

## TERMS AND CONDITIONS OF SERVICE

### 1. Application

- 1.1 These Terms and Conditions shall apply to the provision of Services by the Supplier to the Client.
- 1.2 In the event of conflict between these Terms and Conditions and any other terms and conditions (of the Client or otherwise), the former shall prevail unless expressly otherwise agreed by the Supplier in writing.

### 2. Definitions

- 2.1 In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

<b>“Business Day”</b>	a day (excluding Saturdays) on which banks generally are open for the transaction of normal banking business (other than solely for trading and settlement in Euros);
<b>“The Client”</b>	means any individual, firm or corporate body (which expression shall, where the context so admits, include its successors and assigns) which purchases services from the Supplier
<b>“The Commencement Date”</b>	the commencement date for this agreement as set out in the schedule
<b>“ Services”</b>	means the services to be provided by the Supplier to the Clients as set out in the schedule, quotation or letter
<b>“The Supplier”</b>	Raydar Safety Ltd or subcontracted specialists and consultants
<b>“The Subcontractor”</b>	means any specialist, consultant, company or individual to whom the Service or Services required by the Client(s) as set out in the schedule, quotation or have been directly let and not referred
<b>“Referral”</b>	means the directing of the Client or Subcontractor by the Supplier to an individual, expert or specialist for advice

- 2.2 Any reference in these Conditions to a statute or a provision of a statute

shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

- 2.3 The headings in these Conditions are for convenience only and shall not affect their interpretation.

### 3. **The Service**

3.1 With effect from the Commencement Date the Supplier shall, in consideration of the Fees being paid in accordance with the Terms of Payment will provide the services expressly identified in the schedule, quotation or letter or otherwise agreed under this agreement.

3.2 The Supplier will use reasonable care and skill to perform the services identified in the schedule, quotation or letter or otherwise agreed under this agreement.

3.3 The Supplier shall use all reasonable endeavours to complete its obligations under the schedule, quotation or letter, but time will not be of the essence in the performance of these obligations.

### 4. **Price**

4.1 The Client agrees to pay the Fees in accordance with the terms of payment.

4.2 In addition the Supplier shall be entitled to recover from the Client his reasonable incidental expenses for materials used and for third party goods and services supplied in connection with the provision of the Services.

4.3 The Client will pay the Supplier for any additional services provided by the Supplier that are not specified in the schedule, quotation or letter in accordance with the Supplier's then current, applicable daily rate in effect at the time of the performance or such other rate as may be agreed. Any charge for additional services will be supplemental to the amounts that may be due for the Expenses.

4.4 All sums payable by either party pursuant to this Agreement are exclusive of any value added or other tax (except corporation tax) or other taxes on profit, for which that party shall be additionally liable.

### 5. **Payment**

5.1 All payments required to be made pursuant to this Agreement by either party shall be made within 14 days of the date of the relevant invoice in British Sterling in cleared funds to such bank in the UK as the other party may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as that party is required to deduct or withhold by law.

5.2 The time of payment shall be of the essence of these terms and conditions. If the Client fails to make any payment on the due date in

respect of the price or any other sum due under these terms and conditions then the Supplier shall, without prejudice to any right which the Supplier may have pursuant to any statutory provision in force from time to time, have the right to charge the Client interest on a daily basis at an annual rate equal to the aggregate of 3% per cent per month from time to time on any sum due and not paid on the due date. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgement.

## **6. Variation and amendments**

- 6.1 If the Client wishes to vary any details of the schedule, quotation or letter it must notify the Supplier in writing as soon as possible. The Supplier shall endeavour to make any required changes and any additional costs thereby incurred shall be invoiced to the Client.
- 6.2 If, due to circumstances beyond the Supplier's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify the Client forthwith. The Supplier shall endeavour to keep such changes to a minimum and shall seek to offer the Client arrangements as close to the original as is reasonably possible in the circumstances.

## **7. Termination**

- 7.1 The Supplier may terminate the agreement forthwith if:
  - 7.1.1 the Client is in breach of any of its obligations hereunder; or
  - 7.1.2 the Client has entered into liquidation (other than for the purposes of a bona fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with its creditors generally or has an administrator, administrative receiver or receiver appointed over all or a substantial part of its undertaking or assets; or
  - 7.1.3 the Client has become bankrupt or shall be deemed unable to pay its debts by virtue of Section 123 of the Insolvency Act 1986; or
  - 7.1.4 the Client ceases or threatens to cease to carry on business; or
  - 7.1.5 any circumstances whatsoever beyond the reasonable control of the Supplier (including but not limited to the termination of the service through no fault of the Supplier) arise that necessitate for whatever reason the termination of the provision of services.
- 7.2 In the event of termination under clause 7.1 the Supplier shall retain any sums already paid to it by the Client without prejudice to any other rights the Supplier may have whether at law or otherwise.

## 8. **Sub-Contracting**

Either party may sub-contract the performance of any of its obligations under this Agreement without the prior written consent of the other party. Where either party sub-contracts the performance of any of its obligation under this Agreement to any person with the prior consent of the other party, that party shall not be responsible for every act or omission of the sub-contractor as if it were an act or omission of the party itself.

## 9. **Liability**

9.1 Except in respect of death or personal injury caused by the Supplier's negligence, the Supplier will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under express terms of this contract, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the Supplier's servants or agents or otherwise) in connection with the performance of this contract or with the use by the Client of the Services supplied.

9.2 The Client shall indemnify the Supplier against all damages, costs, claims and expenses suffered by the Supplier arising from loss or damage to any equipment (including that of third parties) caused by the Client, or its agent or employees.

9.3 The Supplier shall not be liable to the Client or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of the Supplier's obligations if the delay or failure was due to any cause beyond the Supplier's reasonable control.

9.4 [Where the Client consists of two or more persons such expression throughout shall mean and include such two or more persons and each or any of them. All obligations on the part of such a Client shall be joint and several obligations of such persons.]

## 10. **Force Majeure**

10.1 Neither the Supplier nor the Client shall be liable to the other or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Services, if the delay or failure was due to any cause beyond that party's reasonable control. Without prejudice to the generality of the foregoing, the following shall be regarded as causes beyond either party's reasonable control:-

10.2 act of God, explosion, flood, tempest, fire or accident;

10.3 war or threat of war, sabotage, insurrection, civil disturbance or requisition;

10.4 acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority;

- 10.5 import or export regulations or embargoes;
- 10.6 strikes, lock-outs, or other industrial actions or trade disputes (whether involving employees of either the Supplier or the Client or of a third party);
- 10.7 difficulties in obtaining raw materials, labour, fuel, part or machinery;
- 10.8 power failure or breakdown in machinery.

## 11. **Waiver**

- 11.1 No waiver by the Supplier of any breach of these terms and conditions by the Client shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of this agreement shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which the waiver is given.
- 11.2 No failure or delay on the part of any party in exercising any right, power or privilege under this agreement shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude any other or further exercise of or the exercise of any other right, power or privilege.

## 12. **Severance**

If any provision of these terms and conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these terms and conditions and the remainder of the provision in question shall not be affected thereby.

## 13. **Copyright**

The Supplier reserves all copyright and any other rights (if any) which may subsist in the products of, or in connection with, the provision of the Supplier's services or facilities. The Supplier reserves the right to take such actions as may be appropriate to restrain or prevent infringement of such copyright.

## 14. **Notices and Service**

- 14.1 Any notice or other information required or authorised by this Agreement to be given by either party to the other shall be given by sending via pre-paid registered post, email, facsimile transmission or other comparable means of communication.
- 14.2 Any notice or information given by post in the manner provided by Clause 14.1 which is not returned to the sender as undelivered shall be deemed to have been given on the seventh day after the envelope containing it was so posted; and proof that the envelope containing any such notice or information was properly addressed, pre-paid, registered and posted, and that it has not been so returned to the sender, shall be

sufficient evidence that the notice or information has been duly given.

14.3 Any notice or information sent by e-mail, telex, cable, facsimile transmission or comparable means of communication shall be deemed to have been duly given on the date of transmission, provided that a confirming copy of it is sent to the other party 24 hours after transmission.

14.4 Service of any document for the purposes of any legal proceedings concerning or arising out of this Agreement shall be effected by either party by causing such document to be delivered to the other party at its registered or principal office, or to such other address as may be notified to one party by the other party in writing from time to time

15. **Applicable Law and Jurisdiction**

These terms and conditions shall be governed and construed in accordance with English and Welsh law and the parties shall submit to the non-exclusive jurisdiction of the English and Welsh courts.

**Specification Schedule**

Description	Completion Date	Payment Terms
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Retained Consultancy Service		Effective Immediately
All other services direct from Raydar Safety Ltd		7 days
All other services indirect from Raydar Safety Ltd		30 days

**16 Insurance and Indemnity to be provided by Sub-Contractor**

**16.1 Public Liability**

The Sub-Contractor shall indemnify and keep indemnified the Supplier and Client against and shall effect and maintain policies of insurance in respect of any liability, loss, expense, demand, claim or proceedings whatsoever in respect of personal injury to or death of any person or any injury or damage to property real or personal however arising, whether directly or indirectly, out of in connection with the performance of the Sub-Contract save in so far as to the extent that the name is attributable solely to the negligence of the Supplier and/or Client.

## 16.2 Employers Liability

The Sub-Contractor shall indemnify and keep indemnified against and shall effect and maintain policies of insurance in respect of all claims for damages and/or compensation payable at law or in consequence of any accidental injury to any person in the Sub-Contractor's employment save and except an accident or injury resulting from any act of default of the Suppliers and/or Clients agents or servants (which shall not include the Sub-Contractor). Failure to indemnify and keep indemnified the Supplier and/or Client in accordance with this Clause, shall notwithstanding other recourses open to the Supplier and/or Client determination under Clause 17.

## 16.3 Sub-Contract Works Liability

The Sub-Contractor shall be responsible for and shall effect insurance on the Sub-Contract Works and the Sub-Contractor's materials (including Sub-Contractor's materials delivered to site for incorporation into the Sub-Contract Works), temporary buildings, tools, plant, machinery and construction equipment.

## 16.4 Proof of Insurance and Indemnity

The Sub-Contractor shall provide to the satisfaction of the Supplier documentary proof that the Sub-Contractor has affected such insurance and indemnities as are required under this Clause 16

## 17 **Determination**

The Supplier may at any time, determine the employment of the Sub-Contractor if the Sub-Contractor fails to comply with any of these terms of the schedule, quotation or letter, or if the Sub-Contractor becomes insolvent, commits an act of bankruptcy, or has a liquidator, provisional liquidator, administrative receiver, receiver and manager, administrator or similar person appointed over its assets or any part thereof. Should such determination of the Sub-Contractors employment be due to a default on the part of the Sub-Contractor, then the Supplier may employ other persons to carry out and complete the Sub-Contract Works and deduct the costs of so doing from any payment due to the Sub-Contractor, or recover the costs from the Sub-Contractor if no such payment is due. The rights of the Supplier hereunder are without prejudice to any rights or remedies which the Supplier may have against the Sub-Contractor.

## 18 **Execution of Sub-Contract Works**

The Sub-Contractor shall carry out the Sub-Contract Works in accordance with the schedule, quotation, instruction or letter, except as modified herein and in any case to the entire satisfaction of the Supplier and Client

## **19 Sub-Contract Relationship**

- (a) The Sub-Contractor is deemed to have full knowledge of the provisions of the schedule, scope of works, instruction or letter (other than as to price) and shall so execute, complete and maintain the Sub-Contract Works that no act or omission of his in relation thereto shall constitute, cause or contribute to any breach by the Supplier of his obligation under the schedule, scope of works, instruction or letter and the Sub-Contractor shall assume and perform all the obligations and liabilities of the Supplier under the schedule, scope of works, instruction or letter in relation to the Sub-Contract Works.
- (b) The Sub-Contractor hereby acknowledges that any breach by him of the Sub-Contract Works, schedule, scope of works, instruction or letter may result in the Supplier committing breaches of and becoming liable for the damages under the and other contracts made by him in connection with the Main Contracts Works and may occasion loss or expense to the Contractor in connection with the schedule, scope of works, instruction or letter and all such damages, loss and expense and hereby agreed to be within the contemplation of the parties as being the probable results off any such breach by the Sub-Contractor.

## **20 Assignment and Sub-Letting**

The Sub-Contractor shall neither assign this Sub-Contract nor any benefit or interest hereunder nor sub-let the Sub-Contract Works, in either case whether in whole or in part, without the prior written consent of the Supplier. The Sub-Contractor shall not factor his accounts without the written approval of the Supplier.

## **21 Instructions to Sub-Contractor**

The Sub-Contractor shall comply with all instructions given by the Supplier, which instructions must be in writing. If any such instruction involves a variation to the Sub-Contract Works the Supplier shall evaluate any variation in the Sum at the Sub-Contract rates (or pro rata thereof), and the Supplier shall decide upon any alteration to the period for the completion of the Sub-Contract Works as may be reasonable in all the circumstances.

## **22 Sub-Contractor's Own Conditions**

These General Terms and Conditions shall form the full extent of the schedule, scope of works, instruction or letter. The Sub-Contractor's own conditions whether contained within the documents or otherwise shall not be valid or binding in respect of the schedule, scope of works, instruction or letter unless specifically and unreservedly agreed to in writing by the Supplier.

## **23 Statutory and Other Obligations**

The Sub-Contractor shall at all times observe, perform and comply with all

applicable statutory and other obligations and shall indemnify and keep indemnified the Supplier and Client from and against all or any breach or non-compliance with or non-performance of any such obligations.

## **24 Commencement and Completion**

Subject to the Supplier giving the Sub-Contractor notice to commence, the Sub-Contractor shall carry out and complete the Sub-Contract Works on site within the agreed period and in accordance with the progress of the schedule, programme, and scope of works, instruction or letter

## **25 Certificates and Payments**

- (a) Applications for payment shall be submitted by the Sub-Contractor to the Supplier at agreed monthly intervals.
- (b) Provided that such applications are correct, payment will be made to the Sub-Contractor in accordance with the Terms and Conditions of the Main Contract or Agreement.

## **26 Provision of Facilities**

Unless specifically agreed in writing to the contrary, the Sub-Contractor is, at the Sub-Contractor's own expense, to:-

Provide all necessary supervision, scaffolding, tools, equipment, tackle, site accommodation and other facilities necessary for the execution of the Sub-Contract;

Unload the Sub-Contractor's own materials, equipment and the like, safely store such items where necessary, and be responsible for any item thereof, and the distribution of materials, equipment and the like;

Clear the site of all the Sub-Contractor's plant, equipment, huttage, materials etc... on completion of the Sub-Contract Works;

Protect the Sub-Contract Works from any damage whatsoever, in so far as it is reasonable to do so in the circumstances.

The Supplier shall allow the Sub-Contractor to connect to any water, telephone and electricity supply provided by the Contractor for the Sub-Contractor's own use at a point and in a manner determined by the Supplier and in complete agreement with the Client. The Sub-Contractor shall be responsible for the payment of all charges for the connection, disconnection, metering and consumption of water, telephone and electricity, incurred in the execution of the Sub-Contract Works.

## **27 Health and Safety Requirements**

The Sub-Contractor shall comply with the Health and Safety at Work Act 1974, the Construction (Design and Management) Regulations 2007 and any other relevant health, safety, environmental law and regulations and Approved Codes of Practice, Guidelines, Industry Best Practice, British Standards, Building Regulations, Supplier and Client Safety Procedures in connection therewith. The Sub-Contractor shall co-operate with the Clients Safety Officer and Site Management to ensure that a high standard of safety is achieved in accordance with the Clients "Policy for Safety and Health at Work", a copy of which is available for inspection at the Clients site office, where applicable

The Sub-Contractor shall comply with the RIDDOR 1995 Regulations (Reporting of Injuries, Diseases and Dangerous Occurrences), and for the COSHH Regulations of 2002 (Control of Substances, Hazardous to Health) as amended, Control of Asbestos Regulations 2006, the Electricity at Work Regulations 1989 and the Fire Safety Order 2005 as well as all other statutory requirements.

The Sub-Contractor shall carry out a Site Specific Risk Assessment where use of any particular material equipment or process which requires special safety precautions to ensure the safety of the Sub-Contractor's own operatives or any other persons on site and the Sub-Contractor shall carry out the necessary precautionary measures. Full details shall be passed to the Supplier and Client in due time to permit the Supplier and Client to fulfil his own responsibilities. The hierarchy of risk control shall be observed...

**ELIMINATION**

**SUBSTITUTION**

**ISOLATE**

**INSULATE**

**VENTILATE**

**REDUCE or LIMITED TIME EXPOSURE**

**GOOD HOUSEKEEPING**

**SAFE SYSTEM OF WORK**

**TRAINING & INFORMATION**

**PPE/RPE**

**WELFARE**

**MONITOR & SUPERVISE**

**REVIEW**

The Sub-Contractor shall provide safety helmets and footwear for his own operatives and shall ensure that the Health and Safety requirements regarding the wearing of safety helmets are complied with. The Sub-Contractor shall provide a Site Specific Method of Statement if requested by the Supplier and/or Client

**28 Supervision**

The Sub-Contractor’s representatives shall report to the Supplier or Client on each and every occasion they visit the site and shall provide such records of labour etc. as are required by the Site Manager or other representative of the Supplier or Client.

**29 Site Cleanliness**

The Sub-Contractor shall comply with the Clients Site Management requirements for keeping the site tidy and free from obstructions and hazards and shall regularly collect rubbish, packings or surplus materials arising from the Sub-Contract Works, and deposit into skips provided by Subcontractor, Client or Supplier.