall have no liability for that event. The notice period for an event shall start on the day on which the Customer became, or ought reasonably to have become, aware of the event having occurred and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

10 Termination

- 10.1. Either party may terminate the Agreement by giving 30 days written notice to the other party.
- 10.2. Without affecting any other right or remedy available to it, either party may terminate the Agreement with immediate effect by giving written notice to the other party if:

- a. the other party commits a material breach of any term of the Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within 30 days after being notified in writing to do so;
 - b. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts;
 - c. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party;
 - d. an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party;
 - e. any event occurs, or proceeding is taken, concerning the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 10.2(b) to clause 10.2(d) (inclusive); or
 - f. the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business
- 10.3. Without affecting any other right or remedy available to it, Netfit may terminate the Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than 30 days after being notified in writing to make such payment.

11 Consequences of Termination

- 11.1. On termination or expiry of the Agreement:
- a. the Customer shall immediately pay to Netfit all of Netfit's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, Netfit may submit an invoice, which shall be payable immediately on receipt;
 - b. the following clauses shall continue in force: clause 24 (Interpretation), clause 8 (Confidentiality), clause 9 (Limitation of liability), clause 11 (Consequences of termination), clause 15 (Waiver), clause 16 (Severance), clause 22 (Governing law) and clause 23 (Jurisdiction).
- 11.2. Termination or expiry of the Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

12 Force Majeure

- 12.1. Force Majeure Event means any circumstance, not within a party's reasonable control including, without limitation:
- a. acts of God, flood, drought, earthquake or other natural disasters;
 - b. epidemic or pandemic;
 - c. terrorist attack, civil war, civil commotion or riots, war, the threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
 - d. nuclear, chemical or biological contamination or sonic boom;

- e. any law or any action was taken by a government or public authority, including imposing an export or import restriction, quota or prohibition;
 - f. the collapse of buildings, fire, explosion or accident;
 - g. any labour or trade dispute, strikes, industrial action or lockouts; and
 - h. interruption or failure of utility service.
- 12.2. Provided it has complied with clause 12.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under the Agreement by a Force Majeure Event (Affected Party), the Affected Party shall not be in breach of the Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for the performance of such obligations shall be extended accordingly.
- 12.3. The Affected Party shall:
- a. as soon as reasonably practicable after the start of the Force Majeure Event, notify the other party of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
 - b. use reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 12.4. If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 6 months, the party not affected by the Force Majeure Event may terminate the Agreement by giving 30 days written notice to the Affected Party.

13 Assignment and Other Dealings

- 13.1. This Agreement is personal to the Customer and the Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Agreement.

14 Variation

- 14.1. These Terms and Conditions may be amended by Netfit anytime by giving 30 days' notice to the Customer in writing.

15 Waiver

- 15.1. A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 15.2. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 15.3. The rights and remedies provided under the Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

16 Severance

- 16.1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 16.2. If any provision or part-provision of this Agreement is deemed deleted under clause 16.1, the parties shall negotiate in good faith to agree on a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

17 Entire Agreement

- 17.1. The Agreement, including these Terms and Conditions and the Netfit customer Application, constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 17.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Agreement.

18 No Partnership or Agency

- 18.1. Nothing in the Agreement is intended to or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 18.2. Each party confirms it is acting on its behalf and not for the benefit of any other person.
- 18.3. The parties acknowledge and confirm that the Agreement is a contract for services, and nothing in the Agreement is intended to or shall be deemed to, establish an employment contract.
- 18.4. The parties agree that the Services provided by Netfit under the Agreement are not exclusive and that Netfit may enter into similar agreements with any third parties.

19 Third-Party Rights

- 19.1. The Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement.

20 Notices

- 20.1. Any notice or other communication was given to a party under or in connection with the Agreement shall be in writing and shall be:
 - a. delivered by hand or by pre-paid first-class post at its registered office (if a company) or its principal place of business (in any other case); or
 - b. sent by email
to Netfit: Sales@netfit.co

to the Customer: the email address specified in the Agreement.

- 20.2. Any notice or communication shall be deemed to have been received:
- a. if delivered by hand, on signature of a delivery receipt;
 - b. if sent by pre-paid first-class post, at 9.00 am on the second Business Day after posting or otherwise at the time recorded by the delivery service; and
 - c. if sent by email, at the time of transmission, or, if this time falls outside business hours, when business hours resume. In this clause 20.2(c), business hours means 9.00 am to 5.00 pm Monday to Friday on a day that is not a public holiday in the place of receipt.

21 Marketing

- 21.1. The Customer authorises Netfit to take photographs, images and other recordings on the Customer's premises relating to the Installation Services, and to use such materials on its website, social media or in other marketing literature.
- 21.2. The Customer expressly permits Netfit to use its name and logo in connection with any marketing of Netfit's Services.

22 Governing Law

- 22.1. The Agreement and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.

23 Jurisdiction

- 23.1. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.

24 Interpretation

The following definitions and rules of interpretation apply in the Agreement.

- 24.1. Definitions:
- a. Annual Services: the annual services set out in the Application Form from time to time;
 - b. Application Form: (1) the Netfit application form for annual services and/or (2) the Netfit application form for installation services, in each case signed by the Customer;
 - c. Business Day: a day, other than a Saturday, Sunday or public holiday in England and Wales, when banks in London are open for business.
 - d. Charges: the sums payable (1) for the Installation Services as set out in the Quotation, and/or (2) for the Annual Services as set out in the Application Form
 - e. Customer: the person (whether a natural person or a corporate) whose name and details appear on the Application Form;
 - f. Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK, including the General Data Protection Regulation ((EU)

2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data.

- g. Equipment: any equipment, including without limitation any tools, cameras, hardware systems, cabling or other facilities, provided by Netfit to the Customer and used directly or indirectly in the supply of the Services. The Equipment shall become the Customer's property only upon full payment for the Equipment by the Customer
- h. Installation Services: the installation services set out in the Quotation from time to time
- i. Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trademarks and service marks, business names and domain names, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
- j. Netfit Engineer: the employees, contractors and/or agents of Netfit from time to time;
- k. Services: the Installation Services and/or the Annual Service(s) and any Extra Service Package selected by the Customer in the Application Form;
- l. Quotation: the quotation provided by Netfit in respect of the proposed Installation Services requested by the Customer; and
- m. VAT: value-added tax or any equivalent tax chargeable in the UK or elsewhere.

24.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

24.3. Clause and paragraph headings shall not affect the interpretation of the Agreement.

24.4. Unless the context otherwise requires, any reference to European Union law that is directly applicable or directly effective in the UK at any time is a reference to it as it applies in England and Wales from time to time including as retained, amended, extended, re-enacted or otherwise given effect on or after on 31 January 2020.

24.5. Any words following the terms including include, in particular, for example, or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms