

ABCA SYSTEMS LIMITED

TERMS AND CONDITIONS OF SUPPLY, INSTALL & MAINTENANCE

THE CUSTOMER'S ATTENTION IS DRAWN IN PARTICULAR TO CLAUSE 14

1. ABOUT US

1.1 ABCA Systems Limited is a company incorporated and registered in England (company registration number: 06294877) whose registered office and trading address is at: Unit 24, Mylord Crescent, Camperdown Industrial Estate, Killingworth, Tyne & Wear NE12 5UJ ('ABCA/We/Our'). Our VAT number is: 938869157.

1.2

We supply and install specialist electrical systems and also supply ready-to-use electrical equipment. The term '**specialist electrical systems**' includes all of the electrical systems we supply, including without limit intercoms, CCTV, public address systems, access control systems, key tagging systems, disability call systems, refuge intercoms, TV systems and fire alarm systems. The term '**ready-to-use electrical equipment**' includes all equipment which is supplied by us otherwise than as part of an installed specialist electrical system.

2. SCOPE

2.1

All orders placed with ABCA for the supply and installation of specialist electrical systems and the supply of ready-to-use electrical equipment are subject to the terms and conditions in this document ('**Terms**'). These Terms are applicable to contracts with end users, resellers (referred to below as 'distributors') and contractors. No variation or substitution to these Terms shall be effective unless specifically and expressly approved by a director of ABCA. Without prejudice to the generality of the foregoing, any terms sent to ABCA with the customer's purchase order shall not form part of the contract between ABCA and the customer.

2.2 In the event of any conflict between these

Terms and the provisions of any Specification (defined below), the terms of the Specification shall prevail.

3. HOW TO ORDER

3.1 If you have asked us to quote for supplying a specialist electrical system, we will have provided you with a written specification ('**Specification**'). You may place an order by signing and returning one copy of the Specification or by approving the Specification by email. We may at our discretion also accept an unqualified verbal approval of our Specification as an order. You can place an order for ready-to-use equipment over the counter at our premises or by telephone or email.

3.2 No contracts shall come into existence between ABCA and its customers until orders have been acknowledged.

4. DESCRIPTION OF GOODS

4.1

All orders will be sales by description not sample. Subject to clause 4.2, goods supplied will comply with the description in relation to those goods given on ABCA's website on the date of order and in the current edition of ABCA's printed catalogue and in any applicable Specification, in relation to the manner of operation, technology used and approximate dimensions, volumes and weight (where stipulated). All other descriptions whether written or pictorial, provided by ABCA or the customer shall not form part of the contractual description of the goods.

4.2

When supplying a specialist electrical system, ABCA reserves the right to substitute goods for those ordered, if this has no material effect on the specification for the overall system.

5. SYSTEM SPECIFICATION

5.1

ABCA shall have no responsibility for the fitness for purpose or performance of a specialist electrical system where the specification has been notified to ABCA by the customer.

5.2

Where ABCA has drafted a Specification based on its own recommendations, it is warranted that the system will be operational for the purpose stated in the Specification and perform in accordance with the Specification immediately after completion of the installation. The customer's sole remedy for breach of this warranty shall be to terminate the contract in accordance with clause 12 below and to claim a refund of the cost of the system (where paid). Upon termination, all property in the equipment installed shall revert to ABCA (if this shall have passed to the customer) and the customer shall give ABCA a reasonable opportunity to remove and collect the equipment. Notwithstanding the foregoing, ABCA shall not be liable for any failure of a system to operate to the extent that this is caused by the failure of the customer to provide any supporting equipment, conditions or software which may be detailed in the Specification. The equipment comprised in an installed system will be warranted for 12 months in accordance with clause 10 of these terms.

6. PRICE AND PAYMENT

6.1 Price will be in accordance with any Specification provided (provided that an order is placed within 14 days of the date of the Specification). This is without prejudice to any mechanism in relation to price variation which shall be included within the Specification. The price for ready-to-use equipment shall be in accordance with the price quoted to the customer and included

within the purchase order. Where no price is agreed, the price shall be ABCA's standard undiscounted price applicable on the date that the purchase order is received.

6.2

Invoices will be presented at the intervals stipulated in the Specification. Where nothing is stipulated in the Specification, the full purchase price may be invoiced immediately after acknowledgment of the customer's order. In the case of ready-to-use electrical equipment, the purchase price shall be invoiced on delivery unless payment in advance has been agreed. Payment of all invoices must be received in cleared funds within 30 days of the date of the invoice or such shorter period as shall have been agreed. If the price is not paid on the due date, ABCA may terminate the customer's order. Time shall be of the essence of the customer's obligation to pay the purchase price. Nothing in this clause prejudices ABCA's ability to present an invoice in accordance with clause 7.4 below.

6.3

ABCA may terminate an order which has been acknowledged but against which full delivery has not been made in the event that an administrator, administrative receiver or receiver is appointed over all or part of the assets of the customer, a winding up petition is presented in respect of the customer, the customer enters into any form of arrangement with its creditors or ceases or threatens to cease to carry on business. This is without prejudice to ABCA's rights of termination under the general law.

6.4

Prices are exclusive of VAT and delivery charges, which shall be paid together with and in a like manner to the purchase price.

6.5

ABCA applies a minimum order charge. Notwithstanding the foregoing clauses, if the purchase price is below the minimum order charge, the minimum order charge will be the applicable purchase price.

6.6

Interest at the rate of 10% above the official bank rate of the Bank of England, accruing daily and compounding weekly, will be charged on all late payments.

7. DELIVERY AND INSTALLATION TIMES

7.1

We will make every effort to install systems within the timescales stated in the applicable Specification. Delivery of ready-to-use products shall be made within 6 weeks of receipt of the customer's order or such other time as is agreed with the customer in writing. Delivery shall take place at ABCA's trading address unless the customer has contracted to pay for carriage, in which case the delivery address shall be the customer's address for delivery as stated in the order (or such other address as shall have been agreed upon by the parties in writing).

7.2

The customer's sole remedy in the event of delay in delivery or installation caused by ABCA shall be to terminate the order or the applicable part of it in accordance with clause 12 below. ABCA shall not be liable for any loss, costs or expenses incurred by the customer in connection with delayed delivery or installation. Time shall not be of the essence in relation to delivery or installation.

7.3

Delivery may be made in instalments unless agreed otherwise in writing.

7.4

The customer shall be obliged to accept delivery or installation at any time after the order is placed or in accordance with the applicable Specification. ABCA shall be entitled to terminate the agreement if the customer refuses to accept delivery or installation as stated and time shall be of the essence of the customer's obligation. If the customer wrongfully refuses to accept delivery or installation, ABCA may store the goods to be supplied for such period as it determines to be appropriate at the customer's expense and shall have the right to issue its invoice in respect of the purchase price of the goods. Any period of storage shall be without prejudice to ABCA's right to treat the contract as having been repudiated by the customer. Risk shall pass to the customer immediately after failure to accept delivery.

8. TITLE AND RISK IN GOODS AND EQUIPMENT

8.1

Title in and beneficial ownership of all goods supplied shall remain vested in ABCA notwithstanding delivery or installation until such time as the customer has paid: (i) the full price of the goods; and (ii) all other sums then due to ABCA from the customer. When placing an order, the customer grants ABCA the right to enter the premises at which the goods are stored, or may be stored, for the purpose of repossessing them in accordance with this clause. The right to repossess the goods shall arise immediately after non-payment of any sum due to ABCA or on the termination of the contract with the customer. In exercising the right of repossession, ABCA will take all reasonable precautions against damage to the premises concerned, but shall not be liable for any damage, nor any claim, loss or expense which the customer may suffer as a result of the removal of the goods. Unless the customer is a distributor of goods of the type purchased, the customer shall not be authorised to sell them or part with possession of them before title has become vested in accordance with this clause. Where goods have been purchased by a distributor, they shall be stored separately from stock supplied by other suppliers.

9. FORCE MAJEURE

9.1 No failure or omission by ABCA to carry out or observe any of the provisions of these Terms shall give rise to any liability on the part of ABCA or be deemed to be a breach of contract if such failure or omission directly or indirectly arises from circumstances beyond the control of ABCA, including acts of God, fire, accident, strike, lockout, civil disturbances or labour disputes, acts orders or regulations of government or shortage of materials or fuel or from any cause whether or not of the same nature of the foregoing beyond the control of ABCA.

10. WARRANTY

10.1

Subject as provided below, ABCA warrants that goods supplied will be of satisfactory quality and reasonably fit for the purpose for which they were designed from the date of delivery for the period of 12 months, but ABCA's sole liability under this warranty shall be limited to replacing or repairing the defective goods. ABCA shall incur no liability under this warranty:

10.1.1 unless it is promptly notified in writing upon discovery of any defects by the customer and such notification is received within the 12-month warranty period;

10.1.2 in relation to any goods in which the alleged defect is found on examination to have been caused in whole or in part by the misuse (including without limit use otherwise than in accordance with the instructions provided with the goods), neglect, overload or any alteration or attempt to remedy any alleged defect by anyone other than an authorised representative of ABCA; and

10.1.3 until the full price of the goods has been paid to ABCA. The benefit of this warranty is limited to ABCA's customer, it is not enforceable by an end user other than the customer. Where goods are replaced, they shall be covered by the warranty but the commencement date of the warranty term shall be the date of delivery of the goods originally supplied.

10.2

ABCA reserves the right to charge for its engineers' time, on the basis of ABCA's current schedule of rates, spent in diagnosing faults in installed specialist electrical systems at the customer's premises, whether or not goods supplied by ABCA are discovered upon inspection to have been faulty.

11. INSTALLATION

11.1

Where the customer is provided with installation services, these shall be provided with reasonable care and skill, using

specialist labour and a good grade of materials, including PVC insulated and sheathed cable. Wiring will normally be installed in conduits, which must be left for us complete with draw wires. If instructed to do so in writing, we will normally conceal wiring behind plaster (if chases are provided) or in stud partitions or under carpets or floor boards (if carpets and boards are lifted for us). We will gladly advise how cable runs can be minimised but, unless specifically ordered, our work does not include the provision of mains AC points. The cost of making cavities for flush mounted equipment and making good any damage to brickwork, plasterwork, rendering or similar finish, to any decorations, painting, woodwork or furniture causes by the installation or by any work carried out for that purpose is not included within the service and shall be the responsibility of the customer. The customer shall be responsible for ensuring that ABCA's representatives have a safe working environment in which to carry out the installation. If ABCA's representatives are unable to complete an installation or are delayed on site due to the customer's fault, we reserve the right to charge for time wasted on the basis of our applicable hourly rate.

11.2

During an installation, tools and materials may be left unattended on site. The customer will be liable for any equipment which is stolen or otherwise misappropriated during an installation, provided ABCA's representatives comply with the customer's instructions in relation to site security.

12. TERMINATION BY THE CUSTOMER

12.1

A customer may not terminate a contract on these Terms unless this is due to: (i) material non-compliance with description; (ii) failure to deliver or install in accordance with clause 7.1; (iii) material defect in the quality of the goods or material lack of fitness for purpose in accordance with clause 10; or (iv) failure of a specialist electrical system to perform in accordance with the Specification in accordance with clause 5 AND in the case of ready-to-use goods alleged not to comply with description or to have a material defect in quality or lack of fitness for purpose, the goods have been returned to ABCA and if defective, have not been replaced or repaired within 21 days AND in all other cases 21 days' notice of the problem (setting out reasonable particulars) has been given to ABCA (commencing on the date of actual receipt of the notice) during which time the customer has given ABCA reasonable opportunities to rectify the breach and the breach has not been rectified.

12.2

Where delivery of ready-to-use goods has been made by instalment, or more than one specialist electrical system has been installed, under the same order, each delivery or installation shall be severable. Problems with an individual delivery or

installation shall entitle the customer to terminate the order (provided that the provisions of clause 12.1 apply) so far as it relates to that delivery or installation, but not the order as a whole.

12.3

All rights of termination which the customer may have under the general law are expressly excluded. Where the customer terminates a contract subject to these Terms, ABCA shall not be liable for any damages in connection with losses incurred by the customer (other than to refund the purchase price paid by the customer) and save as aforesaid, termination shall be the customer's sole remedy.

13. GENERAL

13.1

No contract, or any right arising thereunder, on these Terms shall be capable of assignment by the customer without ABCA's express consent.

13.2

The construction, validity and performance of any contract made on these Terms shall be governed by English law and the courts of England and Wales shall, save as hereinafter provided, have exclusive jurisdiction in relation to all such matters. The foregoing language shall not prevent ABCA from issuing legal proceedings in the courts of any jurisdiction.

13.3

If any provision of these Terms is found by a court of competent jurisdiction to be unenforceable, the remaining provisions shall continue in full force and effect as though the unenforceable clause(s) had not been included within the Terms.

13.4

No rights shall be considered to be waived by ABCA unless the waiver is in writing and any such waivers shall relate to the particular occasion and not affect the full enforcement of ABCA's rights on future occasions. Save in the case of written waivers, no latitude or concessions allowed by ABCA shall affect our legal rights.

13.5

The customer acknowledges that it has not relied upon any representation not set out in these Terms or in the contractual description of the goods (see clause 4.1) or in any applicable Specification when ordering goods from ABCA.

13.6

Termination of any contract on these Terms shall be without prejudice to the accrued rights and liabilities of the parties.

14. LIMITATION OF LIABILITY

The limitations and exclusions of liability set out below are notwithstanding any other limitations and exclusions contained in clauses 1-13 of the Terms, unless expressly stated otherwise.

14.1

ABCA accepts no liability in connection with any losses, costs or expenses incurred by the customer as a result of failing to follow any instructions provided with goods or instructions provided in relation to the operation of a specialist electrical system.

14.2

ABCA's maximum aggregate liability in connection with any order (whether arising in contract, tort (including without limit negligence) or otherwise) shall not in any circumstances exceed the purchase price payable under the order. The customer agrees that it shall not in any circumstances bring proceedings in tort (or otherwise) directly against any employee or officer of ABCA.

14.3

ABCA's maximum aggregate liability in connection with any accidental loss of or damage to tangible property caused by ABCA's negligence shall, to the extent that the liability for the loss or damage is recoverable by ABCA under its liability insurance, be limited to the maximum sum recoverable by ABCA net of any excess. Notwithstanding any other clause of the Terms, this is the only clause in these Terms which restricts ABCA's liability to the customer in relation to the losses described in it. For the avoidance of doubt, damage of the type which the customer is required to make good following an installation in accordance with clause 11.1, including in relation to plasterwork and decorations, or which may be caused as a result of repossessing goods under clause 8.1, is not accidental damage to tangible property covered by this clause.

14.4

All warranties which would otherwise be implied into contracts between ABCA and the customer are hereby expressly excluded to the fullest extent permissible by law.

14.5

ABCA accepts no liability (whether arising in contract, tort (including negligence) or otherwise) for consequential losses, including without limit, loss of profits, goodwill or business arising from ABCA's supply or installation, or failure to supply or install, specialist electrical systems or ready-to-use electrical equipment.

14.6

Nothing in these Terms is intended to restrict liability for fraud, personal injury or death or any other liability which cannot be restricted by law.

15. MAINTENANCE CONTRACTS

15.1

All the above terms and conditions apply to maintenance contracts also.

15.2

The Agreement will commence on the Commencement Date stated in the quotation and will continue for the duration of the Initial Term and thereafter until terminated by either

party giving to the other not less than 90 days prior written notice, such notice to expire on the anniversary of the Commencement Date ("**Termination Notice**").

15.3

For the avoidance of doubt, a Termination Notice shall not be valid unless it is served on the other party at least 90 days prior to the next anniversary of the Commencement Date and the Termination Notice confirms that the date for termination of the Agreement is to be that next anniversary of the Commencement Date.

15.4

The installation shall not be interfered with by the Customer in anyway. Alterations or extensions to the installation necessary or required by the customer shall be carried out by the Company at the Customer's expense. The Customer shall at any time during the continuance of the Contract be entitled to have the installation transferred by the Company to any other premises within the area operated by the Company, at the Customer's expense.

15.5

The Company shall have access to the premises of the Customer at all reasonable times to install, inspect and repair the installation during the continuance of the maintenance.

15.6

The company shall not be liable for faults caused by the fluctuating mains or outside electromagnetic interference or by mis-operation of the installation but the company shall during its normal business hours rectify all faults on the installation and execute repairs and replacements at the contracted rates.