

# Coleman Technologies, Inc.

## Standard Terms and Conditions

### I. AGREEMENT

The Terms and Conditions defined herein supplement the corresponding Purchase Order, Quote, Statement of Work, Proposal or other written specification ("Specification") with respect to the purchase of Products and Services by Customer ("Customer") and govern all matters between Coleman Technologies, Inc. ("CTI") and the Customer with respect to this subject. The combination of the corresponding Specification and these Terms and Conditions shall define the complete "Agreement" between parties. In the event of any conflict, the terms and conditions defined in this document shall prevail. The term of this Agreement shall continue from date of submission of the Specification by CTI until Customer has made payment for all corresponding Products and Services.

### II. PURCHASE AND PAYMENT

When Customer has requested CTI to procure products or provide services, whether by oral, telephonic, electronic, written or other means, then Customer's acceptance of (i) any products delivered; or (ii) any services performed constitutes agreement by Customer to make full payment for any invoices presented for these products or services in accordance with the payment terms defined on the corresponding Specification (in the absence of such terms, terms are NET20). Refurbished equipment orders are non-cancelable and require prepayment at time of order placement. CTI reserves the right to invoice Customer upon and for each service rendered or product delivered, but no less frequently than monthly. Customer cannot refuse to make payment for partial delivery of services or products. Customer shall pay all charges on terms established by CTI including reasonable charges for shipping, handling and insurance on any products delivered. For Specifications where a trade-in credit is provided, CTI shall invoice for and Customer shall be responsible to pay for the trade-in value of any equipment not received by CTI within 60 days of Customer's receipt of corresponding new equipment.

If Customer fails to pay an invoice when due per the stated payment terms, Customer shall pay interest of 1.5% per month on the outstanding amount from the due date until the payment date. If CTI undertakes collection or enforcement efforts, Customer shall be liable for all costs thereof, including specifically all reasonable legal or collection agency fees. If Customer is in arrears on any invoice, CTI may, on giving notice, apply any deposit thereto and withhold or cancel further performance of services or delivery of products until all arrearages are brought current.

Written notice of any disputed charge must be received by CTI within 20 days of the date of issuance of the invoice in question or Customer forfeits the right to dispute the charge. This notice must include the invoice number in dispute, the items and amounts disputed and a complete description of the basis for Customer withholding payment. Notice of any disputed charge does not release Customer from the obligation of paying any remaining balance of the invoice under the terms specified. Upon resolution of the disputed charge, CTI will issue a credit memo or Customer will pay the total amount outstanding referenced by the dispute. Any disputed charge resolved in CTI's favor shall be liable to accrue late payment fees based on the terms of purchase.

### III. RETURNS

Due to Manufacturers' restrictions, CTI reserves the right to refuse a product for return. Certain items such as software, special orders including distribution orders, refurbished equipment, and discontinued products are sold "as is" and cannot be returned. Returns, if possible, are subject to current manufacturer's policies and require a Return Merchandise Authorization (RMA) number in advance of the return. Returns without an RMA will be refused. COD shipments will be refused. If a returned product is not defective, CTI reserves the right to assess a 10% restocking charge. Final acceptance of the return is conditional upon receipt of the product in "like new" condition with all parts, packing materials, seals and documentation intact. CTI reserves the right to refuse a return which is not in "like new" condition.

### IV. TAXES

All sales, use, excise, value added, or personal property taxes; tariffs or import fees; and other governmental charges shall be paid by Customer and are Customer's responsibility except as expressly limited by law. A valid Tax Exemption Certificate must support exception to this provision and be on file with CTI. Customer holds CTI harmless from paying such taxes and charges on Customer's behalf.

### V. SECURITY INTEREST AND SELLERS OPTION

Customer hereby grants to CTI a security interest in any and all products purchased by Customer from CTI to secure all obligations of Customer to CTI, including but not limited to any obligation of payment. The security interest granted to CTI shall also cover all property of the same character as that covered by this security agreement that the Customer may later acquire at any time until the termination of this security agreement. Customer agrees that in the event of default in any payment and failure to cure same within a reasonable time, CTI shall have, in addition to its rights under the law, the right to repossess such goods without further operation of law and without notice to Customer. Customer further agrees to execute any additional documents necessary to perfect or continue the security interest created by this agreement.

CTI may, at its sole option, withhold delivery of all or any part of any order or cancel the order if at any time Customer's account with CTI is in arrears. If at any time, Customer is in arrears on account, CTI may then cancel this Agreement and seek redress for damages, including lost profits, offsetting any deposit there against, and further recover its costs including reasonable attorney and/or collection fees.

### VI. WARRANTY AND LIABILITY

With respect to Services performed by CTI, CTI warrants to Customer, that the Services rendered shall be performed in a skillful and professional manner commensurate with the requirements of this effort. Customer shall notify CTI in writing within thirty (30) days after completion of the services in question when any of the services fail to conform to the standard of care set forth in this Agreement. The passage of the thirty (30) day period after completion of the services without the notification described herein shall constitute Customer's final acceptance of the Services. In the event that any of CTI's obligations hereunder is interfered with by reason of any circumstances beyond the reasonable control of CTI, including without limitation, acts of

war, terrorism, civil disobedience, severe weather or other acts of God, failures of suppliers to deliver equipment; then CTI's sole obligation to perform services and/or provide products shall be on a best effort basis irrespective of any other written or verbal commitment to the contrary.

With respect to particular products manufactured or supplied by third parties to CTI for resale to Customer, CTI makes no warranties of any kind in addition to or exceeding the warranty supplied or offered by the respective manufacturer or supplier, which shall be transferred or assigned to Customer, and Customer's recovery is limited to recovery against such manufacturer or supplier for breach of any applicable warranties of manufacturer or supplier. In the event of a claim by Customer for breach of product warranty, CTI must follow the warranty policy established by the manufacturer. This policy may require return of the warranted item to the manufacturer for repair. At Customer's request, CTI agrees to take all actions reasonably necessary or appropriate to secure Customer's rights and to protect its interests under such third party warranties. Work performed by CTI, not covered by product warranty, will be billed to Customer at the applicable labor rates.

With respect to products manufactured by CTI, Customer is referred to the specific warranty documentation associated with that product. In the absence of such specific warranty, CTI warrants that products shall be free from defects in workmanship and materials for a period of 90 days from the date the Customer purchased the product. Products failing to meet these conditions shall be repaired or replaced by CTI, at CTI's sole discretion (see Section III for return information).

With respect to software, CTI warrants that software will perform substantially according to specifications, however, specifically does not warrant that software will be free from defects. In addition, due to the continual development of new techniques for intruding upon and attacking networks, software or any equipment, system or network on which the software is NOT warranted to be free of vulnerability to intrusion or attack.

With respect to interactive voice response (IVR) functionality, CTI shall not be liable nor shall CTI indemnify Customer for, and Customer releases CTI from any claims of patent infringement, including contributory infringement or inducement to infringe, relating to IVR functionality or to any patents owned or licensed now or hereafter by Ronald A. Katz, or Ronald A. Katz Technology Licensing, L.P. or by his or its affiliates, successors or assigns ("Katz Patents") based on or related to the Equipment, Services or any information provided by CTI. CTI is not responsible for determining whether or not obtaining a license for any Katz Patents or any IVR-related patents is advisable, or for obtaining any such license on Customer's behalf, or for paying any fees related to such licenses.

THE WARRANTY PROVIDED BY CTI IS SPECIFICALLY LIMITED AS DESCRIBED HEREIN. NO OTHER WARRANTY, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, IS MADE AND NONE SHALL BE IMPUTED OR PRESUMED.

IN NO EVENT SHALL CTI BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR: LOSS OF PROFITS, LOSS OF CONFIDENTIAL OR OTHER INFORMATION, BUSINESS INTERRUPTION, PERSONAL INJURY, LOSS OF PRIVACY, FAILURE TO MEET ANY DUTY (INCLUDING OF GOOD FAITH OR OF REASONABLE CARE), NEGLIGENCE, AND ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE PROVISION OF OR FAILURE TO PROVIDE SERVICES, EVEN IF CTI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE ENTIRE LIABILITY OF CTI AND CUSTOMER'S EXCLUSIVE REMEDY FOR ALL OF THE FOREGOING SHALL BE LIMITED TO THE TOTAL VALUE OF THIS AGREEMENT. THESE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS ITS ESSENTIAL PURPOSE.

### VII. OTHER TERMS

The parties are and shall be independent entities and nothing in this agreement shall be deemed to cause the creation of an agency, partnership, or joint venture between the parties. No party may assign its rights or obligations under this Agreement without prior written consent of the other party.

Customer agrees that it will not hire, solicit for hire, or retain the services of other party's employees (whether or not they were engaged in providing support or services under this Agreement) during the term of the Agreement and for a period of six (6) months thereafter without prior written agreement of both parties.

Each party agrees that they will keep confidential the terms and conditions of this Agreement provided along with all information and data specifically identified as confidential or proprietary for the term of this Agreement and for a period of six (6) months thereafter.

Any dispute arising from this Agreement shall be governed by the laws of, and determined by the courts of, the state of Florida.

This Agreement constitutes the entire agreement of the parties and supercedes all prior representations, proposals, discussions, and communications written or oral and may only be amended in writing by authorized representatives of both parties. If any provision of these terms and conditions is held to be invalid, void, or unenforceable, the remaining provisions shall nevertheless remain in full force and effect.

The provisions of this Agreement that under a commercially reasonable interpretation reveals that the parties likely would have such provisions survive termination or expiration of this Agreement shall survive to the extent necessary to fulfill the purpose of such provision. This specifically includes any obligation of Customer to make payments, maintain the confidentiality of the Agreement, and refrain from hiring or soliciting to hire employees.

