AzteQ Group Limited

Terms and conditions for short-term products and services

Contents

AzteQ Group Limited

Terms and Conditions for Short term Products and Services

The Client's attention is particularly drawn to the provisions of clause 16.

1. Interpretation
1.1. Definitions.
In these Conditions, the following definitions apply:

AzteQ:	AzteQGroup LtdLimited registered in England and Wales with company number 12027238All references to AzteQ are to include associated companies; AzteQ Solutions Ltd, Instrui Ltd and Torix Managed Services Ltd.
Business Day:	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Client:	the person or firm who purchases the Products and Services or either of them from AzteQ.
Commencement Date:	has the meaning set out in clause 3.1.
Conditions:	these terms and conditions as amended from time to time in accordance with clause 20.
Contract:	the contract between AzteQ and the Client for the supply of Products and Services or either of them in accordance with these Conditions.
Delivery Location:	has the meaning set out in clause 5.1.
Download:	any Product or Service comprising a software item which AzteQ has indicated will be delivered through direct download either from AzteQ's or the original manufacturer's website.
Force Majeure:	has the meaning given to it in clause 19.2.
Order:	the Client's order for the supply of Products and/or Services, as set out in the Client's written acceptance of a Quotation.
Products:	the products (or any part of them) set out in the Order.
Product Specification:	any specification for the Products which shall be the relevant manufacturer's specification applicable as at the time of supply save where expressly otherwise agreed or stated in writing by AzteQ.
Quotation:	a written offer by AzteQ to the Client to supply Products and Services or either of them subject to these Conditions.
Services:	the services supplied by AzteQ to the Client as set out in the Service Specification.
Service Specification:	the description or specification for the Services provided in writing by AzteQ to the Client with the Quotation or otherwise.
Software Licensing:	any software product or service supplied to the Client pursuant to the terms of the applicable supplier's end user licence by AzteQ as a reseller.
Software Licensing Item:	Products and Services or either of them whether Downloads or otherwise which are subject to Software Licensing.
Terms of Use:	has the meaning set out in clause 3.6
AzteQ Materials:	has the meaning set out in clause 10.1.8.

1.2. Construction.
In these Conditions, the following rules apply:
1.2.1.   a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
1.2.2.   a reference to a party includes its successors or permitted assigns;

1.2.3.   a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted and includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

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

1.2.5.   a reference to **writing** or **written** excludes faxes but includes emails save where expressly stated otherwise.

2.   Quotations

2.1.   Only a Quotation identified as such constitutes an offer to supply Products and Services or either of them in accordance with these Conditions.

2.2.   A Quotation is only capable of acceptance by the Client strictly in accordance with its terms by electronic signature via AzteQ's online system or in wet ink via hard copy

2.3.   Any purported change to the Quotation by the Client shall not be capable of acceptance unless such change is agreed in writing by AzteQ. AzteQ may treat any such change submitted to it as a counter offer which shall only be deemed to be accepted when AzteQ issues written acceptance of such counter offer.

2.4.   Unless expressly stated otherwise any Quotation given by AzteQ is only valid for a period of 30 days from its date of issue.

2.5.   Where a Quotation indicates any estimated figures such estimates are given for the Client's guidance by AzteQ using all reasonable care and skill based on the situation as assessed by AzteQ at the date of the Quotation but AzteQ does not undertake to be able supply the Products and Services or either of them within such estimated figures. If at any time during the Contract AzteQ becomes aware or reasonably anticipates that AzteQ is not or may not be able complete the supply the Products and Services or either of them within such estimated figures AzteQ will notify the Client of this and of AzteQ's revised estimate for completing such supply. The Client shall then notify AzteQ as soon as reasonably practicable and in any event no later than 5 Business Days whether it wishes to continue with the Contract on the basis of such revised estimate. If the Client refuses the revised estimate or fails to notify AzteQ of its decision within 5 Business Days the costs and expenses incurred up to that time shall be payable up to a maximum of the estimated figures.

3.   Basis of Contract

3.1.   The Contract shall come into existence on the date of acceptance by the Client in accordance with clause 2.1 or where clause 2.3 applies on the date of acceptance by AzteQ (**Commencement Date**).

3.2.   The Contract shall continue from the Commencement Date until:

3.2.1   performance is completed; or

3.2.2   where clause 3.3 applies until terminated in accordance with clause 3.3;

unless in either case terminated earlier in accordance with clause 17.1 or clause 17.2.

3.2.3   If, after a period of on-boarding, the customer decides not to continue with intended managed services then AzteQ reserves the right to charge for renumeration   which will be limited to hours spent on-boarding at the standard hourly rate

3.3.   Where a Contract for Services is not for a fixed fee project or is not for a fixed term the Contract may save where expressly stated otherwise be terminated by either party giving to the other not less than one month's notice in writing.

3.4.   Any samples, drawings, descriptive matter or advertising issued by AzteQ and any illustrations or descriptions of the Products and Services or either of them contained in AzteQ's catalogues or brochures or on its website are issued or published for the sole purpose of giving an approximate idea of the Services and Products or either of them described in them. They shall not form part of the Contract or have any contractual force.

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

3.6.   The Products and Services (including in particular but not exclusively software, Software Licensing Items and Downloads) or any of them provided by AzteQ under the Contract may be subject to certain restrictions or terms and conditions of use specified by the original manufacturer (**Terms of Use**), and Client agrees to be bound by and respect any such Terms of Use at all times.

3.7.   Where the Products and Services including any software, Software Licensing Items and Downloads or any of them are installed by AzteQ the Client hereby expressly authorises AzteQ to accept any Terms of Use on behalf of the Client. AzteQ will endeavour to provide information to the Client concerning such Terms of Use but it is the Client's responsibility to ensure that it is aware of and complies with any such Terms of Use.

3.8.   The Client accepts full responsibility for the selection of the Products and Services including software, Software Licensing Items and Downloads or any of them to achieve the Client's intended purpose and results and acknowledges that:

3.8.1.   the Products and Services including software, Software Licensing Items and Downloads or any of them have not been developed to meet the individual requirements of the Client; and

3.8.2.   AzteQ has not been responsible for nor has any liability for the selection of the Products and Services including software, Software Licensing Items and Downloads or any of them.

3.9.   The Client acknowledges that AzteQ does not itself manufacture the majority of the Products including software, Software Licensing Items and Downloads, and that AzteQ sources the Products and where applicable Services including software, Software Licensing Items and Downloads from the relevant manufacturer or third party supplier, so AzteQ supplies the Products and where applicable Services including software, Software Licensing Items and Downloads to the Client as a reseller. If the Product that AzteQ deem appropriate for the purposes of the Contract is a Product manufactured by AzteQ itself, a further Agreement shall be entered into in relation to the Software Licence.

3.10.   The Client acknowledges and accepts that the Products and where applicable Services including software, Software Licensing Items and Downloads supplied by AzteQ are not intended for use in any life-support system or other situation where any failure or malfunction is likely to, or might possibly or might reasonably be expected to, result in death or personal injury of any person and should not be used for or in relation to any such purpose. In the event that the Client uses, permits or makes available the Products and where applicable Services including software, Software Licensing Items and Downloads for any such purpose the Client:

3.10.1.   does so at its own risk; and

3.10.2.   shall indemnify AzteQ for any costs or damages arising from such use incurred by AzteQ.

3.11.   All of these Conditions shall apply to the supply of both Products and Services except where application to one or the other is specified.

4.   Products

4.1.   The Products are described in any applicable Product Specification.

4.2.   To the extent that the Products are to be manufactured in accordance with a Product Specification supplied by the Client, the Client shall defend and hold harmless AzteQ against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by AzteQ in connection with any claim made against AzteQ for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with AzteQ's use of the Product Specification. This clause 4.2 shall survive termination of the Contract.

4.3.   AzteQ reserves the right to amend the Product Specification if required by any applicable statutory or regulatory requirements.

5.   Delivery of Products

5.1.   AzteQ shall deliver the Products to the location set out in the Order or such other location as the parties may agree (**Delivery Location**) at any time after AzteQ notifies the Client that the Products are ready.

5.2.   Delivery of the Products shall be deemed completed on the Products' arrival at the Delivery Location**.**

5.3.   Save where Delivery is effected by AzteQ itself in conjunction with related Services the Client shall be responsible for offloading the Products from the carrier immediately on Delivery.

5.4.   Any date quoted for delivery of the Products is approximate only, and the time of delivery is not of the essence. AzteQ shall not be liable for any delay in delivery of the Products that is caused by Force Majeure or the Client's failure to provide AzteQ with adequate delivery instructions or any other instructions that are relevant to the supply of the Products.

5.5.   If AzteQ fails to deliver the Products, its liability shall be limited to the costs and expenses incurred by the Client in obtaining replacement Products of similar description and quality in the cheapest market available, less the price of the Products. AzteQ shall have no liability for any failure to deliver the Products to the extent that such failure is caused by Force Majeure or the Client's failure to provide AzteQ with adequate delivery instructions for the Products or any relevant instruction related to the supply of the Products.

5.6.   If the Client fails to accept delivery of the Products on the date notified by AzteQ or within five Business Days of AzteQ notifying the Client that the Products are ready, then except where such failure or delay is caused by Force Majeure or by AzteQ's failure to comply with its obligations under the Contract in respect of the Products:

5.6.1.   delivery of the Products shall be deemed to have been completed at 9.00 am on the fifth Business Day following the day on which AzteQ notified the Client that the Products were ready; and

5.6.2.   AzteQ shall store the Products until delivery takes place, and charge the Client for all related costs and expenses (including insurance).

5.7.   If five Business Days after AzteQ notified the Client that the Products were ready for delivery the Client has not accepted delivery of them, AzteQ may resell or otherwise dispose of part or all of the Products and, after deducting storage costs pursuant to clause 5.6.2 and reasonable selling costs, account to the Client for any excess over the price of the Products or charge the Client for any shortfall below the price of the Products.

5.8.   The Client shall not be entitled to reject the Products if AzteQ delivers up to and including 5 per cent more or less than the quantity of Products ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Client that the wrong quantity of Products was delivered.

5.9.   AzteQ may deliver the Products by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Client to cancel any other instalment.

5.10.   The Client shall be responsible for the disposal of any packaging material in accordance with any applicable regulations and in a responsible and environmentally-friendly manner.

5.11.   Delivery of a Download shall be deemed to have been effected when the Download in question is available on the relevant website, and the Client has been informed of its availability together with all necessary security details necessary to effect its download.

5.12.   A Download made available on a website by AzteQ will be available for download for a period of not less than five Business Days. If the Download is not effected within this period, additional charges may be made by AzteQ for the continued availability of the Download for download. The Client is responsible for the protection and proper use of the security details provided by AzteQ for access to the relevant website and for the consequences of any misuse as a result of any failure by the Client to do so.

5.13.   AzteQ shall not be responsible for the availability, nor liable for the unavailability, of any internet link to a website, or the integrity or security of any internet link. The Client is responsible for ensuring that any Download downloaded is free from viruses or other malicious software.

6.   Inspection

6.1   On or as soon as reasonably practicable following delivery the Client shall inspect the Products to verify that they:

6.1.1.   conform in all material respects with their description and any applicable Product Specification; and

6.1.2.   are free from material defects in materials and workmanship.

6.2.   The Client shall as soon as reasonably practicable and in any event no later than 5 Business Days from delivery give notice in writing to AzteQ of any non-compliance with clause 6.1.

6.3.   The Client's obligation under clause 6.2 applies to any defect which is apparent from the inspection under clause 6.1 or which would reasonably have been expected to be apparent had such inspection been carried out diligently by suitably competent personnel.

6.4.   Subject to the Client's compliance with this clause 6, the provisions of clause 7 shall apply provided that notice shall be given in accordance with clause 6.2 or where applicable clause 7.3.1.

| 6.5. | Should the Client decide that the Products are not required for any orther reason, other than those as contained in this Clause 6, the Customer may be required to pay a restocking fee. |

7. Quality of Products

7.1.	AzteQ will use reasonable endeavours to procure that the Client receives the benefit of such warranty as may be given by the manufacturer or other third party supplier of the Products to AzteQ to the extent that such warranty can be transferred to the Client or that such manufacturer or third party supplier gives a warranty expressly for transfer to or for the benefit of the Client as ultimate purchaser of the Products.
7.2.	Subject to clause 7.1 and clause 7.3, AzteQ warrants that on delivery the Products shall:
7.2.1.	conform with their description and any applicable Product Specification; and
7.2.2.	be free from material defects in design, material and workmanship;

provided that to the extent that the Products comprise Downloads or other software AzteQ does not warrant that the use of such Products shall be uninterrupted or error-free.

7.3.	Subject to clause 6 and clause 7.4, if:
7.3.1.	the Client gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Products do not comply with the warranty set out in clause 7.2;
7.3.2.	AzteQ is given a reasonable opportunity of examining such Products; and
7.3.3.	the Client (if asked to do so by AzteQ) returns such Products to AzteQ's place of business at the Client's cost,

and, if the Products are found not to comply with the warranty in clause 7.2, AzteQ shall, at its option, repair or replace the defective Products, or refund the price of the defective Products in full.

7.4.	AzteQ shall not be liable for the Products' failure to comply with the warranty in clause 7.1 if:
7.4.1.	the Client makes any further use of such Products after giving a notice in accordance with clause 6.2 or clause 7.3 as applicable;
7.4.2.	the defect arises because the Client failed to follow AzteQ's or the relevant manufacturer's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Products or (if there are none) good trade practice;
7.4.3.	the defect arises as a result of AzteQ following any drawing, design or Product Specification supplied by the Client;
7.4.4.	the Client alters or repairs such Products in any way without the written consent of AzteQ;
7.4.5.	the defect arises as a result of fair wear and tear, wilful damage or negligence (except by AzteQ), or abnormal working conditions; or
7.4.6.	the Products differ from their description or the Product Specification as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
7.5.	Except as provided in this clause 7, AzteQ shall have no liability to the Client in respect of the Products' failure to comply with the warranty set out in clause 7.12.
7.6.	The terms of these Conditions shall apply to any repaired or replacement Products supplied by AzteQ.

8. Title and risk in relation to hardware

8.1.	The risk in the hardware Products shall pass to the Client on completion of delivery.
8.2.	Title to the hardware Products shall not pass to the Client until the earlier of:
8.2.1.	AzteQ receives payment in full (in cash or cleared funds) for the hardware Products; and
8.2.2.	the Client resells the Products, in which case title to the Products shall pass to the Client at the time specified in clause 8.4
8.3.	Until title to the hardware Products has passed to the Client, the Client shall:
8.3.1.	store the Products separately from all other goods held by the Client so that they remain readily identifiable as AzteQ's property;
8.3.2.	not remove, deface or obscure any identifying mark or packaging on or relating to the Products;
8.3.3.	maintain the Products in satisfactory condition and keep them insured against all risks for their full price on AzteQ's behalf from the date of delivery;
8.3.4.	notify AzteQ immediately if it becomes subject to any of the events listed in clause 17.1.4 to clause 17.1.14; and
8.3.5.	give AzteQ such information relating to the Products as AzteQ may require from time to time.
8.4.	If before title to the Products passes to the Client the Client becomes subject to any of the events listed in clause 17.1.4 to clause 17.1.14 then, without limiting any other right or remedy AzteQ may have:
8.4.1.	AzteQ may at any time:
8.4.1.1.	require the Client to deliver up all Products in its possession which have not been resold, or irrevocably incorporated into another product; and
8.4.1.2.	if the Client fails to do so promptly, enter any premises of the Client or of any third party where the Products are stored in order to recover them.

9. Supply of Services

9.1.	AzteQ shall provide the Services to the Client in accordance with the Service Specification in all material respects.
9.2.	AzteQ shall use reasonable endeavours to meet any performance dates for the Services specified in the Service Specification or otherwise notified to the Client in writing, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.
9.3.	AzteQ shall have the right to make any changes to the Services or the Service Specification which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and AzteQ shall notify the Client in any such event.
9.4.	AzteQ warrants to the Client that the Services will be provided using reasonable care and skill.

10. Client's obligations

10.1.	The Client shall:
10.1.1.	ensure that the terms of the Order and (if submitted by the Client) the Product Specification are complete and accurate;
10.1.2.	co-operate with AzteQ in all matters relating to the Services;

10.1.3. provide AzteQ, its employees, agents, consultants and subcontractors, with access to the Client's premises, office accommodation and other facilities as reasonably required by AzteQ to provide the Services;

10.1.4. provide AzteQ with such information and materials as AzteQ may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;

10.1.5. make available all technical data, computer, communications, network and storage facilities, programs, files, documentation, test data, sample output, or other information and resources reasonably required by AzteQ for the performance of the Services;

10.1.6. prepare the Client's premises for the supply of the Services;

10.1.7. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;

10.1.8. keep and maintain all materials, equipment, documents and other property of AzteQ (**AzteQ Materials**) at the Client's premises in safe custody at its own risk, maintain AzteQ Materials in good condition until returned to AzteQ, and not dispose of or use AzteQ Materials other than in accordance with AzteQ's written instructions or authorisation; and

10.1.9. comply with any additional obligations as set out in the Service Specification.

10.2. If AzteQ's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Client or failure by the Client to perform any relevant obligation (**Client Default**):

10.2.1. AzteQ shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Client remedies the Client Default, and to rely on the Client Default to relieve it from the performance of any of its obligations to the extent the Client Default prevents or delays AzteQ's performance of any of its obligations;

10.2.2. AzteQ shall not be liable for any costs or losses sustained or incurred by the Client arising directly or indirectly from AzteQ's failure or delay to perform any of its obligations as set out in this clause 10.2; and

10.2.3. the Client shall reimburse AzteQ on written demand for any costs or losses sustained or incurred by AzteQ arising directly or indirectly from the Client Default.

10.3. The Client shall appoint a Client representative for the Contract which Client representative shall have authority contractually to bind the Client on all matters relating to the Contract including in relation to any revised estimates for the purposes of clause 2.5, any additional or increased fees, costs and expenses for the purposes of clause 12 and any other variations in such Contract for the purposes of clause 20. In the absence of any express nomination in writing the Client representative shall be deemed to be the person who accepts the Quotation on behalf of the Client for the purposes of clause 2.1 or makes a counter offer on behalf of the Client for the purposes of clause 2.3.

10.4. The Client shall not, without the prior written consent of AzteQ, at any time from the Commencement Date to the expiry of 24 months after the expiry or termination of the Contract, solicit or entice away from AzteQ or employ or attempt to employ any person who is, or has been, engaged as an employee, consultant or subcontractor of AzteQ in the provision of the Services or otherwise in relation to the Contract.

10.5. Any consent given by AzteQ in accordance with clause 10.4 shall be subject to the Client paying to AzteQ a sum equivalent to 20% of the then current annual remuneration of AzteQ's employee, consultant or subcontractor   or, if higher, 20% of the annual remuneration to be paid by the Client to that employee, consultant or subcontractor.

11.   Software Licensing

11.1   AzteQ will notify the Client where a Contract comprises or includes a Software Licensing Item.

11.2   A Software Licensing Item supplied by AzteQ is subject to the terms of the applicable supplier's end user licence which shall be accepted by the Client or may be accepted by AzteQ where clause 3.5 or 3.6 applies.

11.3   If the Client wishes to increase the scope or number of users in relation to any Software Licensing Item it shall notify AzteQ in writing.

11.4   The Client shall not make any change of the type referred to in clause 11.3 until the details of the change and any corresponding adjustment to the charges has been agreed with AzteQ in accordance with clause 20.

11.5.   Any breach by the Client of clause 11.4 shall:

11.5.1   be a material breach for the purposes of clause 17.1.3; and

11.5.2   entitle AzteQ immediately to terminate or revoke the Client's right and licence to use the relevant   Software Licensing Item without prejudice to any other right or remedy to which AzteQ may be entitled under the Contract or by law.

12.   Charges and payment

12.1.   The price for Products shall be the price set out in the Quotation. The price of the Products is exclusive of all costs and charges of packaging, insurance, transport of the Products as specified in the Quotation which shall be paid in addition by the Client when it pays for the Products.

12.2.   Clause 12.3 shall apply if the Services are to be provided for a fixed price. Clause 12.4 shall apply if the Services are to be provided on a time-and-materials basis. The remainder of this clause 12 shall apply in either case and to Products or any of them as appropriate.

12.3.   Where the Services are provided for a fixed price the price for the Services shall be the amount set out in the Quotation. The price shall be paid to AzteQ as set out in the Quotation. Where the quotation specifies payment by instalments such instalments shall be paid as set out in the Quotation. AzteQ shall invoice the Client for the charges that are then payable whether the whole price or instalments (as applicable), together with expenses and the costs of materials calculated as provided in clause 12.4.3 and VAT, where appropriate.

12.4.   Where the charges for Services are stated in the Quotation to be on a time and materials basis:

12.4.1.   the charges shall be calculated as set out in the Quotation or, if no rates are quoted, in accordance with AzteQ's standard daily fee rates, as set out in AzteQ's published rates as at the date of delivery of the Services;

12.4.2.   AzteQ's standard daily fee rates for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;

12.4.3.   AzteQ shall be entitled to charge an additional overtime rate for any time worked by individuals whom it engages on the Services outside the hours referred to in clause 12.4.2.

12.5.   AzteQ shall be entitled to charge the Client for any expenses reasonably incurred by the individuals whom AzteQ engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by AzteQ for the performance of the Services, and for the cost of any materials.

12.6.   AzteQ reserves the right to:

12.6.1.   increase the price of the Products, by giving notice to the Client at any time before delivery, to reflect any increase in the cost of the Products to AzteQ that is due to:

12.6.1.1.   any factor beyond the control of AzteQ (including foreign exchange fluctuations, increases in taxes and duties, and increases in charges by third party suppliers, labour, materials and other manufacturing costs);

12.6.1.2.   any request by the Client to change the delivery date(s), quantities or types of Products ordered, or the Product Specification; or

12.6.1.3.   any delay caused by any instructions of the Client in respect of the Products or failure of the Client to give AzteQ adequate or accurate information or instructions in respect of the Products.

12.6.2.   increase the charges for Software Licensing and any other Services involving a third party supplier by giving notice to the Client at any time to reflect any increase in the cost of such Software Licensing or other Services that is due to increases in charges by such third party supplier.

12.6.3.   without prejudice to clause 12.6.2 increase its standard daily fee rates for the charges for the Services, provided that such charges cannot be increased more than once in any 12 month period. AzteQ will give the Client written notice of any such increase two months before the proposed date of the increase. If such increase is not acceptable to the Client, it shall notify AzteQ in writing within 14 days of the date of AzteQ's notice and AzteQ shall have the right without limiting its other rights or remedies to terminate the Contract by giving four weeks' written notice to the Client.

12.7.   In respect of Products, where the Quotation requires all or any part of the price or other sum in advance of delivery AzteQ shall invoice the Client at any time on or after receipt of the Order and in any other case AzteQ shall invoice the Client on or at any time after the Products are despatched.

12.8.   In respect of Services, AzteQ shall invoice the Client as set out in the Quotation. Where clause 12.4 applies the invoice shall give a breakdown of the charges.

12.9.   The Client shall pay each invoice submitted by AzteQ:

12.9.1.   within 30 days of the date of the invoice; and

12.9.2.   in full and in cleared funds to a bank account nominated in writing by AzteQ.

12.10.   Time for payment shall be of the essence of the Contract.

12.11.   All amounts payable by the Client under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (**VAT**). Where any taxable supply for VAT purposes is made under the Contract by AzteQ to the Client, the Client shall, on receipt of a valid VAT invoice from AzteQ, pay to AzteQ such additional amounts in respect of VAT as are chargeable on the supply of the Services and Products or either of them at the same time as payment is due for the supply of the applicable Services and Products or either of them.

12.12.   If the Client fails to make any payment due to AzteQ under the Contract by the due date for payment then, without limiting AzteQ's remedies under Clause 17:

12.12.1.   the Client shall pay interest on the overdue amount at the rate of 4% per annum above Bank of England's base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Client shall pay the interest together with the overdue amount;

12.12.2.   AzteQ may suspend all Services until payment has been made in full;

12.12.3.   AzteQ may suspend delivery of Products until any payment required in advance has been received.

12.13.   The Client shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding except as required by law. AzteQ may, without limiting its other rights or remedies, set off any amount owing to it by the Client against any amount payable by AzteQ to the Client.

13.   Change control

13.1.   If either party requests a change to the scope or execution of the Contract AzteQ shall provide a written estimate to the Client of:

13.1.1.   the likely time required to implement the change;

13.1.2.   any necessary variations to AzteQ's charges arising from the change;

13.1.3.   any other likely effect of the change on this agreement.

13.2.   Any such request by the Client shall be notified in writing to AzteQ.

13.3   If the Client wishes AzteQ to proceed with the change, AzteQ has no obligation to do so unless and until the parties have
agreed the necessary variations to the Products and Services, AzteQ's charges   and any other relevant terms of the Contract to take account of the change and the Contract has been varied in accordance with clause 20.

13.4   Notwithstanding clause 13.2, AzteQ may, from time to time and without notice, change the Services in order to comply with any applicable statutory or safety requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services.

13.5   AzteQ may charge for the time it spends assessing a request for change from the Client on a time and materials basis any such invoice to be paid in full and in cleared funds within 14 days to the bank account nominated by AzteQ on the invoice or otherwise notified by AzteQ.

14.   Intellectual Property Rights

14.1.   For the purposes of these Conditions **Intellectual Property Rights** means copyright and related rights, trade marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), patents, rights to inventions, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or

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extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

14.2. The Parties hereby agree that, except as expressly provided in this Agreement, this Agreement does not transfer the ownership of, or create any licences in, any Intellectual Property Rights subsisting in the Product or any Third-Party Software or the Documentation.

14.3. Save as expressly stated otherwise, all Intellectual Property Rights in or arising out of or in connection with the Contract shall be owned by AzteQ (or the relevant licensor).

14.4. All AzteQ Materials are the exclusive property of AzteQ.

15. Confidentiality

15.1. A party (**receiving party)** shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (disclosing party), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain.

15.2 The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under the Contract, and shall ensure that such employees, agents and subcontractors comply with the obligations set out in this clause as though they were a party to the Contract.

15.3 The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction.

15.4 This clause 15 shall survive termination of the Contract.

16. Limitation of liability

The Client's attention is particularly drawn to this clause

16.1. Nothing in these Conditions shall limit or exclude AzteQ's liability for:

16.1.1. death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

16.1.2. fraud or fraudulent misrepresentation;

16.1.3. breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); or

16.1.4. breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession).

16.2. Subject to clause 16.1:

16.2.1. AzteQ shall under no circumstances whatever be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

16.2.1.1. loss of profits;

16.2.1.2. loss of sales or business;

16.2.1.3. loss of agreements or contracts;

16.2.1.4. loss of anticipated savings;

16.2.1.5. loss of goods;

16.2.1.6. loss of contract;

16.2.1.7. loss of use;

16.2.1.8. loss or corruption of software, data or information;

16.2.1.9. loss of or damage to goodwill;

16.2.1.10. any indirect or consequential loss;

16.2.1.11. any defect caused by an action taken under clause 7.4;

16.2.1.12. any loss where the Client has recourse directly to the third party provider of the Products; and

16.2.2. AzteQ's total liability to the Client in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed:

16.2.2.1. in the case of Products, the greater of £250,000 and the total price of the Contract;

16.2.2.1. in the case of Services, the greater of £250,000 and the total annual charges (calculated by reference to the charges in successive 12 month periods from the date of the Contract) paid by the Client for the Services under this Contract.

16.3. The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

16.4. This clause 16 shall survive termination of the Contract.

17. Termination

17.1 Without affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

17.1.1. the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than ten Business Days after being notified in writing to make such payment;

17.1.2. the other party is persistently late in paying any amount due under the Contract on the due date for payment and for the purposes of this clause 17.1.2 'persistently late' means either any three consecutive payments or any three payments in any period of six months are not made by the due date;

17.1.3. the other party commits a material breach of any other term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of ten Business Days after being notified in writing to do so;

17.1.4. the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) 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;

17.1.5.   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;

17.1.6.   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;

17.1.7.   an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party (being a company);

17.1.8.   the holder of a qualifying floating charge over the assets of that other party (being a company) has become entitled to appoint or has appointed an administrative receiver, or if 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;

17.1.9.   the other party (being an individual) is the subject of a bankruptcy petition, application or order;

17.1.10.   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 the other party's assets and such attachment or process is not discharged within ten Business Days;

17.1.11.   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 similar or equivalent to any of the effects mentioned in Clause 17.1.4 to 17.1.10 inclusive;

17.1.12.   the other party suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business;

17.1.13.   the other party (being an individual) is the subject of a bankruptcy petition or order, dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his or her own affairs or becomes a patient under any mental health legislation; or

17.1.14.   there is a change of control of the other party (within the meaning of section 1124 of the Corporation Tax Act 2010).

17.2.   Without limiting its other rights or remedies, AzteQ may terminate the Contract with immediate effect by giving written notice to the Client if the Client fails to pay any amount due under this Contract on the due date for payment.

17.3.   Without limiting its other rights or remedies, AzteQ may suspend the supply of Services and all further deliveries of Products under the Contract or any other contract between the Client and AzteQ if the Client fails to pay any amount due under this Contract on the due date for payment, the Client becomes subject to any of the events listed in clause 17.1.4 to clause 17.1.14 or AzteQ reasonably believes that the Client is about to become subject to any of them.

18.   Consequences of termination

18.1.   On expiry or termination of the Contract for any reason:

18.1.1.   the Client shall immediately pay to AzteQ all of AzteQ's outstanding unpaid invoices and interest and, in respect of Products and Services supplied but for which no invoice has yet been submitted, AzteQ shall submit an invoice, which shall be payable by the Client immediately on receipt;

18.1.2.   the Client shall return all AzteQ Materials which have not been fully paid for. If the Client fails to do so, then AzteQ may enter the Client's premises and take possession of them. Until they have been returned, the Client shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract; and

18.1.3.   the licence to hold and use any software installed or supplied by AzteQ for the purpose of or in connection with the performance of the Services shall immediately cease and all such software shall be promptly returned to AzteQ or if so directed by AzteQ in writing shall be irrevocably deleted from the Client's IT infrastructure and the Client shall certify in writing to AzteQ that it has complied with the requirements of this clause.

18.1.4   The accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.

18.1.5   Clauses which expressly or by implication have effect after termination shall continue in full force and effect.

19.   Force Majeure

19.1   If a party is prevented, hindered or delayed in or from performing any of its obligations under the Contract by Force Majeure (**Affected Party**), provided the Affected Party has complied with clause 19.3, it shall not be in breach of this agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

19.2   For the purposes of these Conditions **Force Majeure** means any circumstance not within a party's reasonable control including, without limitation acts of god, flood, drought, storm, earthquake or other natural disaster; fire, explosion, collapse of buildings, sonic boom or accident; epidemic or pandemic; interruption or failure of utility service; nuclear, chemical or biological contamination; strikes, lock-outs or other industrial disputes not involving the workforce of the Affected Party; terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war and any law or any action taken by a government or public authority.

19.3   The Affected Party shall as soon as reasonably practicable after the start of the Force Majeure notify the other party in writing of the Force Majeure, its likely duration and the effect of the Force Majeure on its ability to perform any of its obligations under the Contract and shall use all reasonable endeavours to mitigate the effect of the Force Majeure on the performance of its obligations.

19.4   If the Force Majeure prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than 20 Business Days the party not affected by the Force Majeure may terminate the Contract by giving 10 Business Days' written notice to the Affected Party. On the expiry of this notice period, the Contract 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.

20.   Variation

20.1   Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by AzteQ and AzteQ will normally require such variation to be confirmed by electronic verification.

21.   Waiver

21.1   No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

22.   Rights and remedies

22.1   Except as expressly provided in the Contract, the rights and remedies provided under the Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

23.   Severance

23.1   If any provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision shall be deemed deleted. Any modification to or deletion of a provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

24.   Entire agreement

24.1   The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

24.2   Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in the Contract.

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

25.   Assignment and other dealings

25.1   The Contract is personal to the Client and the Client shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract.

25.2   AzteQ may at any time assign, transfer, subcontract, charge or deal in any other manner with any or all of its rights and obligations under the Contract.

26.   No partnership or agency

26.1   Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute a party the agent of the other party, or authorise a party to make or enter into any commitments for or on behalf of the other party save where AzteQ is expressly so authorised in the Contract or otherwise by the Client.

26.2   Each party confirms it is acting on its own behalf and not for the benefit of any other person.

27.   Third party rights

27.1   No one other than a party to the Contract, their successors and permitted assignees, shall have any right to enforce any of its terms.

28.   Notices

28.1   A notice given to a party under or in connection with the Contract:

28.1.1.   shall be signed by or on behalf of the party giving it or in the case of a notice given by email shall be sent by a director or any representative nominated by AzteQ for the purpose or by the Client's representative appointed under clause 10.3 (as the case may be);

28.1.2.   shall be sent to the party for the attention of the contact and at the postal or email address listed in clause 28.2; and

28.1.3.   unless proved otherwise is deemed received as set out in clause 28.4 if prepared and sent in accordance with this clause.

28.2.   The addresses and contacts for service of notices are:

28.2.1.   AzteQ:

28.2.1.1   address: Unit C2A Comet Studios, De Havilland Court, Buckinghamshire, HP7 0PX for the attention of: the directors and any representative nominated by AzteQ for the purpose;

28.2.1.1.   email: info@AzteQ.co.uk;

28.2.2.   the Client at the postal address or email address set out in the Order;

28.3   or as otherwise specified by the relevant party by notice in writing to the other party for the purpose.

28.4   Delivery of a notice is deemed to have taken place (provided that all other requirements in this clause have been satisfied):

28.4.1   if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the address; or

28.4.2   if sent by pre-paid first class post, recorded delivery or special delivery, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or

28.4.3   if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed or if no such signature is obtained at the time certified by the courier; or

28.4.4   if sent by email, one hour after the notice was sent.

28.5   For the purpose of clause 28.4 if deemed receipt would occur outside business hours (being for this purpose 9.00 am to 5.30 pm on a Business Day), deemed receipt is deemed to take place at 9.00 am on the next Business Day.

28.6   A notice required to be given for the purposes of clause 17 of the Contract will not be validly given if sent by email and must be given by one of the other methods set out in clause28.4.1,28.4.2 or 28.4.3..

28.7   This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

29.   Credit checking and data processing

29.1   The Client acknowledges and agrees that details of the Client's name, address and payment record may be submitted to a credit reference agency, and that personal data will be processed by and on behalf of AzteQ in connection with the Services and the Contract.

30. Dispute resolution

30.1 If a dispute arises out of or in connection with the Contract or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in these Conditions, the parties shall follow the procedure set out in this clause 30.

30.2 Either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the parties shall attempt in good faith and using their reasonable endeavours to resolve the Dispute.

30.3 If the parties are for any reason unable to resolve the Dispute within one calendar month of service of the Dispute Notice, they will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must give notice in writing (**ADR notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than one calendar month after the date of the ADR notice.

30.4 No party may commence any proceedings under clause 32 of these Conditions in relation to the whole or part of the Dispute until one calendar month after service of the ADR notice or any later date agreed by the parties in writing, provided that the right to issue proceedings is not prejudiced by a delay.

30.5 If the Dispute is not resolved within one calendar month after service of the ADR notice or any longer period agreed by the parties in writing, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of one calendar month, or the mediation terminates before the expiration of the said period of one calendar month or any longer period agreed by the parties in writing, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 32 of these Conditions.

31. Governing law

31.1 The Contract 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.

32. Jurisdiction

32.1. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

33 Data Protection

33.1 In this Clause 33, "personal data", "data subject", "data controller", "data processor", and "personal data breach" shall have the meaning defined in Article 4, EU Regulation 2016/679 General Data Protection Regulation ("GDPR").

33.2 The Parties hereby agree that they shall both comply with all applicable data protection requirements set out in the Data Protection Legislation. This Clause 33 shall not relieve either Party of any obligations set out in the Data Protection Legislation and does not remove or replace any of those obligations.

33.3 For the purposes of the Data Protection Legislation and for this Clause 33, AzteQ is the "Data Processor" and the Customer is the "Data Controller".

32.2. The Data Controller shall ensure that it has in place all necessary consents and notices required to enable the lawful transfer of personal data to the Data Processor for the purposes described in this Agreement.

32.3. The Data Processor shall, with respect to any personal data processed by it in relation to its performance of any of its obligations under this Agreement:

32.4. Process the personal data only on the written instructions of the Data Controller unless the Data Processor is otherwise required to process such personal data by law. The Data Processor shall promptly notify the Data Controller of such processing unless prohibited from doing so by law.

32.5. Ensure that it has in place suitable technical and organisational measures (as approved by the Data Controller) to protect the personal data from unauthorised or unlawful processing, accidental loss, damage or destruction. Such measures shall be proportionate to the potential harm resulting from such events, taking into account the current state of the art in technology and the cost of implementing those measures. Measures to be taken are set out in Schedule 3.

32.6. Ensure that any and all staff with access to the personal data (whether for processing purposes or otherwise) are contractually obliged to keep that personal data confidential; and

32.7. Not transfer any personal data outside of the European Economic Area without the prior written consent of the Data Controller and only if the following conditions are satisfied:

32.8. The Data Controller and/or the Data Processor has/have provided suitable safeguards for the transfer of personal data;

32.9. Affected data subjects have enforceable rights and effective legal remedies;

32.10. The Data Processor complies with its obligations under the Data Protection Legislation, providing an adequate level of protection to any and all personal data so transferred; and

32.11. The Data Processor complies with all reasonable instructions given in advance by the Data Controller with respect to the processing of the personal data.

32.12. Assist the Data Controller at the Data Controller's cost, in responding to any and all requests from data subjects in ensuring its compliance with the Data Protection Legislation with respect to security, breach notifications, impact assessments, and consultations with supervisory authorities or regulators (including, but not limited to, the Information Commissioner's Office);

32.13. Notify the Data Controller without undue delay of a personal data breach;

32.14. On the Data Controller's written instruction, delete (or otherwise dispose of) or return all personal data and any and all copies thereof to the Data Controller on termination of this Agreement unless it is required to retain any of the personal data by law; and

32.15. Maintain complete and accurate records of all processing activities and technical and organisational measures implemented necessary to demonstrate compliance with this Clause 33 and to allow for audits by the Data Controller and/or any party designated by the Data Controller.

33.16 The Data Processor shall not sub-contract any of its obligations with respect to the processing of personal data under this Clause 33.

We, the Client named below, accept and agree that the above terms and conditions shall apply to any Contract entered into on or after the date set out below to the exclusion of all other terms and conditions save where expressly agreed otherwise in accordance with clause 20 above.

Name of Client…………………………………………………..…..

Signed by Client……………………………………………………..

Name of authorised signatory…………………………..…………………

Position………………………………………………………………………

Date……………………………………………………………