

Introduction

This Terms of Business Agreement ("**Agreement**") sets out the basis on which we will conduct insurance business and provide services to you. The Agreement is made up of this Introduction section, the Terms of Business set out below and any engagement letter we may have sent you. This Agreement sets out the terms and conditions under which we operate. You must use this information to determine if our services are right for you.

We would ask that you read this carefully and if you are unsure of anything, please contact us.

Who are we and how do we operate?

We are Qualitymark Protection Ltd ("**QMP**") Company No 03230676, Registered Office Chatsworth House, Ackhurst Business Park, Foxhole Road, Chorley, PR7 1NY ("**we**", "**us**", "**our**"). We are an insurance intermediary providing access to the policies set out below.

Who are we regulated by?

The Financial Conduct Authority ("**FCA**") regulates the conduct of firms ensuring that financial markets are honest, competitive and fair. Qualitymark Protection Ltd is authorised and regulated by the FCA. Our reference number is 629677. You can verify this at <https://register.fca.org.uk/s/firm?id=001b000000aRiHoAAK> or by contacting the FCA on 0300 500 8082.

Our permitted business which is regulated by the FCA is: (a) advising on non-investment insurance contracts; (b) arranging (bringing about) deals in non-investment insurance contracts; (c) assisting in the administration and performance of a contract of insurance; (d) dealing in non-investment insurance contracts as agent; (e) making arrangements with a view to transactions in non-investment insurance contracts; and (f) agreeing to carry out the regulated activities set out at (a) to (e).

Our capacity and services

We offer Deposit Protection Insurance (subject to approval of QMP) and Insurance Backed Guarantees from a single insurer, Safe World Insurance Group (UK) Limited ("**Safe World**") and propose only Safe World products. This will not be based on a fair and personal analysis of the market, nor will we provide a personal recommendation about the insurance products offered.

You are an installer who has been engaged in relation to carrying out works on a domestic property for a consumer ("**your client**"). You may purchase a policy for an Insurance Backed Guarantee or Deposit Protection Insurance through us for your client who will be the policyholder under the policy.

We will provide information about a policy's main characteristics including significant benefits, significant exclusions, limitations and duration. Full details of the policy terms and conditions will be made available to you before you agree to purchase any policy. You are responsible for deciding whether the policy meets your client's demands and needs.

A parent undertaking of Safe World holds more than 10% of the voting rights or capital in Qualitymark Protection Ltd.

We have not used any other intermediary to place this business.

We act as your agent when sourcing the policy from, and placing it with the insurer. We act as agent of the insurer in relation to issuing quotations, placing the insurer on risk, issuing policy documentation, cancelling policies and collecting, receiving and holding premium payments.

What will you have to pay for our services (our remuneration)?

We derive our income from a mark-up paid to us in respect of the insurance placed on behalf of your clients. Our mark up is added to policy premium amount and charged to you at the placing of insurance via us. You are entitled, at any time, to request information regarding any mark-up, which we may have received as a result of placing your insurance business. We charge a registration fee for every policy purchased details of which can be found on our latest price list.

Important note: we have obligations to the insurer to ensure that they can manage their risk appropriately. In relation to this, there are certain terms you must comply with as set out in the Terms of Business. If you do not comply with those terms, you will be obliged to pay additional fees and may need to indemnify any claims made under any policy you purchase. These fees will be calculated and communicated to you on a case-by-case basis.

Disclosure of information to us

You have a duty to provide complete and accurate information and disclose to us any material facts, including those which may affect the rates or terms an insurer will offer. This applies when you apply to us for access to purchase Deposit Protection Insurance, purchase any Insurance Backed Guarantee and for each policy you acquire for your client. This applies throughout the term of our Agreement and the duration of any policy (if this outlasts this Agreement). If you fail to disclose any material information or change of circumstances to us or the insurer, this may invalidate your access to purchase policies via us or the insurance cover under a particular policy and potentially result in part or all of any claims being rejected. We strongly recommend all information provided is checked thoroughly prior to submission. If you are in any doubt as to whether a fact is material, we recommend that it be disclosed. *In addition to the rejection of claims, if you fail to provide complete and accurate information, it may result in you having to pay additional fees and/or indemnify any claims under a policy.*

Our right to set off money you owe us.

We shall be entitled (but not obliged) without notice to you to set off any amounts due to us from you against any amounts which we may receive on your behalf (such as claims money, refunded premiums, and other sums).

Cancellation rights

If a policy is cancelled within the first 30 days you will receive a refund of the premium paid, providing a claimable event has not occurred. The policy can be cancelled at any time after 30 days by the insurer, QMP or the policyholder but no premium refund will be applicable. Registration and all other fees are non-refundable.

Complaints

We are committed to providing a high standard of service. We recognise however that things can occasionally go wrong. If this occurs, we are committed to ensuring we resolve matters promptly and fairly.

If you wish to register a complaint or provide feedback, please contact us at:

Post: Chatsworth House, Ackhurst Business Park, Foxhole Road, Chorley, PR7 1NY.
Email: customerservice@qualitymark.com
Telephone: 0345 340 0524

Please quote your installer number or other reference we have given you. If you cannot settle your complaint with us, you **may** be entitled to refer it to the Financial Ombudsman Service. The Financial Ombudsman Service can be contacted at the following details:

Post: Exchange Tower, London, E14 9SR
Email: complaint.info@financial-ombudsman.org.uk
Telephone: 0800 023 4567

Insurer solvency

While we will endeavour to place business with the single insurer we work with, who demonstrates an adequate level of financial solvency, and although their regulator requires them to maintain a minimum level of capital, we cannot guarantee the solvency of the insurer.

How to make a claim

Under this Agreement the policies you may purchase are for your client who will be the policyholder under the policy. Only the policyholder may make a claim against the insurance policy. Full details of how they should make a claim, including the insurer's contact details, are detailed in the policy documentation.

How we hold your money

We hold your money as the agent of the insurer. This means that money received by us are deemed to have been received by the insurer. This includes premiums, refunds and claims money. Between us receiving any money from you and passing it on to the insurer (and vice versa), we may earn a small amount of interest on these money, which we will retain.

By accepting this Agreement, you consent to the way we will hold your premium (and/or other insurance-related money) in accordance with this paragraph.

Fees which you pay us, or any indemnity paid to us, are our money and will cease to be your money when paid to us.

Are we covered by the Financial Services Compensation Scheme ("FSCS")?

We are covered by the FSCS. Policyholders may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of a claim against us. Insurance advising and arranging is covered for 90% of the claim, with no upper limit. For compulsory classes of insurance, insurance advising and arranging is covered for 100% of any claim, without upper limit.

Further information about compensation scheme arrangements is available from the FSCS, by visiting www.fscs.org.uk.

Your demands and needs and our recommendations

You are an installer of property improvement products and have applied to us to enable you to purchase an Insurance Backed Guarantees and/or Deposit Protection (subject to approval by QMP) on behalf of a client who you install property improvement products for.

You must meet the following criteria to enable you to purchase a policy from us:

- You comply with our Accreditation Requirements as set out in the Terms of Business and we are willing to offer access to enable you to purchase these policies, subject to you maintaining (and ensuring we are provided at all times with):
 - For a limited company: A credit score (as published by Creditsafe) above 29 points;
 - In date evidence of your certifications & insurances, and terms of business for your clients;
 - Your workmanship warranty which continues to meet or exceed the terms of insurance purchased for your clients;
 - For sole traders and partnerships only: an online review and update of your business completed on a biannual basis and consent to personal credit file checks at the same interval;

If any of these matters change you must inform us without delay. Our arrangements with the insurer are based on your maintaining compliance with these terms of business. If you fail to notify us of any material change, you agree that we may choose to charge a non-accreditation fee. This fee reflects the potential for us to incur costs or damages from the insurer for failing to ensure their risk requirements are met. As these would only arise in the event of a claim under a policy, we have assessed our risk accordingly. The non-accreditation risk fee will be calculated hourly and capped at £5,000, charged at our discretion and proportionate to the work involved. This is in addition to any other fees, charges or indemnities that you are required to pay under this Agreement.

We only offer Insurance Backed Guarantees and Deposit Protection Insurance policies (subject to approval from QMP) that are underwritten by Safe World, and do so under an agreement with Safe World.

Insurance Backed Guarantee and Deposit Protection Insurance provides your clients with an element of protection should you cease to trade and are unable to honour the terms of your contract or written guarantee, subject to the specific policy terms and conditions.

In circumstances where a policy contains clauses that relate to 'Failure to Rectify' and you are still trading and fail to rectify, we will support our insurer should they wish to issue proceedings against you to recover claims costs.

While you will pay for any policies purchased with us, they will be in your client's name, who will also be the owner or occupier of the property and they will remain the beneficiary and owner of such policies.

You acknowledge that our offer of access to Deposit Protection Insurance policies and/or Insurance Backed Guarantees meets your requirement to provide your clients with such policies.

Data Quality

It is your responsibility as our customer to provide correct details upon registration of any policies you purchase with us. We reserve the right to charge for any amendments required to the registration information for a policy due to inaccurate entry of information. We retain the right to terminate the Agreement immediately if you have falsely provided information to obtain insurance cover or breached the exclusions list set out at Schedule 4 of the Terms of Business.

Terms of Business

1 **Clause 1: Interpretation**

1.1 Definitions and rules of interpretation

Accreditation Requirements: means those accreditation, certification and other requirements set out in Schedule 1 to this Agreement and as they may be updated from time to time by notice from the Supplier to the Customer;

Customer: The Installer identified as such in our engagement letter.

Customer's Manager: The Customer's manager appointed in accordance with clause 4.1.

Customer's Client: means a consumer to whom the Customer provides its services, including [the supply and] installation of property improvement products and relevant works on the property to prepare for the same.

Data Protection Law: means all applicable data protection legislation and associated regulatory requirements and guidance in force from time to time, including but not limited to the the Data Protection Act 2018, the UK GDPR, the Privacy and Electronic Communications Regulations 2003 and all ICO guidance and guidelines.

ICO: means the Information Commissioner's Office, or any successor or replacement body.

Installer: means a certified MCS, Gas Safe, PAS or other type of installer approved by the Supplier.

Introduction: means the Introduction document which incorporates these Terms of Business.

Guarantee Insurance: means the insurance products detailed in Schedule 2 as limited by the Exclusions set out in Schedule 4.

Guarantee Insurance Policy: means a Guarantee Insurance policy purchased by the Customer on behalf of a Customer's Client.

In-put Material: all information to be provided by the Customer to enable the Supplier to provide the Services including but not limited to details of the installation, details of the Installer, details of the manufacturer of the products to be installed, and details of the Customer's Client.

IPT: insurance premium tax chargeable under English law for the time being and any similar additional tax.

Insurer: means Safe World Insurance Group (UK) Limited.

Intellectual Property Rights: all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Personal Data: has the meaning set out in the UK GDPR.

Personal Data Breach: has the meaning given to it in the UK GDPR.

Pre-existing Materials: all information, documentation and materials provided by the Supplier relating to the Services which existed prior to the commencement of this Agreement.

Price list: means the price list with reference QAS12 as referenced in Schedule 3 and amended from time to time;

Policyholder: means the Customer's Client who is the policyholder and owner under a Guarantee Insurance Policy.

Registration Hub: means the online registration system to be used by the Customer to access the Services.

Services: the insurance intermediation services of arranging the Guarantee Insurance for the Customer as an insurance distributor for the Insurer.

Supplier: means Qualitymark Protection Ltd.

UK GDPR: means the General Data Protection Regulation EU 2016/679 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 and as

amended by Schedule 1 to the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (SI 2019/419).

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the schedules.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.7 A reference to writing or written includes e-mail.
- 1.8 Where the words include(s), including or in particular are used in this agreement, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.
- 1.9 Any obligation in this agreement on a person not to do something includes an obligation not to agree, allow, permit, or acquiesce in that thing being done.
- 1.10 References to clauses and schedules are to the clauses and schedules of this agreement.

2 Clause 2: Commencement and duration

The Services supplied under this Agreement shall continue to be supplied unless this Agreement is terminated by one of the parties giving to the other not less than one month's notice, unless this Agreement is terminated in accordance with clause 10.

3 Clause 3: Supplier's obligations

- 3.1 The Supplier shall:
 - 3.1.1 use reasonable endeavours to provide the Services to the Customer in accordance with this Agreement, subject to the Exclusions set out in Schedule 6;
 - 3.1.2 Issue quotations for Guarantee Insurance authorised by the Insurer to arrange Guarantee Insurance with the Insurer for the Customer and Customer's Clients, in accordance with the terms of this Agreement;
 - 3.1.3 ensure that where it processes Personal Data provided to it under this Agreement it shall do so in accordance with Data Protections Law;
 - 3.1.4 on receipt of cleared premium payment from the Customer for any Guarantee Insurance Policy, deduct any amounts as agreed between the Supplier and the Insurer relating to mark up and pay to the Insurer the remaining amount;
 - 3.1.5 where the Customer or Policyholder requests for the Supplier to cancel a Guarantee Insurance Policy in accordance with the Guarantee Insurance Policy, notify the Insurer of this and cancel the Guarantee Insurance Policy;
 - 3.1.6 at the Insurer's request in accordance with the Guarantee Insurance Policy, notify the Customer and Policyholder of cancellation of the Guarantee Insurance Policy;
 - 3.1.7 where the Customer or the Policyholder notifies the Supplier of an intention to make a claim under an Insurance Guarantee Policy, notify the Insurer of this; and
 - 3.1.8 provide the Policyholder with details of their Guarantee Insurance Policy and all relevant documentation relating to their Guarantee Insurance Policy.
- 3.2 The Customer acknowledges that in respect of the Guarantee Insurance the Supplier is authorised and regulated by the Financial Conduct Authority and is required to adhere to its regulatory responsibilities. Further, the Customer

acknowledges that the Supplier has obligations to the Insurer and if the Customer fails to meet obligations under this Agreement the Supplier may incur liabilities to the Insurer, for which the Customer may be liable pursuant to clauses 4.4, 4.10 and 5.3.

4 Clause 4: Customer's obligations

4.1 The Customer shall:

4.1.1 co-operate with the Supplier in all matters relating to the Services and appoint the Customer's Manager, who shall have the authority contractually to bind the Customer on matters relating to the Services and the Guarantee Insurance;

4.1.2 provide, in a timely manner, such In-put Material and other information as the Supplier may reasonably require, and ensure that it is accurate in all material respects at all times;

4.1.3 notify and promptly provide the Supplier with a copy of any complaint or written record of dissatisfaction by a Customer's Client relating to the Supplier, the Insurer or any of the activities carried out by the Supplier or the Insurer under this Agreement or any Guarantee Insurance, and the Customer will provide all reasonable information, support and assistance as required by the Supplier or Insurer to respond to any such complaints;

4.1.4 maintain any Accreditation Requirements at all times; and

4.1.5 provide all supporting information and other evidence in accordance with the Accreditation Requirements on the Supplier's request; and

4.1.6 notify the Supplier immediately if the Customer is unable to comply with any of the Accreditation Requirements;

4.1.7 notify the Supplier immediately if any of the information provided in accordance with the Accreditation Requirements has changed;

4.1.8 meet any additional requirements notified by the Supplier as a requirement of the Insurer to continue to provide Guarantee Insurance;

4.1.9 make payment of the fees and charges for any Guarantee Insurance Policy or as otherwise set out in this Agreement and maintain a direct debit payment method with the Supplier in accordance with Schedule 3 unless otherwise agreed in writing; and

4.1.10 provide the completed and executed direct debit set up instructions as outlined at Schedule 3 of this Agreement;

4.1.11 provide installation details and documents relating to installations when requested by the Supplier or the Supplier's auditors;

4.1.12 not seek to purchase a policy from the Supplier for an insurance backed guarantee until the installation has been fully completed to the Customer's Client's satisfaction, all negotiations with respect to the relevant contract value has been concluded and full payment made, and there are no defects in the installation;

4.1.13 comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and corruption, including but not limited to the Bribery Act 2010;

4.1.14 ensure that all requirements of Data Protection Law are met to allow Personal Data on the Customer's Clients to be passed to the Supplier and the Insurer in a manner where the Supplier or Insurer is the data controller of the data and in particular shall inform their Client that data will be passed to the Supplier and the Insurer and the purpose for processing; and

4.1.15 comply at all times with Data Protection Law.

4.2 If the Supplier's performance of its obligations under this Agreement is prevented or delayed by any act or omission of the Customer, its agents, subcontractors, consultants or employees, the Supplier shall not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such prevention or delay.

4.3 The Customer shall be liable to pay to the Supplier, on demand, all reasonable costs, charges or losses sustained or incurred by the Supplier (including any direct, indirect or consequential losses, loss of profit and loss of reputation, loss or damage to property and those arising from injury to or death of any person and loss of opportunity to deploy

resources elsewhere) that arise directly or indirectly from the Customer's fraud, negligence, failure to perform or delay in the performance of any of its obligations under this Agreement and/or failure to comply with Data Protection Law as required under the terms of this Agreement, subject to the Supplier confirming such costs, charges and losses to the Customer in writing.

- 4.4 If the Customer fails to meet any obligations under this Agreement which may result in a breach of the Supplier's obligations to the Insurer, the Customer shall pay an additional fee as set out in clause 5.3 and Schedule 3.
- 4.5 The Customer shall not, without the prior written consent of the Supplier, at any time from the date of this Agreement to the expiry of 12 months after the Agreement, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee of the Supplier in the provision of the Services.
- 4.6 The Customer warrants that it shall ensure that any Personal Data it passes to the Supplier and/or the Insurer shall be accurate and that the Supplier and/or the Insurer are permitted to process the Personal Data lawfully for the purposes of Data Protection Law and shall provide any evidence required to prove consent or the provision of information on processing.
- 4.7 The Customer shall comply with all obligations it has to its Customer's Clients under any contracts for which Guarantee Insurance is provided under this Agreement and in particular any obligation to remedy defects with an installation required under such contract.
- 4.8 The Customer warrants that any breach this Agreement may result in suspension of Services and could lead to termination of the Customer's accredited status.
- 4.9 The Customer shall accurately register all works and other In-Put Material in the Registration Hub and shall respond to any queries that the Supplier may submit to the Customer from time-to-time within 10 working days to avoid suspension and loss of Services in accordance with clause 10.2.6.
- 4.10 The Customer shall indemnify the Supplier and the Insurer against any and all costs either may incur (without being limited to any fines or claims or damages) as a result of breach of this clause 4.

5 Clause 5: Charges and payments

- 5.1 In consideration of the provision of the Services by the Supplier to the Customer, the Supplier shall receive a mark up from the Insurer as agreed between the Supplier and the Insurer, and the Customer shall pay the following to the Customer in accordance with Schedule 3 and the Price list without deduction or set-off:
 - 5.1.1 the Guarantee Insurance Policy premium;
 - 5.1.2 the registration fee for a Guarantee Insurance Policy; and
 - 5.1.3 any and all other applicable fees and charges as set out in this Agreement.
- 5.2 The Supplier may charge the Customer for amendments to policies in the form of an additional registration fee charged at the point of material amendments being made to policies
- 5.3 The Supplier may charge the Customer a non-accreditation fee:
 - 5.3.1 if the Customer is in breach of clause 4.1.6; or
 - 5.3.2 in accordance with clause 4.4.
- 5.4 The Insurer may increase the charges set out in the Price list. The Supplier shall give the Customer one month's written notice of any such increase. If the increase is not acceptable to the Customer, it may, within one month of such notice being received or deemed to have been received in accordance with clause 20, terminate the Agreement by giving one month's written notice to the Supplier.
- 5.5 If the Customer fails to pay the Supplier on the due date, the Supplier may, without prejudice to any other right or remedy that it may have:
 - 5.5.1 claim interest under the Late Payment of Commercial Debts (Interest) Act 1998 and the Customer shall pay the interest immediately on demand; and
 - 5.5.2 suspend all Services immediately until payment has been made in full.

5.6 All sums payable to the Supplier under this Agreement shall become due immediately on its termination, notwithstanding any other provision. This Clause 5.6 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.

6 Clause 6: Intellectual property rights

All Intellectual Property Rights of the Supplier and all other rights including the Registration Hub shall remain the property of the Supplier. The Supplier licenses the Customer to use the Registration Hub in the manner specified by the Supplier free of charge, and on a nonexclusive basis to such extent as is necessary to enable the Customer to make reasonable use of the Services. If the Supplier terminates this Agreement, this licence will automatically terminate.

7 Clause 7: Confidentiality

7.1 The Customer shall keep in strict confidence all information which is of a confidential nature and has been disclosed to the Customer by the Supplier, its employees, agents, consultants or subcontractors and any other confidential information concerning the Supplier's business or its products which the Customer may obtain.

7.2 The Customer may disclose such information:

7.2.1 to its employees, officers, representatives, advisers, agents, or subcontractors who need to know such information for the purposes of carrying out the Customer's obligations under this Agreement; and

7.2.2 as may be required by law, court order or any governmental or regulatory authority.

7.3 The Customer shall ensure that its employees, officers, representatives, advisers, agents, or subcontractors to whom it discloses such information comply with this clause 7.

7.4 The Customer shall not use any such information for any purpose other than to perform its obligations under this Agreement.

7.5 All materials, equipment, specifications, and data supplied by the Supplier to the Customer (including Pre-existing Materials) shall, at all times, be and remain the exclusive property of the Supplier.

8 Clause 8: Limitation of liability

8.1 Nothing in this agreement limits or excludes the Supplier's liability for:

8.1.1 death or personal injury caused by its negligence;

8.1.2 fraud or fraudulent misrepresentation;

8.1.3 any liability under the Financial Services and Markets Act 2000; or

8.1.4 any liability which cannot be limited by law.

8.2 Subject to clause 8.1 the Supplier shall not be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty or, otherwise arising under or in connection with this Agreement for:

8.2.1 loss of profits;

8.2.2 loss of sales or business;

8.2.3 loss of agreements or contracts;

8.2.4 loss of anticipated savings;

8.2.5 loss of or damage to goodwill;

8.2.6 loss of use or corruption of software, data, or information; or

8.2.7 any indirect or consequential loss.

8.3 Subject to clauses 8.1 and clause 8.2, the Supplier's liability to the Customer, whether in contract, tort (including negligence), for breach of statutory duty or, otherwise arising under or in connection with this Agreement shall be limited to £10,000 in relation to any other claim.

8.4 The terms implied by sections 13 to 15 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this agreement.

9 Clause 9: Data protection

9.1 For the purposes of Data Protection Law, the Supplier and the Customer acknowledge and agree that both parties shall be independent data controllers of any Personal Data shared in connection with this Agreement.

9.2 The Customer shall collect such Personal Data from the Customer's Clients as is required to enable the provision of the Services. The Customer shall disclose such Personal Data and any other information which may reasonably be regarded as necessary or desirable to enable the provision of the Services to the Supplier (who may in turn disclose the same to the Insurer and third parties deemed necessary in order to provide the Services).

9.3 The Customer will provide each of the Customer's Clients with all of the information required by Data Protection Law, including the identity of any data protection representative it may have appointed, the purposes for which their Personal Data will be processed, the Personal Data which will be processed by the Supplier, the lawful basis for all processing and any other information which is necessary. Furthermore, it shall indemnify and keep indemnified (and defend at its own expense) the Supplier against all costs, claims, damages, or expenses incurred by the Supplier or for which the Supplier may become liable due to any failure by the Customer, its employees, or agents to comply with any of its obligations under this sub-clause 9.2.

9.4 The Supplier and the Customer will comply with Data Protection Law and shall not by act or omission cause the other party to breach its requirements under Data Protection Law.

9.5 Each party shall notify the other party without undue delay upon becoming aware of:

9.5.1 any communication from a data subject in respect of the Personal Data shared in connection with this Agreement, including any exercising of a data subject's rights under Data Protection Law;

9.5.2 a Personal Data Breach which relates to any Personal Data shared in connection with this Agreement;

9.5.3 a claim, complaint or allegation being brought by a data subject in respect of any Personal Data shared in connection with this Agreement which may arise as a result of an actual or alleged breach of Data Protection Law; or

9.5.4 any communications or investigation by the ICO in connection with any Personal Data shared in connection with this Agreement,

and in each case the notifying party shall provide all material information to the other party and keep the other party informed and up-to-date (including by providing the other party with copies of relevant correspondence to or from the relevant data subject, the ICO or any relevant court) to the extent permitted by law.

9.6 For the avoidance of doubt, paragraphs 9.4 and 9.5 shall not apply in respect of the Supplier or the Customer's use of Personal Data as a controller for any lawful purpose (in accordance with Data Protection Law) not relating to performance of this Agreement.

10 Clause 10: Termination

10.1 Either party may terminate this Agreement at any time on giving one month's written notice with termination to occur one month from the date of such notice.

10.2 Without prejudice to any other rights or remedies which the Supplier may have, the Supplier may terminate this Agreement immediately without liability to the Customer on giving written notice to the Customer if:

10.2.1 the Supplier has reasonable belief or suspicion that the Customer fails to satisfy any of the Accreditation Requirements;

10.2.2 the Customer suspends or ceases, or threatens to suspend or cease, to carry out on all or a substantial part of its business;

10.2.3 there is a change of control of the Customer (as defined in Section 1124 of the Corporation Tax Act 2010);

10.2.4 the Supplier has any concerns about the ongoing financial strength or solvency of the Customer;

- 10.2.5 the Supplier receives three or more upheld complaints from the Customer's clients in relation to the Customer's workmanship for such Customer's Clients;
 - 10.2.6 the Supplier's auditors or inspectors discover non-compliance to installation standards by the Customer;
or
 - 10.2.7 the Customer fails to provide satisfactory information in the timescales stipulated under clause 4.9.
- 10.3 Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Agreement without liability to the other immediately on giving notice to the other if:
- 10.3.1 the other party fails to pay any amount due under this Agreement on the due date for payment; or
 - 10.3.2 the other party commits a material breach of any of the material terms of this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach;
 - 10.3.3 the other party suspends or threatens to suspend payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
 - 10.3.4 the other party commences negotiations with all or any class of its creditors, with a view to rescheduling any of its debts, or makes a proposal for (or enters into) any compromise or arrangement with its creditors;
 - 10.3.5 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;
 - 10.3.6 an application is made to court (or an order is made), for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party;
 - 10.3.7 a floating charge holder over the assets of that other party has become entitled to appoint, or has appointed, an administrative receiver;
 - 10.3.8 a person becomes entitled to appoint a receiver over the assets of the other party, or a receiver is appointed over the assets of the other party;
 - 10.3.9 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration, or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days: or
 - 10.3.10 any event occurs, or proceeding is taken, with respect to 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 10.3.4 to clause 10.3.9 (inclusive).

11 Clause 11: Force majeure

- 11.1 A party, provided that it has complied with the provisions of clause 11.3, shall not be in breach of this Agreement, nor be liable for any failure or delay in performance of any obligations under this Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("**Force Majeure Event**"), including but not limited to any of the following:
- 11.1.1 acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster;
 - 11.1.2 war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
 - 11.1.3 terrorist attack, civil war, civil commotion, or riots;
 - 11.1.4 nuclear, chemical, or biological contamination or sonic boom;
 - 11.1.5 voluntary or mandatory compliance with any law (including a failure to grant any licence or consent needed or any change in the law or interpretation of the law);
 - 11.1.6 fire, explosion, or accidental damage;

- 11.1.7 loss at sea;
 - 11.1.8 adverse weather conditions;
 - 11.1.9 collapse of building structures, failure of plant machinery, machinery, computers, or vehicles;
 - 11.1.10 any labour dispute, including but not limited to strikes, industrial action, or lockouts;
 - 11.1.11 non-performance by suppliers or subcontractors;
 - 11.1.12 interruption or failure of utility service, including but not limited to electric power, gas, or water;
 - 11.1.13 the Supplier is unable to provide the Guarantee Insurance for whatever reason; and
 - 11.1.14 the Insurer no longer providing the Guarantee Insurance to the Supplier.
- 11.2 In the case of a Force Majeure Event, the corresponding obligations of the other party will be suspended to the same extent as the party that is subject to the Force Majeure Event.
- 11.3 Any party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
- 11.3.1 it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance;
 - 11.3.2 it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
 - 11.3.3 it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event to carry out its obligations under this Agreement (in any way that is reasonably practicable) and to resume the performance of its obligations as soon as reasonably possible.
- 11.4 If the Force Majeure Event prevails for a continuous period of more than one (1) month, either party may terminate this Agreement by giving 14 days' written notice to the other party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

12 Clause 12: Variation

- 12.1 Subject to clause 12.2, no variation of this Agreement shall be valid unless it is in writing and signed by or on behalf of each of the parties.
- 12.2 The Supplier may vary the terms of this Agreement on the provision of 30 days' notice to the Customer at any time. If the Customer does not agree to the proposed variation of terms, the Customer may terminate the Agreement by notice to the Supplier provided within 14 days of the notice varying the terms.

13 Clause 13: Waiver

- 13.1 A waiver of any right or remedy under this Agreement is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A failure or delay by a party to exercise any right or remedy provided under this Agreement, or by law, shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy.
- 13.2 No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of any such right or remedy.

14 Clause 14: Cumulative remedies

Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

15 Clause 15: Severance

- 15.1 If any court or competent authority finds that any provision of this Agreement (or part of any provision) is invalid, illegal, or unenforceable, that provision or part-provision shall, to the extent required, be deemed to be deleted and the validity and enforceability of the other provisions of this Agreement shall not be affected.

- 15.2 If any invalid, unenforceable or illegal provision of this Agreement would be valid, enforceable, and legal if some part of it were deleted, the parties shall negotiate in good faith to amend such provision such that, as amended, it is legal, valid, and enforceable, and, to the greatest extent possible, achieves the parties' original commercial intention.

16 Clause 16: Entire Agreement and conflict

- 16.1 If there is a conflict between these Terms of Business, the Introduction and a Customer's engagement letter (if provided), the order of priority will be:

16.1.1 these Terms of Business;

16.1.2 the Introduction; and

16.1.3 the engagement letter.

- 16.2 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous drafts, arrangements, understandings, or agreements between them, whether written or oral, relating to the subject matter of this Agreement.

- 16.3 Each party acknowledges that, in entering into this Agreement, it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each party agrees that its only liability in respect of those representations and warranties that are set out in this Agreement (whether made innocently or negligently) shall be for breach of contract.

- 16.4 Nothing in this clause shall limit or exclude any liability for fraud.

17 Clause 17: Assignment

- 17.1 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under this Agreement.

- 17.2 The Supplier may at any time assign, transfer, charge, mortgage, subcontract, or deal in any other manner with all or any of its rights or obligations under this Agreement.

- 17.3 Each party that has rights under this agreement is acting on its own behalf and not for the benefit of another person.

18 Clause 18: No partnership or agency

Unless otherwise provided, nothing in this Agreement is intended to, or shall operate to, create a partnership between the parties, or to authorise a party to act as agent for the other. Unless otherwise provided, neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

19 Clause 19: Rights of third parties

Save for the indemnities available to the Insurer, a person who is not a party to this Agreement shall not have any rights under or in connection with it.

20 Clause 20: Notices

- 20.1 A notice given to a party under or in connection with this Agreement:

20.1.1 shall be in writing in English (or accompanied by a properly prepared translation into English);

20.1.2 shall be signed by or on behalf of the party giving it;

20.1.3 shall be sent for the attention of the person, at the address or fax number specified in this clause (or to such other address, fax number or person as that party may notify to the other, in accordance with the provisions of this clause); and shall be:

20.1.3.1 delivered personally;

20.1.3.2 sent by courier;

20.1.3.3 sent by pre-paid first-class post or recorded delivery; or

20.1.3.4 sent by email.

20.2 The addresses for service of a notice or other communication are as follows:

20.2.1 Supplier:

20.2.1.1 For the attention of: The Support Team, Qualitymark Protection Ltd, Chatsworth House, Ackhurst Business Park, Foxhole Road, Chorley, PR7 1NY

20.2.2 Email address: customerservice@qualitymark.com

20.2.3 Customer: the registered office address or the email address provided by the Customer for notifications.

20.3 If a notice has been properly sent or delivered in accordance with this clause, it will be deemed to have been received as follows:

20.3.1 if delivered personally, at the time of delivery;

20.3.2 if delivered by commercial courier, at the time of signature of the courier's receipt;

20.3.3 if sent by email, at the time of transmission; or

20.3.4 if sent by pre-paid post or recorded delivery, at 9.00 am on the second day after posting.

20.4 To prove delivery, it is sufficient to prove that:

20.4.1 if sent by email, the notice was transmitted by email to the email address of the party; or

20.4.2 if sent by pre-paid first-class post, the envelope containing the notice was properly addressed and posted.
The provisions of clause 20, shall not apply to the service of any process in any legal action or proceedings.

21 Clause 21: Governing law and jurisdiction

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

21.2 The parties irrevocably agree that the courts of England and Wales shall have jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement (or its subject matter or formation including non-contractual disputes or claims). This Agreement has been entered into on the date Installer is accepted as accredited by Qualitymark Protection.

Schedule 1: Accreditation Requirements

1. Customers carrying out installations for Customer's Clients must be appropriately qualified to carry out such installations.
2. The Customer must ensure that they provide to the Supplier copies of all certifications, insurances, and accreditations at commencement of this Agreement, and upon renewal of each certification, insurance or accreditation (as appropriate) to ensure the Supplier holds a current in date copy of each of the following, insofar as each of these are applicable:
 - a. Competent Persons Scheme membership;
 - b. Certifications or accreditations relevant to the work being completed and insured for the Customer's Client;
 - c. Insurance certificates;
 - d. Terms and conditions and warranty issued to the Customer's Client, which must match or exceed the term of Guarantee Insurance applied for.
3. The Customer must co-operate and offer assistance to the Supplier when it carries out any certification and accreditation checks.
4. The Customer must ensure they provide direct contact details for the policy holder when registering a policy, this is expected to be in the form of a policy holder e-mail address where available. Furthermore, the Customer MUST NOT use their own or any of their employees / subcontractors' details in lieu of the policy holders. In the event that incorrect details are provided, QMP reserves the right to charge an additional administration fee to ensure that the policy reaches the policy holder correctly.
5. PAS certified installers must at all times operate within the Suppliers QA Framework (published as a separate document and provided by the Supplier to the Customer).
6. The Customer must only install products that have been approved and certified by an approved European Organisation for Technical Assessment body. Customers must send the product information to the Supplier prior to the installation of the product in order for the Supplier to approve the product for insurance backed guarantees.
7. The Customer demonstrates that they are solvent and maintain such solvency throughout this Agreement and, in particular:
 - a. For a limited company: the Customer has a credit score (as published by Creditsafe) above 29 points and must submit to a solvency review conducted by the Supplier at least once every 12 months and otherwise at the Supplier's request if the Supplier has a reasonable suspicion that there is a lack of solvency ;
 - b. For sole traders and partnerships only: the Customer must submit to an online review of its business, attest its current contact details and consent to personal credit file checks prior to entering into the Agreement and on a biannual basis thereafter and otherwise at the Supplier's request if the Supplier has a reasonable suspicion that there is a lack of solvency;
 - c. The Customer does not have any county court judgments against it;
 - d. There are no alerts or filings on Companies House relating to insolvency, winding up, strike off or administration in respect of the Customer, including notifications of potential strike off or failures which may lead to the same; and
 - e. The Customer is not associated by common directors or shareholders to a previous Customer to whom Guarantee Insurance was issued by the Supplier that has ceased to trade, unless a cross company guarantee is in place between such Customers to cover the liability of the Insurer and which has been approved by the Insurer.

The Customer must ensure that where sub-contractors are engaged for the purposes of providing its services to Customer's Clients, that such sub-contractors hold at all times copies of relevant installer cards and certifications together with a robust sub-contractor agreement which ensures that the Customer is able to comply with its obligations under this Agreement.

Schedule 2: Guarantee Insurance

Subject to the terms of this Agreement, the Supplier may offer and arrange the products as described within QMP Price List published on our website and available on request

Schedule 3: Payments and direct debits

Before the Customer can access or use the Registration Hub, the Customer must set up a direct debit for the payments to the Supplier as required under this Agreement. The direct debit mandate information must be completed by the Customer unless the Parties have agreed in writing an alternative arrangement and means for payment.

The direct debit shall be taken from the Customer’s nominated bank account as set out in the direct debit mandate.

Price list

The Supplier's pricing for Services is set out in the QMP Price list.

The Supplier will charge a registration fee + VAT for every Guarantee Insurance Policy registered and amended as detailed in QMP Price List.

All prices quoted are in the Price list are subject to IPT at the prevailing rate.

Payment terms

<u>Fee</u>	<u>Invoice date</u>	<u>Due date</u>
Insurance Policy premium	Summary Invoice is available via Reg Hub on the 1 st of each month covering registrations made in the proceeding calendar month.	Payment in arrears by direct debit requested at the time of policy registration and taken 3-5 days later
Registration fee for each policy	1 st of every month in arrears for the previous calendar month.	Payment in arrears by direct debit on 15 th of the next month after the policy registered or amended.
Non-accreditation fee	By Invoice at the point of occurrence	Payment in arrears by direct debit requested at the time of policy registration and taken 3-5 days later

Schedule 4: Exclusions

The Supplier will not provide Guarantee Insurance in relation to the following (the "**Exclusions**"):

- Commercial premises or where the installation is not at a domestic property, as defined in the Guarantee Insurance Policy;
- Works which cover shared areas servicing more than one Customer's Client, property or dwelling;
- Domestic premises which are mixed use with part of the property being used to maintain a business;
- Any risk based in Northern Ireland (except by exception and at the discretion of the Insurer);
- Installations above four (4) storeys (except by exception and at the discretion of the Insurer where defined works are permitted within single flats or apartments);
- Installations which are outside of the defined minimum and maximum contract values permitted by the Registration Hub.
- New build properties in relation to which any works are undertaken while such property is under the ownership of the development company or property developer.
- Deposit Protection Insurance for commercial contracts. A commercial contract is defined as a contract between the Customer and another party which covers installations at more than one property or individual dwelling.

The Supplier may vary the Exclusions from time to time by notice to the Customer.