

**Terms And Conditions Of Purchase of Products**

**1) Definitions**

“**Conditions**” means these terms and conditions as amended from time to time in accordance with clause 2(f).

“**Contract**” as referred to in clause 2(b).

“**Intellectual Property Rights**” means all intellectual property rights of any kind existing anywhere in the world whether or not registered and all applications, renewals and extensions of the same including copyright, rights in computer software and source code, database rights, design rights, patents, trade marks, service marks, trade names and other rights in goodwill, rights in knowhow, trade secrets and other confidential information.

“**Order**” means Aimteq Solutions Ltd purchase order for the supply of Products subject to these Conditions.

“**Products**” the Products (or any part of them) set out in the Order.

“**Supplier**” means the person from whom Aimteq Solutions Ltd purchases the Products.

“**Supplier Default**” as defined in clause 7(c).

“**Specification**” means any specification for the Products notified to the Supplier by Aimteq Solutions Ltd in or prior to the Order.

Aimteq Solutions Ltd Limited (company number 03848754) whose registered office is The Mission, Wellington Street, Stockport, SK1 3AH.

“**Aimteq Solutions Ltd Materials**” means all materials, equipment, specifications, software, firmware, hardware and data supplied or licensed by Aimteq Solutions Ltd to the Supplier for the purpose of the Supplier performing the Contract, which materials are the exclusive property of Aimteq Solutions Ltd.

Any phrase introduced by the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

A reference to **writing** or **written** includes faxes and emails.

A person includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality).

A reference to any law or legislation is a reference to such law or legislation as amended or re-enacted and includes any subordinate legislation, as amended or re-enacted.

Any rights and remedies under these Conditions are in addition to rights and remedies implied by statute and common law.

**2) Applicable Conditions**

(a) The Order constitutes an offer by Aimteq Solutions Ltd to purchase the Products from the Supplier.

(b) The Order shall be deemed to be accepted on the earlier of the Supplier issuing written acceptance of the Order or any act by the Supplier consistent with fulfilling the Order, at which point the **Contract** (incorporating the Order and these Conditions) shall come into existence.

(c) These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

(d) Each party acknowledges that in entering the Contract it has not relied on any statement, promise or representation made or given by or on behalf of the other which is not set out in the Contract.

(e) Where there is conflict between the terms stated in an Order and these Conditions, the terms stated in the Order shall apply.

(f) Except as expressly otherwise permitted in the Contract no variation to these Conditions shall be binding unless agreed in writing between the authorised representatives of Aimteq Solutions Ltd and the Supplier.

(g) Any typographical, clerical or other error or omission in any Order, or other document or information issued by Aimteq Solutions Ltd shall be subject to correction without any liability on the part of Aimteq Solutions Ltd.

### **3) Insurance**

(a) For the duration of the Contract and for one year after its termination or expiry the Supplier shall maintain in force with a reputable insurance company insurances necessary to cover all liabilities of the Supplier that may arise under or in connection with the Contract and the Supplier shall on Aimteq Solutions Ltd request produce evidence satisfactory to Aimteq Solutions Ltd that all such insurance is validly in place.

### **4) Prices And Payment<sup>1</sup>**

(a) The price for the Products shall be the price set out in the Order which is inclusive of all packaging, insurance, delivery and transport costs.

(b) The Supplier may invoice Aimteq Solutions Ltd for the price on or at any time after delivery of the Products. The Supplier's invoice shall specify any purchase order number.

(c) Invoices properly rendered in accordance with clause 4(b) shall be paid on or before the last day of the second month after the end of the month in which Aimteq Solutions Ltd receives the invoice.

(d) All prices are exclusive of any applicable value added tax.

(e) Aimteq Solutions Ltd shall be entitled, without limiting its other remedies, to set off any amount owed.

(f) Presumably any prompt payment or volume discount would be specified in the Order? to Aimteq Solutions Ltd by the Supplier against any amount payable by Aimteq Solutions Ltd under the Contract or any other Contract to which the Contractor and the Supplier are a party.

### **5) Delivery**

(a) The Supplier shall deliver the Products

(i) on the date specified in the Order, or, if no such date is specified, within 28 days of the date of the Order;

(ii) during Aimteq Solutions Ltd normal business hours, or as instructed by Aimteq Solutions Ltd;

(iii) to the place specified in the Order and if no place is specified to such of the Customer's premises as the Customer directs.

(b) [The time of delivery of the Products is of the essence.]

(c) The Supplier shall ensure that:

(i) the Products are properly packed and secured in such manner so they are delivered in good condition;

(ii) each delivery of the Products is accompanied by a delivery note which shows the date of the Order, the purchase order number, the type and quantity of the Products (including the code number of the Products, where applicable), and, if the Products are being delivered by instalments, the outstanding balance of Products remaining to be delivered.

(d) Delivery of the Products shall be completed on the completion of unloading the Products at the delivery location.

### **6) Risk and property**

(a) Risk of damage to or loss of the Products shall pass to Aimteq Solutions Ltd at the time when delivery has been completed.

(b) Property in the Products shall pass to Aimteq Solutions Ltd (without limiting any rights of rejection) on delivery or, if earlier, on payment of the price for the Products in question.

### **7) Supplier's Obligations and Warranties**

7(a) The Supplier shall ensure that the Products shall

(i) correspond with the applicable Specification;

(ii) be of satisfactory quality;

- (iii) be free from defects in design, material and workmanship and (except batteries included within the Products) shall remain so for 3 years after delivery;
- (iv) comply with all British Standards and applicable statutes and regulations relating to the Products.

(b) Aimteq Solutions Ltd shall have the right to inspect and test the Products at any time before delivery. If following such inspection or testing Aimteq Solutions Ltd considers that the Products do not conform or are unlikely to comply with such undertakings Aimteq Solutions Ltd shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance. Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Products and any such inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract.

(c) If other than due to any defect in the Specification or the Purchaser Materials the Products do not comply with the undertakings set out in clause 7(a) or any other provision of the Contract (**Supplier Default**), then, without limiting any of its other rights or remedies, Aimteq Solutions Ltd shall have the right to any one or more of the following remedies, whether or not it has accepted the Products:

- (i) to terminate the Contract;
- (ii) to reject the Products (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- (iii) to require the Supplier to repair or replace the rejected Products, or to provide a full refund of the price of the rejected Products (if paid);
- (iv) to recover from the Supplier any costs incurred by Aimteq Solutions Ltd in obtaining substitute Products from a third party; and
- (v) to claim damages for any other costs, loss or expenses incurred by Aimteq Solutions Ltd which are in any way attributable to the Supplier's failure to carry out its obligations under the Contract.

(d) These Conditions shall apply to any repaired or replacement Products supplied by the Supplier.

(e) The Supplier shall at all times during the Contract maintain all necessary and required licences, consents and permits to perform the Contract.

(f) The Supplier shall indemnify and keep indemnified Aimteq Solutions Ltd in full in respect of all damages, injury or loss to any person or property and against all actions, suits, claims, demands, charges or expenses awarded against or incurred or paid by Aimteq Solutions Ltd in connection with or arising from any Supplier Default. This clause 7 shall survive termination of the Contract.

## **8) Force Majeure**

(a) Neither party 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 under the Contract, if the delay or failure was due to any cause beyond that party's reasonable control.

## **9) Confidentiality**

A party (**Receiving Party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives and other information which is of a confidential nature and has been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors as a result of or in connection with the Contract, and any other confidential information concerning the Disclosing Party's business or its products or services which the Receiving Party may obtain as a result of or in connection with the Contract. The Receiving Party shall restrict disclosure of such confidential information to such of its employees or agents as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees or agents are subject to the obligations of confidentiality corresponding to those which bind the Receiving Party. This clause 9 shall survive termination of the Contract.

## **10) Termination**

(a) Either party may terminate the Contract forthwith on written notice to the other party (**Other Party**):

- (i) if the Other Party is in material breach of its obligations under the Contract and where the breach is capable of remedy, the Other Party has not remedied the breach within 30 days of written notice specifying the breach; or

(ii) if the Other Party becomes insolvent or if an order is made or a resolution is passed for the winding up of the Other Party (other than voluntarily for the purpose of solvent amalgamation or re-construction), or if an administrator, administrative receiver or receiver is appointed in respect of the whole or any part of the Other Party's assets or business, or if the Other Party makes any composition with its creditors or takes or suffers any similar or analogous action in consequence of debt.

(b) Any right of termination is without prejudice to the relevant party's other rights or remedies.

### **12) Intellectual Property Rights**

(a) All Intellectual Property Rights of Aimteq Solutions Ltd used in or arising out of or in connection with the performance of the Contract including in the Products, the Specification and Aimteq Solutions Ltd Materials shall be owned by and shall vest in Aimteq Solutions Ltd and/or its licensors and the Supplier shall only be licensed to use the same as necessary in the performance of the Contract, which licence shall automatically terminate upon the earlier of the completion of the Contract or the termination of the Contract

(b) The Supplier shall keep all Aimteq Solutions Ltd Materials in safe custody at the Supplier's risk and use them only as necessary in the performance of the Contract and to the extent not used in performance of the Contract return them to Aimteq Solutions Ltd immediately upon the termination of the Contract or destroy the same if Aimteq Solutions Ltd so directs.

(c) The Supplier or (the Supplier shall so procure) any of its employees or agents shall not modify, adapt, develop, reverse engineer, decompile or disassemble any software included in Aimteq Solutions Ltd Materials.

### **13) General**

(a) The Contract and any dispute or claim arising out of or in connection with it (including non contractual disputes or claims) shall be governed by and construed in accordance with English law and the parties irrevocably submit to the exclusive jurisdiction of the courts of England.

(b) Aimteq Solutions Ltd may at any time assign, transfer, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

(c) The Supplier shall not assign, charge or subcontract all or any of its rights or obligations under the Contract.

(d) Notice required or permitted to be given by either party to the other under the Contract shall be in writing addressed to that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

(e) Any waiver by Aimteq Solutions Ltd of any breach of the Contract by Aimteq Solutions Ltd shall only be valid if in writing and shall not be considered as a waiver of any subsequent breach of the same or any other provision.

(f) If any provision of the Contract is held by a court or other competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected.

(g) A person who is not party to the Contract shall not have any rights under or in connection with it and the Contracts (Rights of Third Parties) Act 1999 is excluded.

(h) Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the parties. No party shall have authority to act as agent for, or to bind, the other party in any way.

(i) Each party warrants that it has full capacity and authority to enter into the Contract.