

## 1. Definitions

- 1.1 "Customer", "you" means the MobileWorxs customer/ the person/ firm/ company/ organisation/ Re-Seller identified in an order and to whom MobileWorxs may agree to supply Products in accordance with these terms and conditions.
- 1.2 "Us", "We", "MobileWorxs" or "Company" means MobileWorxs Ltd.
- 1.3 "Order" means the order the Customer places with MobileWorxs detailing the products it wishes to purchase.
- 1.4 "Contract" will mean the agreement of sale between MobileWorxs and the Customer.
- 1.5 "Product(s)" shall mean items, goods or services including but not limited to computer hardware and software items to be supplied by MobileWorxs to the Customer in accordance with these terms.
- 1.6 "Third Party Software" means all software owned by or licensed to the Customer from a third party owner (whether or not supplied by MobileWorxs) and which comprises part of the Products.
- 1.7 "Re-seller" means a company that purchases Products with the intention of selling them on rather than consuming or using them.
- 1.8 "End-user" means a company or a person who actually uses Products rather than one who makes or sells them.
- 1.9 "Service" for the purposes of Clause 13 "Service" means any repair, maintenance, installation, implementation, support, consulting and/or other Service which the Customer purchases.

## 2. Order Acceptance

- 2.1 Orders may only be accepted by a valid Purchase Order from the Customer subject to Payment Terms.
- 2.2 All orders are accepted and Products supplied subject to these terms only. No amendment to these terms will be valid unless confirmed in writing by our authorised representative on or after the date hereof.
- 2.3 MobileWorxs sells to Re-sellers and End-users, all orders placed with us by you for Products shall constitute an offer to us, under these terms, subject to availability of the Products and to acceptance of the order by MobileWorxs.
- 2.4 The Customer shall be responsible for ensuring part number, descriptions, price, quantity, and Customer's information is correct.
- 2.5 Alterations may be issued by MobileWorxs at any time. To avoid doubt, your general conditions or trading terms, if any, shall be explicitly excluded.

## 3. Product Pricing

- 3.1 Price lists and other advertising literature or material as used by MobileWorxs are intended to be used as an indication of list price and product range. No prices, descriptions or other particulars contained in them shall be binding on MobileWorxs.
- 3.2 All quoted or listed prices are based on the cost to MobileWorxs of supplying the Products to the Customer. If before delivery of the Products there is an increase in any way of such costs in respect of Products which have not yet been delivered, the price payable may be changed in order to reflect this increase without notice. Any increase in price will entitle the Customer to the right to cancel the order by giving written notice to MobileWorxs within 2 business days of

the Customer being made aware of such increase. If the Customer cancels the order in accordance with this condition then:

- 3.2.1 We will refund to the Customer any sums which the Customer has paid to MobileWorxs in respect of that order or part of the order which has been cancelled; and
- 3.2.2 The Customer will be under no liability to make any payments in respect of that order or part of the order which has been cancelled.
- 3.3 Re-Sellers are liable to pay for all transport, local duties, packing and insurance costs required shipping Products to their authorised premises.
- 3.4 Pricing is based on the deliverable items and is exclusive of shipping, Value Added Tax and any similar taxes or local duties. The Customer is responsible for the full value of local taxes as a result of receiving products from MobileWorxs. All such taxes are payable by the Customer and will be levied in accordance with laws in force at the tax point date.
- 3.5 All pricing on quotations should be used as accurate at time of order unless instructed otherwise.
- 3.6 Quotations are valid for the number of days as stated on the quotation.
- 3.7 The Customer shall be liable for any increase in shipping costs greater than quoted if incurred as a result of local customs.

#### 4. Delivery

- 4.1 MobileWorxs shall focus on providing the products before or by the specified date in the quotation. The delivery time scale in each quotation is based upon estimations at the date of creation of the quotation. Any time or date quoted for despatch is to be treated as an estimate only. We will use reasonable endeavours to despatch the Products within the time or date quoted.
- 4.2 If the delivery date changes at the time of order the customer will be informed.
- 4.3 If product delays occur out of the control of MobileWorxs, the ordered products will be delivered at the earliest date available.
- 4.4 MobileWorxs will not be held liable for any Customer loss as a result of any delayed deliveries. If, despite reasonable endeavours, we are unable for any reason to despatch on the specified time or date, we will be deemed not to be in breach of the Contract, nor (for the avoidance of doubt) will we have any liability to you for direct, indirect or consequential loss (all three of which terms includes, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill, claims of third parties and like loss) howsoever caused (including as a result of negligence) by any delay or failure in despatch.
- 4.5 From the time of the delivery, the Products shall be at your risk and you shall be solely responsible for their custody, insurance and maintenance.
- 4.6 The Customer must inspect the Products on delivery and shall inform MobileWorxs within 2 working days of receipt of any damaged goods, non-conforming, defective or not delivered Products.
- 4.7 MobileWorxs will not be held liable for any Customer loss if the delivery details provided by the Customer are incorrect, incomplete or missing.
- 4.8 If the Customer fails to take delivery, or provide any necessary documents required by the Customer's country's Customs or other authorities, the Products will be deemed to have been delivered and we may, without prejudice to our other rights, at our option:
  - 4.8.1 Store or arrange for storage for or return of the Products until actual delivery or sale and charge you for all related costs and expenses including, without limitation, return shipping, storage and insurance and/or
  - 4.8.2 Following written notice to you, sell any of the Products at the best price reasonably obtainable in the circumstances and charge you for any shortfall below the price under the Contract.
- 4.9 It is the responsibility of the Re-seller to ensure that their shipping provision allows for the movement of items containing lithium batteries.

## 5. Cancellation and Rescheduling

Notwithstanding clause 3.2 above, unless otherwise agreed in writing, any request by you for cancellation of any order or for the rescheduling of any deliveries will only be considered by us if made at least 12 hours before despatch of the Products, and shall be subject to acceptance at our consent and subject to our reasonable administration charges. You hereby agree to indemnify MobileWorxs against all losses, costs including the cost of labour and materials used and overheads incurred, damages, charges and expenses arising out of the order and its cancellation or rescheduling.

## 6. Product Specification

- 6.1 MobileWorxs will not be liable for any loss or damage caused by or resulting from any product variation for whatsoever reason in either technical data, efficiency or safety, or of manufacturer or provider specifications. Products are delivered to manufacturers standards which may be altered when necessary.
- 6.2 MobileWorxs will not be responsible for any loss or damage resulting from curtailment or cessation of supply of the products following such variation or end of life.
- 6.3 Quotations, descriptions, illustrations or MobileWorxs evaluation products remain the property of MobileWorxs. None shall be shared without written consent, and should be treated as confidential until such time as consent is given.
- 6.4 Unless otherwise agreed, the products are supplied in accordance with the manufacturer's standard specifications as these may be improved, substituted or modified.
- 6.5 In respect of any orders accepted from you for products of non-standard specifications MobileWorxs will in no circumstances consider cancellation of such orders or the return of such orders.

## 7. Payment Risk & Title

- 7.1 Payment is required based on quotation terms which may involve pre-payment, letter of credit, leasing or monthly payment terms.
- 7.2 In the event that the Customer delays payment greater than stated quotation timescales, the Customer will be liable to pay at MobileWorxs' discretion, interest calculated (on a daily basis) from the due date until payment is made in full both before and after any judgment (unless the court orders otherwise). Unless otherwise agreed, the currency of payment is GBP/£ which will be billed monthly.
- 7.3 In the event the Customer is in arrears of the payment MobileWorxs will be fully entitled to remove existing products in use up to and including the value of the order, including cancelling of any existing order and removing any credit agreements previously arranged.
- 7.4 The Customer must notify MobileWorxs in writing within seven calendar days of the date of our invoice of any errors (in that invoice). If you do not, you will be deemed to have accepted the accuracy of that invoice.
- 7.5 If you have a credit account with us, we may withdraw it or reduce the credit limit or bring forward the due date for payment without notice.
- 7.6 All payments to be made by you will be made in full without any set-off, restriction or condition and without any deduction for or on account of any counterclaim.
- 7.7 Notwithstanding despatch and the passing of risk in the Products to you and notwithstanding any provision of these conditions, the title to the Products shall not pass to you until we have received full payment of the price of the Products. When all prices, taxes and charges due in respect of the Products have been paid in full, title to the Products only shall pass to you. Until you pay all sums due to us in respect of the Products and all other sums which are or which become due to us from you on any account: all Products supplied to you will remain our property; all Products must be stored so that they are clearly identifiable as our property; you must insure all such Products for their full price against all risks to our reasonable satisfaction

and hold the policy on trust for us and produce a copy of your insurance policy upon request; you must hold the Products on a fiduciary basis as MobileWorxs' Bailee;

- 7.8 You must not destroy, deface or obscure any identifying mark or packaging on or relating to the Products; you may use such Products and sell them in the ordinary course of your business at the best price reasonably obtainable in your business but account to us for the proceeds of such sale(s) and allow us to inspect records related to such sale(s) unless we revoke that right (by informing you in writing) or you become insolvent. Payment for the Products supplied to you hereunder will be deemed to have been made when the full amount of payment is irrevocably credited to our bank account.
- 7.9 You must inform us (in writing) immediately if you become insolvent and/or in case of seizure of or damage to the goods in your premises. your right to sell or use the Products shall cease immediately if you are in material breach of this Contract, a bankruptcy order is made against you or you enter into liquidation, whether compulsory or voluntary, or make an arrangement with creditors or petition for an administration order or have a Receiver or Manager appointed over all or any part of your assets or generally become unable to pay your debts, and in case of seizure of goods in your premises. If your right to use and sell the Products ends, You must allow us to remove the Products, dispose of the Products so as to discharge any sums you owe us under this or any other Contract and/or withhold delivery of any undelivered Products and stop any Products in transit. Unless we expressly elect otherwise, this Contract or any other Contract you enter into with us for the supply of Products shall remain in existence notwithstanding any exercise by us of our rights hereunder. The Products shall, once the risk has passed to you per the terms hereunder or otherwise, be and remain at your risk at all times unless and until we have taken possession of them, and you shall insure them accordingly.
- 7.10 You grant us an irrevocable license at any time to enter any premises where the Products are or may be stored to inspect them or, where your right to possession has ended, to recover them. Despite our retention of title to the Products, we have the right to take legal proceedings to recover the price of Products supplied should you not pay us in full by the due date.
- 7.11 You are not entitled to pledge (or in any way charge by way of security for any indebtedness) any of the Products which remain our property, but if you do so, all monies owing by you to us shall (without prejudice to any other of our rights or remedies) immediately become due and payable. We reserve the right to stop supplying the Products to you at any time and withdraw any credit facility provided to you.

## 8. Proprietary rights in software products

- 8.1 The Customer acknowledges that any proprietary rights in any Third Party Software supplied hereunder including, but not limited to, any title or ownership rights, patent rights, copyrights and trade secret rights, shall at all times and for all purposes vest and remain vested in the Third Party Software owner. It is the Customers sole responsibility to comply with all terms and conditions of any licence attaching to Third Party Software supplied and delivered by MobileWorxs, including, if required, the completion and return of a Third Party Software licence.
- 8.2 Failure to act in accordance with such terms may result in the Customer being refused a software license or having a licence withdrawn by the software proprietary owner, notwithstanding other remedies included in the relevant license or by law. The Customer agrees to underwrite MobileWorxs and indemnify us in respect of all costs, charges or expenses incurred by MobileWorxs as a result of any breach by the Customer of such terms and conditions. No title or ownership of software Products or any Third Party Software licensed to the Customer is transferred to Customer under any circumstances.

## 9. Product Returns

Product returns are subject at the sole discretion of MobileWorxs. Returns are subject to the following:

9.1.1 The request for a return must be made by the Customer, in writing within 5 business days of the date of delivery and the agreed products must be returned within 5 business days of authority to return being issued by MobileWorxs;

9.1.2 Returns are only acceptable for products in a saleable, as new condition in the original packaging, as originally sold. Any alterations required to be made by MobileWorxs to the products will result in charges to the Customer for time and materials spent. We reserve the right to reject any Products which do not comply with the terms set out above.

9.1.3 A restocking fee of 20% of the purchase price of the returned Product will be charged where a return is agreed.

## 10. Product Warranty

10.1 MobileWorxs offers no warranty additional or otherwise to the manufacturer's warranty. MobileWorxs will undertake warranty issues directly with the manufacturer. We shall use our reasonable endeavours to ensure that you shall receive the benefit of such warranties from the manufacturer. It remains the responsibility of the customer to review the warranty statement for each product.

10.2 MobileWorxs reserves the right to inspect any product returned under warranty. Any product found not to be faulty will be returned to the Customer at the Customer's expense. In this case MobileWorxs may in addition charge the Customer a triage fee for testing the products.

10.3 The Customer will be responsible incurring all costs of returning the products to the MobileWorxs repair workshop.

10.4 All software Products supplied are supplied 'as is'. Our sole obligation with the supply of software Products is to use all reasonable endeavours to supply a corrected version or a patch from the manufacturer concerned if the software Product fails to conform to its product description. You must notify us of any such non-conformity within 30 calendar days of the date of delivery of the software Product. Maintenance of software and software updates or upgrades will depend on the offerings of the software manufacturer.

If the Products are found to be defective MobileWorxs will only accept the return of such Products as provided in clause 10.

10.5 MobileWorxs will not be liable for any compensation or refund should product(s) be deemed faulty unless it has been established or agreed with the manufacturer.

10.6 Except as specifically set out in this clause 10, we exclude all other warranties, whether express or implied or otherwise including but not limited to the warranties of description, design, non-infringement, satisfactory quality and fitness for a particular purpose, absence of harmful software code, or arising from any previous course of dealing, usage or trade practice. In no circumstances shall our liability to the Customer for any breach of warranty exceed the price the Customer paid for the Products with respect to which the claim is made.

## 11. Force Majeure

MobileWorxs shall not be liable for failure to supply Products and/or maintain products under warranty resulting from causes beyond the control of either MobileWorxs or its suppliers, including, but not limited to acts of God, acts of the Customer, adverse weather, breakdown or failure of plant or machinery, civil disturbance, embargoes, explosions, fire, flood, government regulations, hostilities, impact, industrial action, late receipt of the Customer's specification or other necessary information, sabotage, shortage of labour, shortage of products and/or materials or strikes.

## 12. Indemnities and Limitations of Liability

12.1 The agreement for the supply and sale of goods shall be governed by the laws of England.

12.2 MobileWorxs shall not be liable to the Customer or be deemed to be in breach of the agreement with the Customer by reason of any delay in performing or any failure to perform

- any of its obligations in relation to the goods if the delay or failure was due to any cause beyond MobileWorxs reasonable control.
- 12.3 Save as expressly provided in these terms and conditions and except where the goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977) all warranties conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 12.4 Where the goods are sold under a consumer transaction the statutory rights of the customer are not affected by these conditions.
- 12.5 The customer shall notify MobileWorxs forthwith in writing upon the customer becoming aware of any claim for infringement of any patent copyright design, trademark, service mark or other industrial or intellectual property rights in or relating to the goods.
- 12.6 We will be under no liability to you whatsoever (whether in contract, tort (including negligence), breach of statutory duty, restitution or otherwise) for any injury, death, damage or direct, indirect or consequential loss (all three of which terms include, without limitation, claims of third parties, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss) howsoever caused arising out of or in connection with:
- 12.7 Any of the Products, or the manufacture or sale or supply, or failure or delay in supply, of the Products by us or on the part of our employees, agents or sub-contractors;
- 12.7.1 Any breach by us of any of the express or implied terms of the Contract;
- 12.7.2 Any use made or resale by you of any of the Products, or of any goods incorporating any of the Products; or
- 12.7.3 Any statement made or not made, or advice given or not given, by or on behalf of us.
- 12.8 We do not, under any circumstances, accept liability when acting as a consultant, either directly or to a third party relating to advice on a technical or commercial level as a response to requests made. It should be noted that we do not accept liability in any form when visiting either Customer or Re-seller customer sites upon invitation to assess any given situation relating to hardware or software supplied directly or otherwise.
- 12.9 Except as set out in clauses 3.2 and 11 we exclude, to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in your favour.
- 12.10 You agree to fully indemnify, keep indemnified and hold harmless us and our employees from and against all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include, without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which we or our employees incur or suffer as a consequence of a direct or indirect breach or negligent performance or failure or delay in performance by you or your authorised representative. you also agree to fully indemnify us against all liabilities, costs, losses and damages whatsoever suffered or incurred by us and arising out of claims by third parties in respect of or in connection with any acts or defaults by you, your employees, or representatives.

### 13. Supply of Services

Sales of any and all Services are subject to additional terms and conditions as follows:

- 13.1 "Services" means any Service when referred to in plural. Such Services are more fully described in the relevant service description documentation provided by the applicable third-party vendor.
- 13.2 The purchase of any and all Services by you may be subject to additional terms and conditions provided by the applicable third-party Service vendor. Furthermore, any and all

Services are supplied under Service contracts made between the applicable third-party vendor and End-user.

#### 14. Export and/or Re-Export Limitation

Regardless of any disclosure made by you to us of an ultimate destination for any Products, you will not export or re-export any Products without first obtaining all such written consents or authorisations as may be required by any applicable government regulations.

#### 15. CONTRACT

- 15.1 The headings in these terms are for ease of reference only and shall not affect their interpretation or construction.
- 15.2 No forbearance, delay, or indulgence by either party in enforcing its respective rights shall prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms shall be deemed to be a waiver of any other right or any later breach.
- 15.3 You agree not to assign any of your contractual rights without our prior written consent.
- 15.4 If any of these terms are unenforceable as drafted it will not affect the enforceability of any other of these terms and if it would be enforceable if amended, it will be treated as so amended.
- 15.5 Neither party shall be liable to the other for any delay in failure to perform its obligations hereunder (other than a payment of money) where such delay or failure results from force majeure (Clause 11) including any act of God, fire, explosion, accident, shortage, industrial dispute, military or government restriction, or any cause beyond its reasonable control.
- 15.6 Any document or notice by either party which is to be served under these terms may be served by leaving it at or by delivering it to (by first class post the other's registered office or principal place of business. In the case of post the document or notice will be deemed to have been given two working days after the date of posting. All such notices must be signed.
- 15.7 This Agreement shall be construed in accordance with English Law.
- 15.8 Dispute Resolution:
- 15.8.1 Where at the date of this Agreement the Customer is domiciled in a state that is not within the European Economic Area, all disputes arising out of or in connection with the present Agreement, including any question regarding the validity, existence or termination of this Agreement and/or this arbitration clause, shall be referred to and finally resolved by arbitration in London conducted in the English language by a sole arbitrator pursuant to the LCIA Arbitration Rules which are deemed to be incorporated by reference into this clause.
- 15.8.2 Where at the date of this Agreement the Customer is domiciled in a state within the European Economic Area, all disputes arising out of or in connection with the present Agreement are subject to the non-exclusive jurisdiction of the courts of England & Wales, and the arbitration clause in clause (15.8.1) above does not apply.
- 15.9 You agree that the above provisions are fair and reasonable and that these terms constitute the entire agreement relating to the Products between you and us.
- 15.10 You acknowledge that you have not relied on any statement, promise or representation made or given by or on behalf of us which is not set out in these terms. Nothing in this clause 15.10 will exclude our liability in respect of any statements made fraudulently.
- 15.11 Nothing in this Contract confers any rights on any person under the Contracts (Rights of Third Parties) Act 1999, or any similar statute or regulation.