



General terms and conditions of sale

GENERAL TERMS AND CONDITIONS OF SALE APPLICABLE TO ALL OFFERS BY TIDELAND SIGNAL MANUFACTURING LLC, HOUSTON, TEXAS, USA, HEREINAFTER: "TSM", FOR THE MANUFACTURING, SALE, DELIVERY, ASSEMBLY, INSTALLATION, REVISION AND/OR REPAIR OF ANY GOODS BY TSM.

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1. GENERAL

1.1 All offers, proposals and quotations from TSM to the other party (hereinafter: the "Buyer") for the manufacturing, sale, delivery, assembly, installation, revision and/or repair of any goods by TSM (hereinafter: "Offer(s)" and "Goods" respectively) and all relevant agreements with TSM are subject to these general terms and conditions (hereinafter: the "Terms"). Any agreement(s) between TSM and the Buyer of which these Terms are thus an integral part are hereinafter referred to as: "Agreement(s)".

1.2 These Terms supersede all prior negotiations, representations, and/or agreements, either written or oral, between TSM and Buyer (hereinafter jointly: the "parties").

1.3 The applicability of general terms and conditions or any similar conditions of the Buyer is hereby expressly excluded.

1.4 Provisions which deviate from these Terms can be invoked by the Buyer only if and to the extent that such provisions have been accepted by a duly authorized TSM representative in writing. TSM's commencement of performance or delivery will not be deemed or construed as acceptance of Buyer's additional or deviating terms and conditions.

1.5 If, for any reason whatsoever, any part of these Terms is invalid, the remainder of the same shall remain in force and the parties will, in mutual consultation, provide a regulation in substitution for the invalid stipulation, the purport of which shall be maintained to the maximum extent possible. The language in all parts of these Terms shall in all cases be construed simply according to its fair meaning and not strictly for or against either party. The provisions of these Terms, as well as any statements made by the parties in connection with any Agreements, shall be interpreted in good faith.

1.6 TSM reserves the right to unilaterally change these Terms at its sole discretion. Such changes shall take effect if and when these have been notified in writing and/or via e-mail to the Buyer. If the Buyer does not wish to accept such change in these Terms, it must inform TSM of its non-acceptance within fourteen (14) calendar days of receipt of the notice and terminate the Agreement, failing which the changes in these Terms so notified shall take effect.

1.7 TSM acts solely in its own name and for its own account. TSM does not represent nor bind any other legal entity unless this is explicitly and specifically evidenced by a written mandate duly signed by an authorized representative of that other entity.

2. OFFERS, ORDERS, AND AGREEMENTS

2.1 All Offers are nonbinding, unless explicitly agreed otherwise in writing.

2.2 All orders and all acceptances of Offers by the Buyer, including verbal orders or acceptances of Offers, are irrevocable.

2.3 TSM shall only be bound when it has accepted an order in writing. Moreover, TSM is only bound as accepted in writing. Verbal commitments or agreements by or with its personnel do not bind TSM except and insofar as a duly authorized representative of TSM confirms these in writing.

2.4 Amendments in Agreements shall be subject to these Terms as if they were separate agreements.

3. DRAWINGS, QUOTES, AND DOCUMENTS

3.1 All information recorded in catalogues, brochures, price lists and the like shall only be binding for TSM if and insofar as explicitly agreed in writing. TSM makes no representations or warranty regarding the accuracy, the completeness, or currency of such information and the Buyer cannot derive any rights from catalogues and other pre-printed or electronic information and/or errors in such.

3.2 All drawings, designs, models, etcetera, which are supplied in connection with the Goods delivered by TSM and the intellectual and industrial property rights with respect thereto shall remain the exclusive property of TSM which company shall also be regarded as the maker and designer.

4. PRICES

4.1 Unless expressly indicated or agreed otherwise in writing, the prices quoted by or agreed with TSM shall be net prices, therefore exclusive of any applicable sales, use, excise, Goods and Services Tax, Value Added Tax, or similar tax duties or levies, and exclusive of any possible import or export duties. Buyer will have the responsibility for the payment of all such applicable taxes, levies, and duties. Prices are based on delivery Ex Works, Incoterms® 2020, TSM's site Houston, Texas, USA. They shall furthermore not include costs of packing, loading, transport, unloading, insurance, installation, assembly and/or other services.

4.2 Prices quoted apply to the specific quantities in the Offer.

4.3 If TSM undertakes to carry out the packing, loading, transport, unloading, insurance, installation, assembly or other services and no price has been expressly agreed in that respect, it shall be entitled to charge the Buyer the actual costs and/or the rates normally used by TSM.

4.4 Prices set by or agreed to with TSM are based on the cost price at the time of the Offer or acceptance of an order by TSM. If the cost price increases thereafter, TSM is, to the extent allowed under applicable law, entitled to charge the Buyer a corresponding price increase, unless explicitly agreed otherwise in writing ("fixed price").

5. PAYMENT TERMS

5.1 TSM reserves the right to require payment in advance or cash on delivery and otherwise modify credit terms should Buyer's credit standing not meet TSM's acceptance.

5.2 Unless different payment terms are expressly set forth in the applicable Offer, Goods will be invoiced upon delivery.

5.3 Buyer's payment must be in the currency as determined in the Offer.

5.4 Payment in full is due within thirty (30) calendar days from the invoice date ("Payment Due Date"), unless otherwise stated in TSM's Offer. Any Buyer requested delivery delay solely affects the delivery date and will not in any way alter the original Payment Due Date (which may then deviate from section 5.2). Buyer relinquishes any right to withhold or suspend payment or to deduct or set off amounts charged by and between the parties. If Buyer fails to make payment when due, Buyer agrees that TSM may apply a service or finance charge of the lesser of (i) one and one-half percent (1.5%) per calendar month (equaling eighteen percent (18%) per annum), or (ii) the highest rate permitted by applicable law, on the unpaid balance of the invoice from and after the Payment Due Date. Buyer shall be responsible for all costs and expenses associated with any checks returned due to Buyer's insufficient funds. All credit sales are subject to prior written approval of TSM's credit department. Unless explicitly agreed upon otherwise in writing, export shipments will require payment prior to shipment of the Goods, or an appropriate Letter of Credit.

5.5 If, during the performance of the Agreement, the financial responsibility or condition of the Buyer is such that TSM in good faith deems Buyer insecure, TSM may: (a) request financial assurances; (b) suspend performance, after which TSM will not be obligated to continue performance under the Agreement; (c) stop Goods in transit and defer or decline to make delivery of Goods, except upon receipt of satisfactory security or cash payments in advance; and/or (d) terminate the Order per article 15 of these Terms.

5.6 TSM retains any and all rights to enforce payment defaults to the full price of any Order associated work completed and in process. Upon Buyer's default in payment when due, if Buyer fails to immediately and without demand pay to TSM the entire amount in default for any and all shipments of Goods made to Buyer, irrespective of the applicable terms and/or contract under which those shipments were made, as a debt due to TSM, TSM may withhold all subsequent shipments until the full amount in default is settled. Acceptance by TSM of less than full payment will not be a waiver of any of its rights hereunder. Buyer may not assign or transfer the Agreement or any interest in it, or monies payable under it, without the prior written consent by a duly authorized representative of TSM and any assignment made without this consent will be null and void.

6. DELIVERY TIME AND DELIVERY

6.1 The delivery time becomes effective after conclusion of the Agreement, after TSM has received all documents and data to be provided by the Buyer, and after any agreed upon advance payments have been received by TSM, or a security for the benefit of TSM has been provided.

6.2 In case the Agreement does not specify a delivery time, such delivery time shall be determined by TSM at its discretion after consulting the Buyer. TSM shall make every reasonable effort to effect performance at the said delivery date, however, any delivery time specified or determined shall be an estimate only.

6.3 If TSM expects that the delivery time agreed will be exceeded, it will inform the Buyer hereof as early as possible. A failure to make timely delivery shall not entitle the Buyer to additional or substitute compensation or to noncompliance by the Buyer of any of its own obligations arising from the Agreement. However, insofar as the failure to provide a timely delivery is the result of a circumstance which can be attributed to TSM, the Buyer shall be entitled to terminate the Agreement by means of a written statement, if and insofar as after the abovementioned failure to deliver, TSM still fails to deliver the Goods within a reasonable period for delivery agreed with the Buyer in writing.

6.4 Delivery time will be extended by the amount of time that the implementation of the Agreement is delayed due to Force Majeure, in accordance with the provisions of article 9 of these Terms. It shall also be extended by the time that the Buyer is later or delayed in the fulfilment of any obligation that follows from these Terms, is agreed to, or could reasonably be expected by TSM. Any additional costs arising from delay which is attributable to the Buyer, shall be borne by the Buyer.

6.5 Unless explicitly agreed upon otherwise in writing, (a) delivery of national shipments to Buyers will be made Ex Works, Incoterms 2020® TSM's site Houston, Texas, USA, and (b) delivery of international shipments to Buyers will be made FCA, Incoterms 2020® TSM's site Houston, Texas, USA, unless explicitly otherwise agreed upon in writing.

6.6 Insofar as relevant and applicable, in the absence of specific instructions from the Buyer, TSM will select the carrier. Buyer will reimburse TSM for the additional cost of its



performance resulting from lack of or inaccurate delivery instructions, or by any act or omission on Buyer's part. Any such additional cost may include storage, insurance, protection, reinspection and delivery expenses. Buyer further agrees that any payment due on delivery will be made on delivery into storage as though Goods had been delivered in accordance with the order. If TSM warehouses or stores the Goods on behalf of Buyer, risk of loss will be borne by Buyer from the start of this period.

6.7 TSM has the right to deliver in parts. Each partial delivery will be deemed an independent delivery with respect to the applicability of these Terms. TSM shall be entitled to demand payment for each partial delivery before proceeding with any other. The Buyer's failure to comply with its duty to effect payment (or to do so on time) shall have the effect of suspending TSM's duty to effect a delivery.

7. OBLIGATIONS OF BUYER

7.1 The Buyer shall, at no charge, provide TSM timely with any information reasonably required in connection with the Agreement, such as but not limited to relevant technical documentation, logs, inspection reports and import licenses, and shall timely reply to any drawing submitted for approval (by either approving or disapproving such drawings, including remarks and/or proposed additions, changes, etc. where applicable).

7.2 The Buyer warrants that TSM will be enabled to commence and effect the work to be performed in connection with the Agreement immediately upon arrival of the Goods and/or TSM's and/or its suppliers' and/or subcontractors' personnel (together: the "Personnel") and without interruption or hindrance. For this purpose, the Buyer shall, before the arrival of the Goods or such Personnel as well as during the performance of the work in connection with the Agreement, make all the arrangements necessary – whether or not expressly agreed upon – to ensure that the work can commence at the agreed date and can be carried out without interruption or hindrance. Furthermore, the Buyer shall, at no charge, attend all such tests and/or trials as indicated by TSM and shall provide TSM with all assistance TSM reasonably requires, such as but not limited to skilled and unskilled personnel, and any necessary devices, implements and auxiliary means.

7.3 The Buyer warrants that all documents and licenses required in connection with the import and export of the Goods and/or the stay of TSM's Personnel in the country and at the premises of the Buyer shall be available at the time of arrival of the Goods and/or such Personnel.

7.4 Buyer warrants the accuracy of any and all information relating to the details of its operating conditions, including influent quality, temperatures, pressures, and where applicable, the nature of all hazardous materials. TSM can justifiably rely upon the accuracy of Buyer's information in its performance. Should Buyer's information prove inaccurate, Buyer agrees to reimburse TSM for any losses, liabilities, damages, and expenses that TSM may have incurred as a result of any inaccurate information provided by Buyer to TSM.

7.5 Where the Buyer breaches any of its obligations set out in the Agreement or otherwise, it shall be in default without the need of a notice of default having to be sent and TSM shall be entitled to, amongst others, an extension of the delivery time and/or time for performance of the work and reimbursement of all costs and damages incurred.

8. RISK AND TRANSFER OF OWNERSHIP

8.1 The risk in the Goods sold by TSM shall be for the Buyer as from the moment that the Goods are considered delivered per section 6.5 ("Date of Delivery"). Title to the Goods will pass when the risk of loss transfers to the Buyer.

8.2 Unless expressly agreed otherwise in writing, loading, dispatching or transport, unloading and insuring of the Goods shall be effected for the risk of the Buyer, even if TSM arranges same in accordance with section 6.6. above.

8.3 Unless expressly agreed otherwise in writing, Buyer grants to TSM a continuing security interest in and a lien upon the Goods supplied by TSM to the Buyer under an Agreement and the proceeds thereof (including insurance proceeds), as security for the payment of all such amounts and the performance by Buyer of all of its obligations to TSM under the Agreement and all such other sales, and Buyer will have no right to sell, encumber or dispose of the Goods. Buyer's respective insurance policy for any such TSM claim will include a waiver of subrogation in favor of TSM. Buyer will execute any and all financing statements and other documents and instruments and do and perform any and all other acts and things which TSM may consider necessary, desirable, or appropriate to establish, perfect or protect TSM's title, security interest and lien. In addition, Buyer authorizes TSM and its agents and employees to execute any and all such documents and instruments and do and perform any and all such acts and things, at Buyer's expense, in Buyer's name and on its behalf. Such documents and instruments may also be filed without the signature of Buyer to the extent permitted by applicable law.

9. FORCE MAJEURE

TSM may cancel, terminate, or suspend the Agreement and TSM will have no liability for any failure to deliver or perform, or for any delay in delivering or performing any obligations, in whole or in part, temporarily or not, due to acts or omissions of the Buyer and / or its contractors or due to Force Majeure. "Force Majeure" means any event beyond TSM's reasonable control including but not limited to: forces of nature, governmental authorities acts or inactions, embargoes, trade restrictions, disease, pandemics, epidemics, fire, flood, explosion, riot, war, terrorist acts, rebellion, sabotage, site or building blockades, strikes, unavailability of fuel, power, energy telecommunication or transportation facilities, shortage of materials and/or equipment or inability to obtain delivery thereof, currency restrictions, delayed delivery of goods or provision of services ordered by TSM from third parties, accidents and interruptions of business operations, etceteras. In the event of Force Majeure on the part of TSM, its obligations are suspended. If the Force Majeure continues for a period of more than ninety (90) calendar days, both TSM and the Buyer are authorized to terminate the non-feasible parts of the Agreement by a written declaration, without prejudice to the provisions of article 15. Where TSM has

already executed part of an Agreement, the Buyer shall pay for any Goods that have been delivered as well as for any associated services already performed.

10. ACCEPTANCE, INSPECTION

10.1 The Buyer shall be bound to lend its cooperation, without delay, to any inspection or test agreed. If the Buyer fails to lend its cooperation to an inspection or testing in a timely manner or at the time agreed, the Goods shall be deemed to have been accepted by the Buyer.

10.2 The Buyer is obligated to take discharge and acceptance at the moment that the Goods are ready for transport or ready to be dispatched.

10.3 If the Buyer does not, or does not timely, lend its cooperation to inspection or testing of the Goods, the Goods shall be deemed having been accepted at the time that inspection, testing or acceptance could have been expected or desired by TSM.

10.4 With respect to the Buyer, TSM has a right to compensation for damage and costs which are the result of Buyer's refusal to effect, or the delay in, the inspection, testing or acceptance of the Goods.

10.5 Before Goods can be rejected in connection with defects found during inspection or testing, TSM shall be given the opportunity to repair such defects. If the Buyer makes no use of a possibility for inspection or testing, then the Goods shall be deemed to have been accepted.

10.6 Buyer will notify TSM in writing of any nonconformity with the Agreement within ten (10) calendar days from receipt by Buyer. Failure to give such applicable notice will constitute a waiver of Buyer's right to inspect and/or to reject the Goods for nonconformity and will be equivalent to an irrevocable acceptance of the Goods by Buyer. Claims for loss of or damage to Goods in transit must be made to the carrier, and not to TSM unless different terms are expressly set forth in the Offer.

11. WARRANTY

TSM warrants that the products sold to Buyer under the Agreement (hereinafter "Products") with the exception of software, membranes, seals, gaskets, elastomer materials, coatings and other "wear parts" or consumables all of which are not warranted except as otherwise provided in the Offer, will be (i) built in accordance with the specifications referred to in the Offer, if such specifications are expressly made a part of the Agreement, and (ii) free from defects in material and workmanship for a period of one (1) year from the date of commissioning or eighteen (18) months from the Date of Delivery of the Products, whichever occurs first, unless a longer period is provided by law or is specified in the Product documentation (the "Warranty"). For services provided to Buyer under the Agreement ("Services"), the warranty period will be three (3) months from the date of invoice unless otherwise expressly set forth in the Offer. Except as otherwise provided by law, TSM will, at its option and at no cost to Buyer, either repair or replace any Goods which fail to conform with the Warranty; provided, however, that under either option, TSM will not be obligated to remove the defective Goods or install the replaced or repaired Goods and Buyer will be responsible for all other costs, including service costs, shipping fees and expenses. Buyer's failure to comply with TSM's repair or replacement advice will constitute a waiver of Buyer's rights and will render all warranties void. Any parts repaired or replaced by TSM under the Warranty are warranted only for the remaining balance of the warranty period. The Warranty is conditioned on Buyer giving written notice to TSM of any defects in material or workmanship of warranted Goods within ten (10) calendar days, or shorter period as dictated by the issue, of the date when any defects are first manifest. TSM will have no warranty obligations to Buyer with respect to any Goods or parts of the Goods that: (a) have been repaired by third parties other than TSM or without TSM's prior written approval; (b) have been subject to misuse, misapplication, neglect, alteration, accident, or physical damage; (c) have been used in a manner contrary to TSM's instructions for installation, operation and maintenance; (d) have been damaged from ordinary wear and tear, corrosion, or chemical attack; (e) have been damaged due to abnormal conditions, vibration, failure to properly prime, or operation without flow; (f) have been damaged due to a defective power supply or improper electrical protection; (g) have been damaged resulting from the use of accessory equipment not sold by TSM or not approved by TSM in connection with Goods supplied by TSM hereunder; or (h) not sold by TSM or its authorized supplier. In any case of Goods not manufactured by TSM, there is no warranty from TSM; however, TSM will extend to Buyer any warranty received from TSM's supplier of such Goods.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE GOODS PROVIDED HEREUNDER, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. EXCEPT AS OTHERWISE PROVIDED BY LAW, BUYER'S EXCLUSIVE REMEDY AND TSM'S AGGREGATE LIABILITY FOR BREACH OF ANY OF THE FOREGOING WARRANTIES ARE LIMITED TO REPAIRING OR REPLACING THE GOODS AND WILL IN ALL CASES BE LIMITED TO THE AMOUNT PAID BY THE BUYER HEREUNDER.

12. USED GOODS

USED GOODS ARE SOLD IN AN "AS IS, WHERE IS" CONDITION. TSM MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE NATURE, QUALITY OR CONDITION OF THE GOODS, OR ITS SUITABILITY FOR ANY USE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, UNLESS EXPRESSLY AGREED UPON IN WRITING BETWEEN THE PARTIES. TSM WILL HAVE NO LIABILITY TO BUYER HEREUNDER OR IN CONNECTION WITH THE GOODS, INCLUDING WITHOUT LIMITATION, FOR LOSS OF PROFIT, LOSS OF INCOME, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES.



13. LIMITATION OF LIABILITY

EXCEPT AS OTHERWISE PROVIDED BY LAW, IN NO EVENT WILL TSM'S LIABILITY EXCEED THE AMOUNT PAID BY BUYER UNDER THE AGREEMENT. TSM WILL HAVE NO LIABILITY FOR LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME, LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY, LOSS OF REPUTATION, LIQUIDATED, INDIRECT, CONSEQUENTIAL, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES. THE FOREGOING LIMITATIONS OF LIABILITY WILL BE EFFECTIVE WITHOUT REGARD TO TSM'S ACTS OR OMISSIONS OR NEGLIGENCE OR STRICT LIABILITY IN PERFORMANCE OR NONPERFORMANCE HEREUNDER.

To the extent the Agreement provides a specified remedy for a default or breach, the given remedy will be TSM's sole liability and Buyer's sole and exclusive remedy for the default or breach to the exclusion of any and all other remedies that may be available at law, in equity, or otherwise. The terms of this article 13 survive expiry or termination of the Agreement and prevail over all other provisions contained in the Agreement.

14. INTELLECTUAL PROPERTY

14.1 All intellectual property rights and knowhow arising from the Agreement and all drawings, models, descriptions, information, documents, reports, computer programs, databanks, data and deliverables and other items made, to be delivered, designed, produced or made available under the Agreement, including all copy rights, moral rights, related rights, patents, trademarks, service marks, rights in designs, database rights, rights in undisclosed and confidential information (such as knowhow, trade secrets, inventions whether patentable or not) and other similar proprietary rights, whether registered or nonregistered or capable of registration, all applications and rights to apply therefore and all renewals, extensions and revivals thereof, wherever in the world any such rights exist or will come into existence, shall be and/or remain exclusively owned by TSM and/or its affiliated companies, may not be used, copied or otherwise reproduced without TSM's prior written approval and, except where explicitly agreed otherwise in the Agreement, nothing shall be deemed to constitute a transfer of such intellectual property rights and know how.

14.2 Unless otherwise specified in the Agreement TSM shall own any and all intellectual property rights to the deliverables developed by TSM as part of the work, and the Buyer shall be granted a royalty free, worldwide license to have free use of such deliverables.

15. CANCELLATION, TERMINATION

15.1 Except as otherwise provided in the Agreement, no order may be cancelled on special or made-to order Goods or unless otherwise requested in writing by either party and accepted in writing by the other. If a cancellation is requested by Buyer, Buyer shall, within thirty (30) calendar days of such cancellation, pay TSM a cancellation fee, which will include all costs and expenses incurred by TSM prior to the receipt of the request for cancellation including, but not limited to, all commitments to its suppliers, Personnel, and others, all fully burdened labor and overhead expended by TSM, plus a reasonable profit charge. Return of goods including Goods will be subject to a minimum fifteen percent (15%) restocking fee, unless otherwise specified in writing.

15.2 Notwithstanding anything to the contrary in the Agreement, if the commencement by or against Buyer of any voluntary or involuntary proceedings in bankruptcy or insolvency, or if Buyer will be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver will be appointed on account of Buyer's insolvency, TSM may, upon providing Buyer notice that has immediate effect upon issuance, terminate the Agreement. If Buyer fails to make any payment when due under the Agreement, or if Buyer does not correct or, if immediate correction is not possible, commence and diligently continue action to correct any default of Buyer to comply with any of the provisions or requirements of the Agreement within ten (10) calendar days after being notified in writing of such default by TSM, TSM may, by written notice to Buyer, without prejudice to any other rights or remedies which TSM may have, terminate its further performance of the Agreement. If any termination under this article 15, TSM will be entitled to receive payment as if Buyer has cancelled the Agreement as per the preceding paragraph immediately and without notice as a debt due. TSM may nevertheless elect to complete its performance of the Agreement by any means it chooses. Buyer agrees to be responsible for any additional costs incurred by TSM in so doing. Upon termination of the Agreement, the rights, obligations and liabilities of the parties which will have arisen or been incurred under the Agreement prior to its termination will survive such termination.

16. CHANGE ORDERS

16.1 If, after an Agreement has been concluded, the Buyer desires amendments or additions to the Agreement, TSM shall, in its sole discretion, decide whether to effect or not to effect those.

16.2 Any requested change(s) to the work set forth in an Agreement require(s) the parties to enter into a written change order that contains a description of the change(s) and all other applicable terms, including change in price and/or delivery schedule ("Change Order"). Should the entirety of a Buyer's change request be to revise TSM's delivery schedule, this also will require a Change Order that specifies, among other things, the revised Agreement price; applicable fees, such as storage and maintenance, and revised delivery date(s).

16.3 TSM will not be obliged to proceed with any change and no such change will be binding or have any effect on TSM or on the Agreement unless/until the parties enter into a Change Order. Should TSM's ability to proceed with the work be altered by Buyer's delay in entering into a Change Order, TSM will be entitled to assess late fees and suspend performance of all work for the period of delay.

17. PRODUCT RECALLS

In cases where Buyer purchases for resale, Buyer will take all reasonable steps (including those measures prescribed by TSM) to ensure that: (a) all customers of the Buyer

and authorized repairers who own or use affected Goods are advised of every applicable recall campaign of which the Buyer is notified by the TSM; and (b) modifications notified to Buyer by TSM by means of service campaigns, recall campaigns, service programs or otherwise are made with respect to any Goods sold or serviced by Buyer to its customers or authorized repairers. Should Buyer fail to perform any of the actions required under this obligation, TSM will have the right to obtain names and addresses of the Buyer's customers from Buyer and TSM will be entitled to get into direct contact with such customers.

18. GOVERNING LAW AND DISPUTE RESOLUTION

18.1 THE AGREEMENT(S) BETWEEN TSM AND BUYER AND ANY CORRESPONDENCE, DEALINGS AND SERVICES CONDUCTED, PROVIDED, AND OR RENDERED AND ALL ACTIONS CONTEMPLATED THEREBY ARE SUBJECT TO AND GOVERNED BY THE LAWS OF THE STATE OF TEXAS, USA (WITHOUT REGARD TO ANY APPLICABLE CONFLICTS OF LAW PROVISIONS). THE 1980 U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS (CISG) IS HEREBY EXPRESSLY EXCLUDED.

18.2 ALL DISPUTES EXISTING BETWEEN PARTIES SHALL BE SUBMITTED EXCLUSIVELY TO THE APPROPRIATE COMPETENT COURT IN THE STATE OF TEXAS, USA. AN EXCEPTION TO THE FOREGOING APPLIES IF THE ACO IN SECTION 18.3 WOULD BE EXERCISED.

18.3 WITHOUT PREJUDICE TO THE PROVISIONS OF SECTION 18.2, AND AT THE SOLE OPTION OF TSM, ANY DISPUTE BETWEEN THE PARTIES MAY ON A CASE-BY-CASE BASIS BE SUBMITTED TO AND DETERMINED AND SETTLED BY THE APPROPRIATE COMPETENT COURT IN BUYER'S JURISDICTION, ACCORDING TO THE APPLICABLE LAW IN BUYER'S JURISDICTION (THE "ALTERNATIVE COURT OPTION" OR "ACO").

18.4 THIS ARTICLE 18 WILL SURVIVE ANY TERMINATION, CANCELLATION, OR EXPIRATION OF THE AGREEMENT(S).

19. EXPORT REGULATIONS

TSM's goods, including Goods and any software, documentation, and any related technical data included with, or contained in, or utilized by such goods or deliverables, may be subject to applicable export laws and regulations, including United States Export Administration Regulations and Buyer shall comply with all such applicable laws and regulations. In particular, the Buyer will not, and will not permit any third parties to, directly or indirectly, export, re-export or release any Goods to any jurisdiction or country to which, or any party to whom, the export, re-export or release of any goods is prohibited by applicable law, regulation, or rule. The Buyer will be responsible for any breach of this article 19. Buyer agrees, to the extent legally possible, to indemnify TSM and its Personnel and to reimburse TSM and its Personnel for any losses, liabilities, damages, and expenses that TSM and/or its Personnel may have incurred as a result of any such breach.

20. PRIVACY AND CUSTOMER DATA

Buyer acknowledges that TSM may collect and process personal data for purposes as may be outlined in the Agreement. The collection and use of personal data by Buyer is Buyer's responsibility. Some TSM goods including Goods are equipped with cloud communication capability resulting in these goods automatically transmitting, on an encrypted basis, data to TSM's X-Cloud. Unless otherwise specified in the Agreement, Buyer agrees and authorizes TSM to indefinitely store any data collected from TSM goods including Goods ("Customer Data") on TSM's owned, leased, rented or licensed hardware, software, network, storage, and related technology. Buyer grants TSM and TSM's affiliates a worldwide, royalty-free, non-exclusive, irrevocable right and license to access, store and use such Customer Data to: (a) provide services; (b) analyze and improve services; (c) analyze and improve any TSM or affiliate goods including Goods and/or software; and (d) for any other internal use, provided any such internal use is limited to using the Customer Data in an aggregated and anonymized manner that cannot be reconstituted as Buyer's Customer Data.

21. TITLES, WAIVER, SEVERABILITY, MISCELLANEOUS

Headings of articles are for reference only, and will not limit or restrict the interpretation or construction of these Terms. Time is of the essence in the performance of the parties' duties under these Terms. TSM's failure to insist, in any one or more instances, upon Buyer's performance of these Terms, or to exercise any rights conferred, will not constitute a waiver or relinquishment of any such right or right to insist upon Buyer's performance in any other regard. The partial or complete invalidity of any one or more provisions of these Terms will not affect the validity or continuing force and effect of any other provision. The provisions of these Terms shall fully apply subject to compliance with applicable export control, competition / anti-trust laws and regulations in force and applicable to the parties and nothing in these Terms shall oblige either party to do or omit to do, or refrain from doing, anything which would result in a breach by such party of such laws and regulations. Each party to an Agreement represents, agrees, and warrants that it will perform all other acts and execute and deliver all other documents that may be necessary or appropriate to carry out the intent and purposes of each Agreement and these Terms. In these Terms, the singular shall include the plural, and the masculine shall include the feminine and neuter, and vice versa.

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