

# TERMS AND CONDITIONS OF SALE

## TERMS AND CONDITIONS OF SALE (Products & Services)

### 1 ACCEPTANCE OF TERMS

These terms and conditions of sale ("Terms") represent the sole understanding between Investment Dragon Limited (IDL), a company registered in England with registered number 6811908 and having its registered office at 53, Gildredge Road, Eastbourne, East Sussex BN21 4RY or any of its trading divisions or subsidiaries ("IDL") and the purchaser ("you") and will govern any agreement entered into by IDL for the sale of products including but not limited to systems, modules, projects and/or parts (collectively or individually referred to as the "Products") and the services including but not limited to any training or additional support provided by IDL (the "Services").

The quotation provided by IDL to you ("Quotation") constitutes an offer to sell the Products and/or Services upon these Terms. A Quotation shall be valid for up to 45 days from date of issue. You shall have up to 30 days from the date of issue of the Quotation to confirm in writing your acceptance by way of a purchase order ("Purchase Order") or rejection of the Quotation, failing which such offer will lapse. You shall be deemed to have accepted these Terms on receipt by IDL of your Purchase Order. The Quotation and Purchase Order along with these Terms shall constitute the whole agreement between IDL and you. In the event of a conflict between these Terms and the Quotation, the terms of the Quotation shall prevail. In the event of a conflict between the Quotation and the Purchase Order, the terms of the Purchase Order shall prevail. No waiver, alteration or modification of any of the provisions of these Terms shall be binding unless made in writing to and agreed by IDL and signed by a duly authorised representative of IDL.

### 2 PRICE AND PAYMENT TERMS

All prices are exclusive of any taxes.

All risk for the Products shall pass from IDL to you when you are notified by IDL that the Products are available for collection or shipment at the dock of IDL at 10, Castleham Road, St. Leonards on Sea, East Sussex, TN38 9NR, United Kingdom or such other address as may be agreed by IDL and you in writing ("Notification"). You shall be responsible for any transport or export costs associated with moving the Products from the address specified in the Notification.

Title for the Products will transfer to you upon full payment of any sums due to IDL for the Products. Until such time as title in the Products has passed to you, you shall hold the Products as our fiduciary agent and shall be entirely responsible for ensuring that the Products are properly protected, operated, insured and clearly identified as the property of IDL and you shall allow IDL access to the premises where they are stored in order to retrieve and/or inspect them.

Unless otherwise stated all prices will be in UK Pounds (GBP) and you shall make all payments within 30 days from date of invoice ("Payment Due Date"). In the event that the specification of the Products or Services changes through a request by you or with your prior written consent, you acknowledge that the price in the Quotation may be subject to change and this will be agreed with you separately in writing.

In the case of the Products they shall be deemed to be accepted and to meet all quoted specifications by you no later than 15 days from date of Notification unless any delay is caused exclusively by IDL ("Acceptance").

Any amounts due to IDL under these Terms shall not be treated as paid until IDL is in receipt of cleared funds for the full sum payable.

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If you fail to make payment of any sums due to IDL within 30 days of the Payment Due Date, then IDL shall be entitled to (a) suspend further deliveries of Products or performance of Services to you until such sums are paid to IDL; and (b) charge you interest on the amount unpaid at a rate of 4% per annum above the HSBC base rate from time to time from the first day on which the sums become payable until payment is made in full.

You shall not be entitled to withhold payment of any amount payable under the Terms to IDL because of any disputed claim in respect of the Products and/or Services or any other alleged breach of the Terms.

### 3 CANCELLATION AND DELAYED SHIPMENTS

On Notification, you shall ensure shipments of Products are confirmed on board the first available carrier, flight or conveyance. You may request that IDL hold the Products at its premises or such other location, as IDL may deem appropriate for a maximum of 10 accumulated days per order at no additional charge. In the event that you request that IDL hold the Products longer than 10 accumulated days per order, the costs of storage and insurance will be charged to you with a 10% administration fee for payment within 30 days of monthly invoice.

Any order for Products may be cancelled in writing ("Notification to Cancel") for convenience by you at any time prior to the agreed date for shipment subject always to you paying to us all costs and expenses incurred in good faith in relation to the fulfilment of said order prior to such cancellation.

### 4 WARRANTIES

IDL warrants to you that during the Warranty Period (as defined below) all Products and Services supplied by IDL shall conform to a published or agreed performance specification ("Specification") and shall be free from defects in material and workmanship during normal use ("Warranty"). Unless otherwise stated the Warranty Period shall be 30 days from Notification.

In the event of non-conformance of the Products or Services with the Specification during the Warranty Period then IDL shall take all reasonable steps to correct all defects in a timely manner. This Warranty represents your sole and exclusive remedy and IDL shall not in any event be liable for any direct or indirect costs other than those associated with the repair of any non-conforming Products or Services. All expenses associated with a Warranty repair can only be authorised by IDL in advance and IDL will not reimburse any expenses associated with a Warranty claim other than those which were authorised in advance in writing by a duly authorised representative of IDL.

Other than those set out in this Clause 4, IDL does not make and hereby disclaims any express or implied warranties regarding the Services and Products insofar as it is competent to do so, including without limitation any warranty for merchantability or fitness for any particular purpose of any of the Products.

### 5 LIMITATION OF LIABILITY

In so far as is permitted by law, the entire and aggregate liability of IDL to you in respect of any claim whatsoever or breach of these Terms, whether or not arising out of negligence, shall be limited to the price paid by you and received by us for any order to which the claim relates, which by receipt by IDL of the Purchase Order you acknowledge to be reasonable in all the circumstances. In no event shall IDL be liable to you for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or IDL had been made aware of the possibility of you incurring such a loss.

We shall have no liability arising from the use of the Products or results of the Services (if any) for any purpose other than the particular purpose for which they are sold or performed.

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## 6 INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

You acknowledge and agree that any and all intellectual property rights including but not limited to any patents, designs, copyright, trade marks, know how and database rights, whether registered or unregistered anywhere in the world ("IPRs") in the Products supplied hereunder and any and all IPRs including but not limited to any IPRs created, developed, subsisting or used by us in the performance of our obligations under these Terms, shall vest in or remain the property of IDL or such third party as IDL shall designate and nothing in these Terms confers any rights on you in this respect.

In the event of a claim being made by a third party against you that the Products bought under these Terms constitutes an infringement of the IPRs of the same third party and IDL agrees with you that the claim has merit, IDL will assist you to defend any suit or proceeding brought against you to a maximum financial level of the price paid for any allegedly infringing product.

You agree to hold in confidence all material or information which may be considered to be proprietary to IDL and not to disclose any such material to any person or entity without the express written permission of IDL

You shall keep IDL fully and effectively indemnified in respect of all losses, liabilities, damages, costs and expenses arising from any breach of the terms of this Clause 6.

In the event that you are required to disclose any information under the Freedom of Information Act 2000 (as amended or any equivalent legislation, order or regulation that may exist in any relevant territory from time to time) (the "Act") relating to the Products or the Services, or to IDL or the business relationship IDL have with you, which is or has been disclosed by IDL to you in connection with the Terms, you shall (a) promptly give us notice of such a requirement; and (b) use all reasonable endeavours to consult with and take account of our wishes in relation to any such required disclosure, subject always to your obligations under this Act.

## 7 TERMINATION

This agreement for the Products or Services may be terminated by IDL by notice in writing to you if:

- (i) you fail to make payment of any sums due to IDL in accordance with Clause 2;
- (ii) you commit a material breach of any of your obligations under the Terms which is not capable of remedy;
- (iii) you commit a material breach of any of your obligations under the contract which is capable of remedy and such a breach is not remedied within 30 days of being specifically required to do so by IDL;
- (iv) there is a persistent breach by you of any of the Terms, being the repeat of any breach which IDL has previously notified in writing to you;
- (v) any encumbrancer takes possession of, or an administrator, an administrative receiver, a receiver, a trustee, a liquidator or other similar official in any jurisdiction is appointed over the whole or any material part of your undertaking, property, assets or any of your holding companies from time to time; or
- (vi) there is a presentation of a petition for the passing of an effective resolution for your winding up, otherwise than for the purpose of reconstruction or amalgamation without insolvency which has previously been approved in writing by IDL.

Termination of this agreement with you shall not affect the rights and remedies accrued by you or IDL as at the date of such termination or any rights or obligations, which due to the nature thereof are intended to survive termination.

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## 8 GENERAL

- (i) The failure to exercise or delay in exercising by IDL of a right or remedy provided by these Terms does not constitute a waiver of the right or waiver, or a waiver of other rights or remedies.
- (ii) You may not assign your rights or responsibilities as set forth in these Terms, and any such assignment will be null and void. IDL shall be entitled to assign or otherwise transfer the benefit and/or burden of the Terms without restriction.
- (iii) In the event that a court or other competent authority decides that any of the Terms are invalid, unlawful or unenforceable to any extent, the Terms will to that extent only, be severed from the remaining Terms, which will continue to be valid to the fullest extent permissible by law.
- (iv) Any dispute, controversy or claim arising out of or relating to these Terms shall be settled by arbitration in the city of London, UK in accordance with the rules of the business court and the International Arbitration Association.
- (v) Subject the Clause 1, these Terms contain the entire agreement between the parties relating to the subject matter and supersede any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in the Terms they may be varied only by a document signed by both parties.
- (vi) IDL and you are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. IDL may, in addition to its own employees, engage subcontractors to provide all or part of the Services being provided to you and such engagement shall not relieve IDL of its obligations under these Terms or any applicable Specification.
- (vii) Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.
- (viii) These Terms (including any contractual and non contractual claims) shall be governed and construed in accordance with the laws of England and you submit to the non-exclusive jurisdiction of the English Courts in all matters relating to the subject matter of these Terms.