

Terms and Conditions of Sales for Services

TS Europe BVBA, and its divisions, subsidiaries, and affiliates (“TSE”) will provide services (“TSE Services”) and products associated with TSE Services (“Products”). TSE Services may (a) consist of a variety of services performed directly by TSE (or its subcontractor), such as performance of a task, assistance, support, access to resources that TSE makes available; or (b) creation of software or as otherwise defined on a Statement of Work (“SOW”). For avoidance of doubt, “TSE Services” excludes third-party services (“Third Party Services”), which may include but shall not be limited to software and other offerings provided solely by a third party. “TSE Services” as used in these terms and conditions does not include Third Party Services. Except for mutually agreed upon terms such as in an SOW or change order, TSE’s provision of TSE Services, Third Party Services and Products are subject to only these terms and conditions of sale for Services (“Agreement”), regardless of any other additional terms or conditions that conflict with or contradict this Agreement in any purchase order, document, or other communication („Order“), including any preprinted terms and conditions on any document of customer (“Customer”). TSE’s failure to object to such conflicting or additional terms will not change or add to the terms of this Agreement.

1. ORDERS

Quotes from TSE are invitations to tender and are subject to change at any time without notice. All Customer Orders are subject to acceptance by TSE. Contracts between Customer and TSE are formed upon TSE’s written acceptance or execution of SOW or Customer’s Order, which shall be governed only by the terms and conditions of this Agreement and SOW, if any. In the event of conflicting terms between the terms and conditions of this Agreement and SOW, the terms and conditions of this Agreement will control.

2. CUSTOMER RESPONSIBILITIES

TSE will rely on the specific instruction and information provided by Customer in the applicable SOW. The scope of the work to be performed will be tentative until confirmed in writing by both parties in the applicable SOW. TSE is not responsible for any default or delays caused by Customer’s failure to confirm applicable SOW in a timely manner, to provide accurate and timely instructions, comprehensive information, or necessary access to facilities or application environment.

3. PRICES

Except as otherwise agreed in applicable SOW, prices are estimates and are subject to change at any time. TSE will use reasonable commercial efforts to notify Customer if estimates provided to Customer in writing will be exceeded. In such an event, (i) Customer may terminate the Services and pay only for the work performed through the effective date of termination, even though such amount may be less than or in excess of the estimate, or (ii) if Customer makes no such termination request, TSE will continue to perform services according to the existing work authorization, including all fees and expenses which may exceed the initial or revised cost estimate. Prices are for Products, TSE Services or Third Party Services only and do not include taxes, or other charges or fees, such as out of pocket expenses, permits, licenses, certificates, customs declarations and registration (collectively, “Additional Fees”). Customer is responsible for any Additional Fees as well as obtaining such licenses, permits or permissions on its own accord that may be needed for the performance of the TSE Services.

4. TERMS OF PAYMENT

Payment of the total invoice amount, without offset or deduction, is due 30 days from the invoice date or as otherwise indicated and approved in writing by the parties in the SOW. On any past due invoice, TSE may charge (i) interest from the payment due date to the date of payment at 18% per annum, plus reasonable attorneys’ fees and collection costs; or (ii) the maximum amount that is allowed under the applicable law if TSE’s interest rate is deemed invalid. At any time, TSE may change the terms of Customer’s credit, require financial data from Customer for verification of Customer’s creditworthiness, require a bank guarantee or other security, or suspend any outstanding Orders of Customer. TSE may apply payments to any of Customer’s accounts. If Customer defaults on any payment under this Agreement, TSE will provide notice to Customer and give Customer a reasonable time to cure. If Customer fails to provide payment within the reasonable time to cure period, TSE may postpone or cancel any pending or current TSE Services or Third Party Services to be performed, being performed or in any outstanding SOW, and declare all outstanding invoices due and payable immediately.

5. OWNERSHIP OF DELIVERABLES AND DELIVERY

If TSE is providing only Services and Deliverables: Upon payment in full, TSE will transfer ownership of tangible product as a result of the TSE Services ("Deliverable") or TSE Service to the Customer.

If TSE is providing Services, Deliverables and Products: All Products or Deliverables are EXW Origin (INCOTERMS 2010). TSE will transfer title of Product upon shipment. TSE will transfer ownership of Deliverables or TSE Services to the Customer upon payment in full.

TSE retains all rights, title and interest in any pre-existing materials and intellectual property that is owned by TSE. TSE will provide to the Customer a limited and revocable license to use the pre-existing intellectual property utilized in providing TSE Services or provided in a Deliverable at a fee to be mutually agreed. TSE Services and any Products, Deliverables, and Third Party Services, including software or other intellectual property, may be subject to any applicable rights of third parties, such as patents, copyrights or user licenses, and Customer will comply with such rights.

6. TSE'S LIMITED WARRANTY

TSE warrants that TSE Services will be performed in a reasonable and workmanlike manner. To the extent permitted by law, TSE makes no other warranty, express or implied, such as warranty of merchantability, fitness for purpose or non-infringement. In particular, TSE does not warrant that software provided as part of the TSE Services is uninterrupted or error-free. Customer's sole remedies for breach of this TSE Services warranty are, at TSE's sole discretion, to: (i) re-perform the TSE Services, or (ii) refund the portion of the fees paid by Customer that relate to the non-conforming TSE Services. TSE will have no obligation with respect to any warranty claim if the claim is the result of (i) damage caused by unauthorized modification by Customer or any third party not performing under the direction of TSE, (ii) any abuse or misuse by Customer or any third party not performing under the direction of TSE, or (iii) damage caused by disaster such as fire, flood, wind or lightning. TSE will pass through to Customer any transferable Third Party Services warranties and remedies provided by the third party service provider.

7. LIMITATION OF LIABILITY

To the extent permitted by law, neither TSE nor any of TSE's successors or assigns shall be liable for and Customer is not entitled to any indirect, special, incidental, consequential, punitive or exemplary damages of any nature including without limitation removal, reinstallation

costs, procurement costs, costs of cover, loss of use, loss of profit or revenue, business interruption, loss of data, promotional or manufacturing expenses, overhead, injury to reputation or loss of customers even if TSE has been advised of the possibility of such damages. To the extent permitted by applicable law, Customer's total recovery from TSE for any direct damages will not exceed the total amount paid by Customer for TSE Services or Third Party Services performed under the relevant SOW during the twelve month period immediately preceding the event giving rise to the liability. TSE will not be liable for any loss or damage arising out of significant changes to, or errors, omissions or inaccuracies in the information provided by Customer. TSE is also not liable for any claims based on TSE's compliance with Customer's designs, specifications, or instructions.

8. FORCES BEYOND TSE'S CONTROL

TSE is not liable for failure to fulfill its obligations under this Agreement due to causes beyond its reasonable control (for example: acts of nature, acts or omissions of Customer, operational disruptions, man-made or natural disasters, epidemic medical crises, materials shortages, strikes, criminal acts, delays in delivery or transportation, or inability to obtain labor or materials through its regular sources).

9. NON-SOLICITATION

During the term of the SOW or Agreement and for one year from termination or expiration of this Agreement, Customer shall not, without the prior written consent of TSE, directly or indirectly offer employment or hire any current or former employee, subcontractor or consultant of TSE who was directly involved in the performance of this Agreement. This provision does not restrict the right of Customer to solicit or recruit generally in the media and does not prohibit Customer from hiring an employee of TSE who answers any advertisement or who otherwise voluntarily applies for hire without having been initially personally solicited or recruited by Customer or Customer's agents.

10. EXPORT/IMPORT

Certain Products, TSE Services, Third Party Services, Deliverables and related technology and documentation sold by TSE are subject to export control laws, regulations and orders of the United States, the European Union, or other countries ("Export Laws"). Customer shall comply with such Export Laws and obtain any license, permit or authorization required to transfer, sell, export, re-export or import the Products, TSE Services, Third Party Services, Deliverables and related technology and documentation.

Customer will not export or re-export the Products, TSE Services, Third Party Services, or Deliverables and related technology and documentation to any country or entity to which such export or re-export is prohibited, including any country or entity under sanction or embargoes administered by the United Nations, U.S. Department of Treasury, U.S. Department of Commerce or U.S. Department of State. Customer will not use the Products, TSE Services, Third Party Services, Deliverables, and related technology and documentation in relation to nuclear, biological or chemical weapons or missile systems capable of delivering same, or in the development of any weapons of mass destruction.

11. GOVERNMENT CONTRACTS

TSE is a distributor of "Commercial Items" as defined in FAR 2.101 which includes installation services, maintenance services, repair services, training services and other services procured from TSE for support of a commercial item or services sold in the commercial marketplace. Therefore, TSE agrees only to the clauses in the Federal Acquisition Regulation ("FAR") and Defense Federal Acquisition Regulation ("DFAR") that are required to be inserted in subcontracts for commercial items as set forth in FAR 52.244-6(c)(1), FAR 52.212-5(e)(1), and DFAR 252.244-7000 if it is a subcontract under a Department of Defense prime contract. In accordance with FAR 12.211, Customer will receive only those rights in technical data customarily provided to TSE by the manufacturers or provided by TSE to other commercial customers. These rights will not be interpreted as providing to Customer unlimited rights in data, software, or intellectual property rights provided by the manufacturers or any other third party or for TSE's commercial software. TSE specifically rejects the flow down of any federal requirements which are inapplicable to services.

12. ELECTRONIC ORDERS

In the event that any part of the provision of TSE Services and Third Party Services utilizes electronic data interchange, Customer's internal portal or third party portal, or any other electronic means ("Electronic Purchase Order"), this Agreement will continue to apply to the provision of TSE Services and Third Party Services between Customer and TSE. Customer's acceptance of TSE's acknowledgment request or TSE's specification of details with respect to Electronic Purchase Orders via writing, email or other electronic data interchange shall be binding on Customer.

13. GENERAL

A. This Agreement shall be governed, construed, and enforced in accordance with the laws of the country where the TSE

entity that accepted Customer's Order ("Governing Country") is located. The courts of the Governing Country shall have jurisdiction and venue over all controversies arising out of, or relating to, this Agreement. If the Governing Country is the United States of America, the laws and courts of the State of Arizona will apply without reference to Arizona's conflict of laws principles. The United Nations Convention for the International Sale of Goods shall not apply.

- B. The prevailing party in any legal proceedings brought by or against the other party to enforce any provision or term of this Agreement shall be entitled to recover against the non-prevailing party the reasonable attorneys' fees, court costs and other expenses incurred by the prevailing party. No person who is not a party to this Agreement shall be entitled to enforce or take the benefit of any of its terms under the Contracts (Rights of Third Parties) Act of 1999 (UK) or under any other similar applicable law, statute or regulation.
- C. The Customer warrants that it has obtained all necessary approvals for TSE to process personal data. In addition the Customer warrants that the content, use or processing of the data is not illegal and does not infringe any rights of third parties or any statutory or regulatory provisions. The Customer shall protect TSE and hold TSE harmless against any legal claim which may result from a breach of the above warranties.
- D. Customer may not assign this Agreement without the prior written consent of TSE, and TSE's affiliates may perform TSE's obligations under this Agreement. This Agreement is binding on successors and assigns.
- E. TSE reserves the right to subcontract provision of TSE Services or Third Party Services to a third party organization to provide TSE Services or Third Party Services to Customer. Any such subcontract shall not relieve TSE of any of its obligations under this Agreement.
- F. This Agreement can only be modified in writing signed by authorized representatives of both TSE and Customer.
- G. TSE and Customer are independent contractors and agree that this Agreement does not establish a joint venture, agency relationship, or partnership.
- H. TSE's failure to object to any document, communication, or act of Customer will not be deemed a waiver of any of these terms and conditions.
- I. The unenforceability of any of these terms or conditions will not affect the remainder of the terms or conditions.
- J. To the extent that electronic signatures are available, the parties agree to use electronic signatures and agree that any electronic signatures will be legally valid, effective, and enforceable.

- K. TSE and Customer will maintain in confidence and safeguard all Confidential Information. “Confidential Information” means any information that is marked or otherwise identified as confidential or proprietary at the time of disclosure, or any information, by its nature that should be deemed confidential and does not include information that is in the public domain. Each party agrees to use any Confidential Information only for the purpose of conducting business with each other under this Agreement. Customer or TSE may seek interim or temporary injunctive relief in any court of appropriate jurisdiction with respect to any alleged breach of each party’s intellectual property or proprietary rights.
- L. Customer and TSE shall observe and comply with all applicable laws, rules and regulations applicable to the performance of their respective obligations under this Agreement including, but not limited to, anti-corruption laws (such as the U.S. Foreign Corrupt Practices Act and U.K. Bribery Act) and regulations in respect of import or export of Services.
- M. TSE may translate the Agreement into any language for ease of comprehension but, in the event of any conflict or inconsistency between the Agreement and the translated version, the English version shall prevail.