**Avian Mobile Ltd t/a Avian Fleet**

**Terms and Conditions**

**for the provision of In-Vehicle Equipment Installation Services**

THESE TERMS AND CONDITIONS OF SUPPLY (“**TERMS**”) APPLY TO AND FORM AN INTEGRAL PART OF YOUR CONTRACT WITH AVIAN MOBILE LIMITED FOR THE PROVISION OF IN-VEHICLE INSTALLATION SERVICES (“**SERVICES**”) FROM US. BY ORDERING SERVICES FROM US, YOU AGREE TO THESE TERMS.

**PLEASE READ THE FOLLOWING CAREFULLY BEFORE ORDERING YOUR SERVICES.**

In these Terms, "**We**" "**Us**" means **Avian Mobile Limited**, a company registered in England and Wales (Registration Number 04414310) with registered offices located at Avian House, Sutton Business Park, Restmor Way, Wallington, Surrey SM6 7AH and whose VAT Number is 802110306 (“**Supplier**”), and “**Our**” shall be construed accordingly. "**You**" refers to the customer who purchases the voucher from the Supplier and “**Your**” shall be construed accordingly.

In the event of conflict between these Terms and any other terms and conditions provided by You the former shall prevail unless expressly otherwise agreed by the Supplier in writing.

1. **Service and Product Description**

1.1 We will attempt to ensure that the information and content contained in any Product (“**Products**” means the goods (including any instalment of the goods or any parts for them) supplied by Us in accordance with these Terms) and Services information (“**Information**”) provided by Us is accurate. Information may vary slightly from the descriptions and images where shown. We accept no liability for any errors and omissions and reserve the right to change Information, specifications and descriptions of listed Products and Services at any time.

1.2 We will not be legally bound by any factual or typographical errors in the Information or other promotional materials, other than being bound by these Terms.

1.3 The Supplier's employees or agents are not authorised to make any representations concerning the Products/Goods and Services unless confirmed by the Supplier in writing. In entering into these Terms You acknowledge that You do not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

1. **Orders and Acceptance**

2.1 We are entitled to refuse any order for Products and/or Services placed by You without providing a reason.

2.2 When Your order for Products and/or Services is accepted, we will confirm acceptance of Your order and provide you with an installation Job Reference, installation date and time. You undertake that all details You provide to Us for the purpose of ordering or purchasing are correct.

2.3 If there are any changes to the details supplied by You, it is Your responsibility to inform Us as soon as possible.

2.4 We will incur no liability to You for any delays in delivery or installation of the Product caused by reasons beyond Our direct control.

2.5 Any installation dates and times given by Us are only estimates and whilst We will use all reasonable endeavours to adhere to any targets given, We do not undertake to deliver the Product or complete the installation on such dates.

1. **Product Installation**

3.1 Subject to clauses 3.2 through to 3.5 below, a Product supplied by Us, or goods provided by You (“**Goods**”), will be installed by Us int**o** the vehicle set out in the order (“**Vehicle**”) in accordance with the principles of FCS1362 Code of Practice, for the installation of mobile radio and ancillary equipment into land based vehicles and the manufacturer’s recommended installation guidelines and specifications.

3.2 You warrant to being the owner of, or duly authorised agent of the Vehicle’s owner, into which You instruct Us to install the Products or Goods and as such You undertake that you are entitled to enter into and be bound by these Terms and accordingly instruct Us to carry out any modifications, as set out in clause 3.4 herein, that we, in our sole discretion, deem to be required to install the Products or Goods as relevant.

3.3 You agree to allow Our employees or representatives free access to the Vehicle at agreed times for the purpose of installation and repairing any subsequent defects in Product, Goods and/or workmanship, at a location with sufficient space and light to carry out the work, off the public highway within the United Kingdom mainland.

3.4 You understand that fitting the Product/Goods will require minor modifications to the Vehicle such as the fitting of brackets, drilling of holes, laying additional wiring and the like. Our representative will refer to the manufacturer’s recommendations and specifications in carrying out such modifications.

3.5 We reserve the right to refuse the installation if:

* + 1. the Vehicle make, model or year is not the same as shown on the order; and/or
    2. the Vehicle has been modified in any way whatsoever which makes the Products/Goods incompatible.
  1. We reserve the right to make an additional charge in the following events:
     1. if it is necessary for Us to revisit because the Vehicle make, model or year is not the same as shown on the order; or
     2. if you give less that one working day’s notice of postponement or cancellation of installation appointment.

1. **Payment**

4.1 All payments are required to be made prior to booking of the job unless we have separately agreed credit terms in which case payment will be made within the agreed terms.

4.2 All payments shall be made to Us as indicated on the invoice issued by Us.

1. **Warranties and Limitation of Liability**

5.1 We carry out the Services with reasonable skill and care and Our onsite engineer support is provided free of charge for fourteen (14) days following Our original installation.

5.2 We shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, damage as a result of vehicular accident, negligence, abnormal working conditions, failure to follow Our or the Product/Goods manufacturer’s instructions (whether oral or in writing), misuse, alteration or repair of the Products/Goods without Our approval.

5.3 Our Liability is limited to repair, modification, replacement or refund in respect of Products or Services shown to be faulty or defective. We shall not under any circumstances be liable to You for any consequential loss, loss of profits, or any damage suffered by You in respect of Products/Goods or Services supplied by Us. We will only be liable for direct losses up to a maximum total of the price of the Products and Services You purchased from Us.

5.4 Subject to the availability of required replacement parts and vehicle availability, liability for defects or problems arising from the provision of the Services, or liability for any third-party charges, shall be subject to the Client giving Avian Mobile reasonable opportunity to correct any defects with the Service itself.

1. **Risk and Retention of Title**

6.1 Risk of damage to or loss of the Products shall pass to You at the time that We notify You that the installation is complete.

6.2 Notwithstanding delivery and the passing of risk in the Products, or any other provision of these Terms, legal and beneficial title of the Products shall not pass to You until We have received in cash or cleared funds payment in full of the price of the Goods and Services.

6.3 Until payment has been made to Us in accordance with these Terms and title in the Products has passed to You, You shall be in possession of the Products as bailee for Us.

6.4 You shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Products which remain Our property, but if You do so all money owing by You to Us shall (without prejudice to any other right or remedy We may have) forthwith become due and payable.

6.5 We reserve the right to repossess any Products in which We retain title without notice. In the event of repossession, You shall deliver up to Us all Products in which title has not passed, the cost of which shall be born by You.

6.6 Your right to possession of the Products in which We maintain legal and beneficial title shall terminate if;

* + 1. You commit or permit any material breach of Your obligations under these Terms;
    2. You are or becomes the subject of a bankruptcy order or take advantage of any other statutory provision for the relief of insolvent debtors.

1. **Amendment and Waiver**

7.1 No alterations to, addition to or qualification of these Terms shall be binding upon Us unless expressly accepted in writing by Us.

7.2 The failure by Us at any time or for any period to enforce any one or more of these Terms shall not be a wavier of them or a wavier of the right to enforce such Terms on a future occasion.

1. **Legal Construction**

8.1 So far as the law permits, We disclaim all representations, terms, conditions and warranties (including those relating to satisfactory quality, merchantability, fitness for a particular purpose, title and non-infringement) relating to Products and Services provided by Us to You.

8.2 In the event that any clause in these Terms is deemed to be unenforceable, the enforceability of any other part of these Terms will not be affected.

These Terms apply only to the extent permitted by law.

1. **Third Party Rights**

A person who is not a party to these Terms shall have no rights hereunder pursuant to the Contracts (Rights of Third Parties) Act 1999.

1. **Law and Jurisdiction**

These Terms will be governed by and construed in accordance with English law and both We and You will submit to the exclusive jurisdiction of the Courts of England.