

## AI Sales Terms & Conditions



These **Terms & Conditions** (“Terms”) govern the sale of all goods and services (“Products”) by American Innovations and its subsidiaries (“AI”). By accepting delivery, Customer is deemed to have accepted these Terms despite any conflict with prior or subsequent communications. AI’s failure to object to any terms that conflict with these Terms shall not be deemed a waiver or modification of its Terms by AI.

**Purchase Orders** (“Orders”) shall identify the Products including quantity, part number, description, price and requested delivery date. All Orders are subject to acceptance by AI. Any request by Customer to cancel or reschedule a shipment of standard Products within sixty (60) days of AI receiving written notification may be accepted by AI in its sole discretion. Orders for Products that are special, custom or non-standard, or Products otherwise identified by AI as non-cancelable and/or non-returnable may not be cancelled, rescheduled or returned without written permission.

**Prices** are applicable for thirty (30) days or such time specified in AI’s quote. If Customer does not purchase the quantity upon which prices are based, Customer will pay the non-discounted price for the quantity actually purchased. Prices are exclusive of taxes, (including sales, use, excise, value-added and similar taxes), shipping charges, brokers’ fees and import duties. Goods are shipped ex-works i.e. made available for pickup at AI’s location and delivery is accomplished when goods are released to Customer’s freight forwarder. Customer is responsible for insurance, export clearance and all other paperwork. If AI will be liable for any of the foregoing, Customer agrees to pay same to AI in addition to the price of the goods. Unless otherwise specified in writing, all prices and sales are in U.S. Dollars.

**Payment** is due in U.S. dollars thirty (30) days from date of invoice unless otherwise agreed in writing. Customer agrees to pay the entire amount of each invoice without offset or deduction. Orders are subject to credit approval; at any time, AI may change the terms of Customer’s credit, require payment in cash, wire transfer or bank check and/or require payment of any amounts due before shipment of any Products. Customer agrees to submit such information as may be reasonably requested by AI for the determination of credit. If AI believes Customer’s ability to make payments may be impaired, AI may

suspend or cancel any part of any Order. AI may apply any payment from Customer against any payments due. Customer shall pay interest from the due date to the date of payment at the rate of two percent (2%) per month or such lower rate as may be the maximum allowed by law. Customer is responsible for reasonable expenses incurred by AI in collection of any sums owed. At its discretion, AI may cease provision of any Products if Customer or any of its affiliates have payment(s) owing to AI.

**Delivery** time shall be provided to customer on demand at the time the order is placed. AI may be able to offer expedited delivery for a fee of ten percent (10%) of order value with a minimum charge of \$50. For expedited delivery, AI will verify availability of stock before confirming delivery in writing. Title and risk of loss pass to Customer upon shipment. All shipments are ex-works and all shipping charges will be paid by Customer. Unless specified by Customer, AI will select the carrier and delivery route. Customer acknowledges that delivery dates are estimates and that AI is not liable for failure to deliver on such dates. Deliveries of a quantity that varies from the quantity specified shall not relieve Customer of the obligation to accept delivery & pay for Products delivered. Delay in delivery of one order shall not entitle Customer to cancel other orders.

**Export Control** regulations of the United States and the import control laws of other countries may apply to Products sold by AI. Customer agrees to comply with all such laws and acknowledges that it shall not directly or indirectly export any Products to any country where such export is prohibited. Customer acknowledges its responsibility to obtain any export or import license as may be required.

**Inspection, Acceptance & Returns.** Customer is deemed to have accepted Products unless AI receives written notice within ten (10) days of delivery. AI will not accept any returns without a return material authorization number that may be issued by AI in its sole discretion. Returned Products must be in original shipping cartons and shall be returned freight prepaid in the manner specified by AI. If returned Products are claimed to be defective, a complete description of the defect must be included with the returned Products. Products not eligible for return shall be returned to Customer freight collect. Restocking fees of up to fifteen percent (15%) may apply.

**Force Majeure.** AI is not liable for delays due to causes beyond its reasonable control including acts of God, natural disasters, acts or omissions of other parties, material shortages, changes in law, strikes, riots, war, etc. AI's time for performance of any such obligation shall be extended for the period of delay or AI may, at its option, cancel any part of any such Order without liability by giving notice to Customer.

**Software License.** Payment in full of software license fees entitles Customer specific rights to use AI software. Any unauthorized use of AI software will automatically void the license grant and may subject Customer to claims for copyright infringement, breach of contract, injunctive relief and/or monetary damages. Current software end-user license agreement terms may be found here: [Software License](#).

**Software as a Service.** AI offers some software applications as a hosted service. Payment in full of software service fees entitles Customer to access such service for the term and products specified in the Order. Minimum annual terms are required and customer will not be refunded for partial terms except as specified in the terms which may be found at: [Subscription Software Agreement](#).

**Software Support.** Payment in full of technical support and maintenance (“TSM”) Fees entitles Customer to access such service for the term and the software products specified in the Order. Customer may be charged a reinstatement fee if Customer opts out of the TSM program. TSM will terminate immediately upon insolvency or a violation of the applicable software license and, in such cases, Customer will not be entitled to a refund of any TSM Fees. Current TSM terms & conditions may be found here: [Software Technical Support](#).

**Intellectual Property:** All software provided by AI is licensed and not sold. Nothing shall be construed to grant any rights or license to use any intellectual property in any manner or for any purpose not expressly permitted in writing. By using the Products, Customer agrees not reverse engineer, de-compile or attempt to discover any source code or underlying ideas of the Products. AI will defend Customer against suits for infringement provided that it is: a) notified promptly in writing of any claim or suit; b) given the right to control defense; and c) given reasonable cooperation for defense. AI may, at its sole discretion, procure the right to use such Products, replace or modify Products or terminate service. AI will have no liability if: a) Products are not supplied by AI; b) Products are made to Customer specifications; c) Products are modified without approval in writing by AI; d) Products are combined with other Products where infringement does not arise solely from the Products; e) Customer continues infringing after being notified; or f) Customer’s use is not in accordance with these terms.

**Life Support or Certain Other Applications:** Products sold by AI are not designed, intended or authorized for use in life support, life sustaining, nuclear or other applications where the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. Customer will indemnify, defend and hold AI and its suppliers harmless from any loss, damage or liability arising from the sale or use of Products in such applications.

**Confidential Information (“CI”)** is any information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”) that is clearly identified as confidential. Each party shall not disclose CI without prior written consent of Disclosing Party. Receiving Party shall use diligent efforts to limit disclosure of CI required by law including informing Disclosing Party in writing prior to disclosure.

**Privacy/Security of Data.** AI uses industry-standard security technologies when transferring and receiving customer data. However, no data transmission can be guaranteed to be 100% secure. AI does not assume responsibility for use or disclosure of data as a result of unauthorized access to our systems or those of our partners. Current privacy policy may be found here: [Privacy Policy](#).

**Limited Warranty & Limitation of Liabilities:** AI warrants that for the applicable warranty period set forth in the Warranty Policy, all hardware Products shall conform to their published specifications and shall be without material defect.. Select hardware product warranty terms (“Warranty Policy”) can be found here: [Warranty Policy](#).

All accessories, non-integrated components and individually purchased parts are warranted for ninety (90) days from time of purchase unless otherwise specified by AI. All hardware Products not specified in the Warranty Policy are warranted for one (1) year from purchase and any such repaired or replaced hardware shall be warranted for the longer of the remaining 1 year warranty period or ninety (90) additional days from repair or replacement. Notwithstanding anything to the contrary contained elsewhere in these Sales Terms, the EULA, TSM terms, Subscription terms or the Warranty Policy, AI

shall not be liable for any defect, damage or loss of a Product resulting from the failure of the Customer to comply with any specific operating conditions provided by AI or from any misapplication, misuse, abuse, improper storage, accident, improper installation, improper operation, improper maintenance or unauthorized repair or modification of the Products. Except as otherwise expressly provided herein and/or in any applicable Product terms or Warranty Policy, AI makes no other warranty or representation, express or implied including but not limited to, any implied warranties of merchantability and/or fitness for a particular purpose. In no event will AI be liable for any special, indirect or similar damages, including any lost profits arising out of the use or inability to use the Products. In no event shall AI's aggregate liability for damages exceed the value invoiced to Customer and actually paid by Customer.

**General.** No rights or obligations in these Terms may be assigned or transferred by either party without the prior written consent of the other. These Terms shall be binding on the parties and their respective successors and assigns. These Terms shall be governed by the laws of the State of Texas without giving effect to the principals of conflict of laws. In the event that any of these Terms is determined to be unenforceable, the other Terms shall remain in full force and effect. Failure of AI to enforce any of the Terms at any time shall not be deemed a waiver of AI's rights. Terms may be changed without notice; current and complete terms are available on the AI website.

#### **ADDITIONAL TERMS RELATED TO BULLHORN® TELEMETRY SERVICES**

Payment in full of any telemetry service fees entitles Customer access to such service for the amount of time and number of devices specified. AI reserves the right to deactivate any device that it deems to be malfunctioning. The telemetry service, devices & software are provided "as is" and "as available". AI is not obligated to provide such service or refund fees when service is unavailable to AI. Customer acknowledges that such service may depend upon a number of factors including antennas, topography & environment & is subject to change without notice. Additional terms related to Bullhorn services may be found at the following page: [Subscription Software Agreement](#).

#### Definitions:

"Agent" means an entity (other than AI) that is authorized to market and sell Service on AI's behalf.

"Carrier" means any operator of a satellite or terrestrial wireless communications network that is a part of the Bullhorn® service network (eg. Orbcomm, AT&T, Kore Wireless, SkyWave).

"End User" means a person or entity purchasing Bullhorn service to monitor its equipment either directly from AI or through one of its Agents.

"Governmental Authority" means any federal, state, local or other governmental agency or authority of the United States or any other country.

"Network" means the communications network(s) operated by selected Carrier(s) available for resale by AI to support the Service.

"Number" means the ten (10) digit telephone number assigned to a Bullhorn remote monitoring device that allows access to a Carrier's services.

"Permits" means any franchise, license, exemption, consent, approval, authorization or registration; the issuance of which is required by a Governmental Authority with jurisdiction in any country to facilitate the provision of Services.

"Service" means the use of the Network and the Bullhorn remote monitoring system.

End User shall not have and shall not acquire any proprietary interest in the Number or any other numbers or codes associated with or allocated to a remote monitoring device. End User acknowledges and understands that it shall bear all responsibility, risk and cost associated with developing and maintaining its business, and neither AI nor its Carriers shall be liable to End User for any costs or damages caused by any failure or impaired performance of the Network or Service.

End User acknowledges that AI and its Carriers shall supply the Service on a good faith efforts basis and that service failures and interruptions may occur and are difficult to assess as to cause or resulting damages. The parties agree that none of AI, the applicable Carrier, nor any Affiliate of either shall be liable to End User for any losses or damages of any kind whatsoever arising out of any failure of performance, error, omission, interruption, deletion, defect, delay in operation or transmission, communication line failure, theft or destruction or unauthorized access to, alteration of or use of records associated with the Network or the Service, whether for breach of contract, tortious behavior, negligence or under any other cause of action.

Use of the Network or the Service is authorized by Governmental Authorities only in certain countries, and is permissible only when all Permits have been received from the applicable Governmental Authorities. In addition, use of a remote monitoring device is only permissible if it has been specifically approved for use in that country or territory. For information on those countries or territories in which use of the Network is authorized, please contact your AI representative.

NO CARRIER HAS MADE, OR SHALL BE DEEMED TO HAVE MADE, ANY REPRESENTATIONS OR WARRANTIES WHATSOEVER WITH RESPECT TO THE NETWORK OR SERVICE OR ANY EQUIPMENT PURCHASED IN CONNECTION THEREWITH. AI AND EACH CARRIER EXPRESSLY DISCLAIMS AND END USER EXPRESSLY WAIVES, RELEASES AND RENOUNCES ALL WARRANTIES ARISING BY LAW OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO: (A) ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE; (B) ANY WARRANTY AGAINST CLAIMS OF PATENT INFRINGEMENT OR THE LIKE; (C) ANY IMPLIED WARRANTY ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE; (D) ANY WARRANTIES AS TO THE ACCURACY, AVAILABILITY OR CONTENT OF ANY NETWORK OR SERVICE PROVIDED BY AI OR ITS CARRIERS; AND (D) ANY WARRANTY UNDER ANY THEORY OF LAW, INCLUDING ANY TORT, NEGLIGENCE, STRICT LIABILITY, CONTRACT OR OTHER LEGAL OR EQUITABLE THEORY. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, BUT NOT LIMITED TO, STATEMENTS REGARDING CAPACITY OR SUITABILITY FOR USE, THAT IS NOT CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WARRANTY BY AI OR ITS CARRIERS. IN NO EVENT SHALL AI OR ITS CARRIERS HAVE ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY TO SUBSCRIBER UNDER THIS AGREEMENT FOR LOSS OF USE, REVENUE OR PROFIT OR ANY OTHER INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES. IN ADDITION, IN NO EVENT SHALL ANY LIABILITY OF AI OR ITS CARRIERS EXCEED THE AMOUNT OF ONE THOUSAND U.S. DOLLARS (US\$1,000.00).

**AI is an equal opportunity employer as defined in 41 CFR §§ 60-1.4(a) and 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, or for inquiring about, discussing, or disclosing information about compensation.**