

# General Terms and Conditions of Sale

## General

This General Terms and Conditions of Sale (the “**T & C**”) constitutes a contract between Touchdown Aviation BV (“**TDA**”), a company incorporated and operating under the laws of The Netherlands, CoC 34249209, with its registered office at Tokyostraat 29-33, 1175 RB Lijnden, The Netherlands, and its entities located in Slinfold, UK, and Miami, USA (collectively referred to as “**TDA**”), and the Customer.

TDA and the Customer are referred to individually as the “**Party**” and collectively as the “**Parties**”.

## 1. General

**1.1** In this T & C, the following terms and expressions have the following meanings:

- a. “**Agreement**” refers to any agreement between TDA and the Customer concerning the sale and delivery of the Product, including the Order, Order Confirmation, and the T & C.
- b. “**Business Day**” means a day (excluding Saturdays and Sundays) when banks are open for general business in the Netherlands.
- c. “**Customer**” means the person(s), firm, or company to whom TDA sells or supplies the Product.
- d. “**Product**” means the item, equipment, product, service, or goods of any nature (including any part of them) that TDA supplies to the Customer or any service the Customer receives from TDA as indicated in the Order.
- e. “**Order**” refers to the purchase order executed under this T & C, detailing the specific requirements and obligations for each sale of Product by TDA to the Customer. The Order is an integral part of this T & C and, once confirmed in an Order Confirmation, together they form a legally binding Agreement for the sale of Product.
- f. “**Order Confirmation**” means the written confirmation by TDA concluding the Order. The Order Confirmation is an integral part of this T & C and together they form a legally binding Agreement for the sale of Product.
- g. “**Restricted Person**” means any person or legal entity that is: (a) listed on, or owned or controlled by or acting on behalf of any person(s) listed on a Sanctions List; (b) located in or organized under the laws of a country subject to Sanctions, or owned or controlled by, or acting on behalf of a person located in or organized under the laws of a country subject to Sanctions; or (c) a designated target of Sanctions or otherwise subject to Sanctions (including being directly or indirectly owned or controlled by or acting on behalf of any person which is a designated target of Sanctions).
- h. “**Sanctions**” means economic or financial sanctions laws and/or regulations, trade embargoes, prohibitions, restrictive measures, decisions, executive orders, or notices from regulators implemented, adapted, imposed, administered, enacted, or enforced by the relevant government entity/ies responsible for Sanctions (“**Sanctions Authority**”) of: (a) the Security Council of the United Nations; (b) the United States of America; (c) the European Union; (d) the United Kingdom; (e) the governments and official institutions or agencies of any of (a), (b), (c), and/or (d), including OFAC and the US Department of State.

## 2. | Scope

- 2.1 This T & C applies to all business relationships between TDA and the Customer.
- 2.2 This T & C also applies to any future business relationships in terms of delivery and services with the same Customer in their respective version, without TDA being obliged to indicate the T & C in each individual case.
- 2.3 The Customer's terms & conditions do not apply to the Agreement. Any subsequent references to those terms and conditions shall have no effect. The Agreement may only be amended in writing, based on a written document that is duly signed by both parties.
- 2.4 Any individual arrangements made with the Customer in a specific case must be in writing to be effective. Legally binding declarations and notifications to be provided by the Customer to TDA after concluding the Agreement (e.g., imposing deadlines, notifications of defect, revocation, or price reduction) must also be given in writing to be effective.
- 2.5 In the event of any inconsistency between the provisions of this T & C and the Order, the terms of the Order prevail except for the Customer's terms and conditions of purchase, and solely with respect to the relevant Order and to the extent that the Order has been confirmed by TDA through an Order Confirmation and that the Order: (a) includes any special conditions; or (b) expressly states that a term in the Order prevails over the T & C.

## 3. | Quotations and Confirmation of Orders

- 3.1 TDA may revoke quotations that have not expressly been made binding for a specified period until TDA has received an unqualified acceptance from the Customer.
- 3.2 In the absence of statements to the contrary, a quotation is deemed to have lapsed thirty (30) calendar days after the date of such quotation.
- 3.3 Any agreement on delivery is binding to TDA only when the Customer has received the written Order Confirmation from TDA and only on the conditions contained therein.
- 3.4 TDA is not liable for any claims, losses, or damages of any nature whatsoever, including consequential losses, loss of production, loss of profits, or other indirect losses which the Customer may suffer as a result of any failure, delay, or partial imperfect performance in connection with messages, including quotations and/or Order Confirmations exchanged via electronic networks.

## 4. | Offers and Conclusion of Agreement

- 4.1 The Agreement is considered concluded only if the Order has been confirmed in writing by TDA and remains effective until the Parties have fully fulfilled their obligations. The written Order Confirmation by TDA determines the content of the Agreement. All offers by TDA are nonbinding and non-committal unless explicitly marked as binding or containing a fixed term of acceptance before they become binding.

- 4.2** The written Agreement, including this T & C, is the sole determinant of the legal relationship between TDA and the Customer. Any verbal commitments made by TDA prior to concluding the Agreement are legally nonbinding, and verbal agreements are replaced by the written Agreement unless they are explicitly stated to continue to apply. Supplements or changes to the Agreement must be made in writing to be effective. Transmission by email is considered sufficient.
- 4.3** Details provided by TDA regarding the delivered Product (e.g., weights, measurements, tolerances, technical data, etc.) and any depictions (e.g., drawings and illustrations) are considered approximations unless exact conformity is required to fulfill the contractually intended purpose. They are not guaranteed properties of quality but descriptions and characterizations of the delivered item or performed work. Customary variances and variances resulting from legal provisions or technical improvements, as well as the replacement of parts by parts of similar value, are acceptable unless they compromise usability for the contractually intended purpose.
- 4.4** TDA reserves ownership rights or copyright for all issued offers and cost estimates, as well as any drawings, illustrations, calculations, etc., provided to the Customer. The Customer must not disclose these items to a third party, publish, or utilize them without prior written consent from TDA. Upon request by TDA, the Customer must return these items completely to TDA and destroy any copies if they are no longer needed for a proper business transaction or if negotiations did not result in concluding an Agreement.

## **5. | Export**

- 5.1** The Party who is the importer or exporter of the Product is responsible for obtaining any license, exchange permit, or other required governmental authorization related to the shipment of the Product and for complying with all licensing and reporting requirements in connection with the Agreement. The Customer is responsible for all customs issues unless otherwise agreed by the Parties in the respective Order and Order Confirmation.
- 5.2** Changes regarding the country of destination may be prohibited or may require an export license under applicable export control regulations. The Customer is liable for all changes regarding the country of destination, including any additional costs arising from such changes, and is responsible for obtaining the relevant permissions.

## **6. | Prices and Payments**

- 6.1** The price to be paid by Customer to TDA for the Products are to be TDA's sales prices in force from time to time. When Products are ordered by Customer outside of normal working hours (08.00 - 18.00 CET), a surcharge of US\$ 400.00 will apply additionally to the charges for the respective Products. The complete price for the Product inclusive with any and all charges, interest or other fees will be referred to as the "Purchase Price".
- 6.2** Customer shall pay Purchase Price in full in accordance with the Agreement, without deduction, discount, and/or without the right to set-off. Customer shall be responsible for the collection, remittance and payment of any and all taxes, charges, levies, assessments and other fees of any kind imposed by governmental or other authority in respect of the purchase, importation, sale, lease or other distribution of the Products.
- 6.3** The Purchase Price shall be paid in U.S. Dollars (US\$) unless otherwise agreed. Customer shall pay the Purchase Price in free available funds at the bank account designated by TDA ultimately within thirty (30) calendar days after invoice unless otherwise agreed. The payment term is fatal: if payment is not fully received within this term then Customer shall be automatically in default.

If Customer does not timely and correctly pay the Purchase Price, then interest at the rate of 2% shall be charged monthly on any amounts overdue. The interest period shall run from the due date for payment until receipt by TDA of the full amount whether before or after judgment and without prejudice to any other right or remedy of TDA. In case Customer does not perform its payment obligations hereunder, Customer shall be liable to pay all out-of-court fees (with a minimum of 15% of the Purchase Price) and all applicable costs for legal assistance.

- 6.4** The prices apply to the scope of services and delivery described in the Order Confirmation. Any additional or special services are charged separately. Unless explicitly agreed otherwise, all prices are stated in Dollars (\$), excluding works, plus packaging, loading, transportation, warehousing, insurance, applicable value-added tax, and any other taxes, duties, or levies, customs duty for exports, as well as fees or other public charges.
- 6.5** In principle, the Customer is not entitled to cancel an Order. The Customer can cancel an Order only with express written consent from TDA. However, in any event of cancellation consented by TDA, the following conditions apply:
- (i). If the Order is cancelled after the Product is shipped, the Customer must pay the full price of the Product, and any relevant expenditure due to cancellation is charged to the Customer.
  - (ii). If the Product is sourced originally by TDA, and the Order is cancelled before the Product is shipped, any relevant expenditure due to cancellation is charged to the Customer.
  - (iii). If the Product is sourced by TDA from a third party, and the Order is cancelled either before or after shipment, the Customer must pay the full price of the Product, and any relevant expenditure due to cancellation is charged to the Customer.

**Clause 6:92(2) Dutch Civil Code does not apply.**

## **7. | Delivery and Term of Delivery**

- 7.1** Deliveries are carried out ex manufacturer's works, ex place of business of the contracting partner of TDA, or directly ex place of business of TDA itself, either at Lijnden, The Netherlands, Miami, United States of America, or Slinfold, United Kingdom (EXW, Incoterms 2020), unless otherwise agreed in the Agreement.
- 7.2** Any terms or dates of delivery quoted by TDA for the delivery of Product are considered non-binding and indicative only, unless a fixed term or a fixed date has been explicitly agreed in writing. If shipment has been agreed, then the term of delivery and dates of delivery refer to the time of handover to the transport company, freight forwarder, or any other third party charged with the transport.
- 7.3** TDA is entitled, without prejudice to the rights resulting from defaulting of the Customer, to extend the term of delivery and service dates, or delay or postpone the delivery and service dates by the necessary amount of time, or to terminate or cancel the Agreement if the Customer: (i) exceeds the time of payment in relation to any Agreement between the Parties, suspends payment; ii) fails to comply with their contractual obligations towards TDA; and/or (iii) goes bankrupt, enters into liquidation, or through other acts or omissions, gives justified cause for concern as to their liquidity.
- 7.4** TDA is not liable for the impossibility of delivery or for delivery delays resulting from any event, including force majeure or other unforeseeable events beyond TDA's control at the time of conclusion of the Agreement (including but not limited to disruptions of operations, difficulties in procuring material or energy, delays in transport, strikes, legal lockouts, lack of energy or raw material, difficulties in procuring necessary permissions by government authorities, actions taken by government authorities, lack of, incorrect or delayed delivery by suppliers). If such events make delivery or rendering a service more difficult or impossible for TDA and the obstruction is not temporary, TDA is entitled to cancel the Agreement. If the obstructions are temporary, any terms of delivery or service are extended or postponed by the duration of the obstruction plus

an adequate restart time. A delay does not entitle the Customer to terminate, cancel, or refuse to accept a delivery, Order, or the Agreement, unless otherwise agreed by TDA. However, if the delivery is delayed more than one (1) month since the agreed date, the Customer may have the right to cancel the Order.

- 7.5** TDA is entitled to partial deliveries if: a. The Customer can use the partial delivery within the limits of the designated purpose agreed in the Agreement; b. The delivery of the remaining part of the ordered Product is ensured; and/or c. The partial delivery does not incur substantial additional work or expenditures for the Customer (unless TDA accepts such expenditures).
- 7.6** TDA is entitled to partial deliveries if: a. The Customer can use the partial delivery within the limits of the designated purpose agreed in the Agreement; b. The delivery of the remaining part of the ordered Product is ensured; and/or c. The partial delivery does not incur substantial additional work or expenditures for the Customer (unless TDA accepts such expenditures).
- 7.7** If TDA is in default with a delivery of Product or if it becomes impossible for TDA to deliver the Product, TDA's liability for indemnification is limited by the provisions of Articles 10 and 12 of this T & C, irrespective of the reason.

## **8. | Passing of Risk, Shipment, Packaging, and Acceptance**

- 8.1** The risk, including the risks of loss or damage to the Product, passes to the Customer at the point of handover of the Product for transport. This applies even if the Customer has charged TDA with the transport. It also applies in the event of partial deliveries or if TDA has agreed to accept other services (e.g., shipment). If the shipment or handover of the Product is delayed due to reasons under the control of the Customer, the risk passes to the Customer on the day the Product is ready for shipment and TDA has notified the Customer accordingly.
- 8.2.** The shipping method and packaging are at TDA's discretion.
- 8.3** Storage costs after the passing of risk are borne by the Customer. If stored by TDA, the storage costs amount to 0.25% of the invoiced amount of the goods to be stored for each elapsed week. TDA is entitled to terminate, suspend, or cancel the Order if the Customer fails to take delivery or pick up the Product within two (2) weeks after the delivery date. If TDA terminates or cancels the Order accordingly, a 15% restocking fee applies to the Customer.
- 8.4** TDA insures the shipment against theft, breakage, transport, fire, and water damages or any other insurable risk only upon express written request by the Customer and at the Customer's expense.
- 8.5** If TDA requires the acceptance of the Product as a prerequisite for payment, the purchased Product is deemed accepted if: 1. TDA has notified the Customer accordingly by indicating the deemed acceptance and has requested the Customer to accept the Product; 2. A period of seven (7) Business Days has passed since the delivery, or the Customer has started to use the purchased Product (e.g., has put the delivered Product into operation); and/or 3. The Customer has not effected acceptance within this period for any reason other than a notification of a defect that renders the use of the purchased Product impossible or substantially compromises them. A potential return of the purchased goods is subject to TDA's written consent.

For the avoidance of doubt, if the Customer loses or damages Product while in their care, custody, or control, the Customer is responsible for such damage and it is not a reason to return the Product or cancel the Order.

## 9. | Ownership

- 9.1** The agreed retention of title secures all existing current and future accounts receivable by TDA against the Customer, resulting from the existing business relationship between both Parties.
- 9.2** The Product delivered to the Customer by TDA remains the property of TDA until full payment of all secured accounts receivable. The Product under retention of title is referred to as the Product subject to retention of title.
- 9.3** The Customer is entitled to process, install, or sell the Product subject to retention of title in a proper business transaction until an enforcement event (Article 9.7) occurs. Pledging or transferring by way of security of the Product is prohibited.
- 9.4** If the Product subject to retention of title is processed by the Customer, it is agreed that the processing is on behalf and on the account of TDA as the owner, and TDA acquires ownership or co-ownership (fractional ownership) of the newly created product in proportion to the value of the Product subject to retention of title compared to the value of the newly created product. If no such acquisition of ownership by TDA occurs, the Customer immediately transfers their future ownership rights or co-ownership rights of the newly created product to TDA by way of security. If the Product subject to retention of title is combined or inseparably mixed with other products to become a uniform product, and one of the other products is considered the main product, TDA transfers the co-ownership of the uniform product to the Customer in the proportion provided in this article if the main product is the property of TDA.
- 9.5** In the event of a resale of the Product subject to retention of title, the Customer immediately transfers the resulting accounts receivable against the purchasing party – or the co-ownership rights of TDA of the Product subject to retention of title in proportion to the co-ownership – to TDA by way of security. The same applies to any accounts receivable that replace the Product subject to retention of title or result otherwise with respect to the Product subject to retention of title, such as insurance claims or claims resulting from unauthorized acts in the event of loss or destruction. TDA revocably authorizes the Customer to collect any accounts receivable transferred to TDA on behalf of themselves on the account of TDA. TDA can revoke this authorization if an enforcement event occurs.
- 9.6** If a third party takes hold of the Product subject to retention of title, especially due to garnishment actions, the Customer must inform this party without delay of TDA's ownership rights. The Customer must also inform TDA to allow TDA to enforce its ownership rights. If the third party is unable to compensate TDA for the resulting judicial and extrajudicial costs, the Customer is liable to compensate TDA.
- 9.7** If TDA cancels the contract (enforcement event) due to the Customer violating the terms of the Agreement – particularly defaulting in payment – TDA is entitled to demand the return of the Product subject to retention of title from the Customer's possession or from the possession of a third party holding the Product on behalf of the Customer at the Customer's expense.
- 9.8** If the applicable law of the jurisdiction where the Product subject to retention of title is located does not permit retention of title but permits retaining similar rights to the delivered Product, TDA exercises these rights. The Customer commits to cooperate in completing any required formalities at the Customer's expense.

## 10. | Warranty

- 10.1** TDA grants the Customer a warranty equivalent to the warranties that TDA itself is granted by its contracting partners (e.g., usual manufacturer guarantee or repair guarantee).

- 10.2** The delivered Product must be inspected thoroughly by the Customer or, if delivered to a third party specified by the Customer, by that third party immediately after delivery without undue delay. The Product is deemed accepted if TDA does not receive a notification of defect in the way provided herein, pertaining to any obvious defect or any other defect that would have been recognized upon an immediate and thorough inspection of the Product, within three (3) Business Days after delivery of the Product by the Customer. The rejected Product must be returned to TDA carriage paid upon request by TDA. If the notification of defect is justified by TDA, TDA compensates the costs only for the route from the delivery location to TDA's location.
- 10.3** In the event of a defect in the quality of the delivered Product, which is justified by TDA, TDA is committed and entitled to rectify the defect or replace the Product at TDA's choice within a reasonable period of time. (TDA offers a standard 3 month warranty on all products.
- 10.4** If the defect is due to a fault on TDA's side, the Customer may claim indemnification based on the requirements provided in Article 12 of this T & C.
- 10.5** In the event of defects in parts of other manufacturers, which TDA may not rectify due to license rights or other actual reasons, TDA exercises its own warranty rights against the manufacturers and suppliers on behalf of the Customer or assigns the warranty rights to the Customer. Warranty claims for such defects against TDA exist only based on the other requirements and provisions of this T & C if the legal enforcement of the aforementioned claims against the manufacturer and supplier has been unsuccessful or is futile, for instance, due to insolvency. The statute of limitations of the respective warranty claims of the Customer against TDA is suspended for the duration of the lawsuit.
- 10.6** Warranty does not apply if the Customer modifies the delivered Product without authorization by TDA or allows a third party to modify them, thus rendering the rectification of the defect impossible or unreasonably more difficult. In any event, the additional costs of rectification of the defect incurred by these modifications are borne by the Customer.
- 10.7** If the delivery of used Product is agreed with the Customer, this Product is delivered under the exclusion of any type of warranty whatsoever.
- 10.8** The Products are sold by TDA on an 'as-is, where-is' basis, without any representations or warranties as to performance, merchantability, fitness for purpose, date recognition requirements, or intellectual property rights infringements or any other warranties whether expressed or implied, and TDA disclaims all further liability in respect of the Products whether based on contract, tort, or otherwise, as well as for visual and hidden defects.

## **11. | Approvals of Product, Examination, and Defect Notification**

- 11.1** Complaints about any material and noticeable lack of conformity must be registered without Undue delay and no later than three (3) Business Days after receipt.
- 11.2** Upon delivery, the Customer is obliged to carry out a thorough examination of the supplied Product. Defects that should or could reasonably have been detected during such examination do not entitle the Customer to advance a claim against TDA.
- 11.3** The Customer loses the right to make any claim in respect of defects in the supplied Product if they do not give timely written notification of the defect to TDA, specifying the nature of the defect immediately after discovering it or when it should have been discovered.
- 11.4** Defects in the supplied Product do not entitle the Customer to terminate or cancel the contract wholly or in



part, provided that (i) TDA sends goods in replacement of the defective Product; or (ii) repairs the defective part; or (iii) refunds an amount equal to the amount paid for the part; or (iv) reduces the purchasing price as agreed by the Parties, within a reasonable period of time, and without any penalty and liquidated damages to TDA.

- 11.5** In the presence of minor deficiencies that do not prohibit the Product's use, it is deemed that The Product meets the required quality standards. The Customer may reject acceptance only if the deficiencies are deemed material and prohibit the Product from being used.
- 11.6** The Customer acknowledges that some Products constitute new, used, or refurbished and/or reconditioned aircraft parts and components from regulated origins. TDA does not assume any obligation and disclaims all responsibility and liability regarding the compliance of such Products with any applicable expiration dates, specifications, regulations, directives, and/or laws concerning airworthiness, allowed use, or otherwise. The Customer agrees to solely accept the responsibility to evaluate the Product regarding its suitability for use and to ensure compliance with any and all applicable specifications, regulations, laws, and requirements of any and all regulatory and advisory bodies before purchasing the Product. Considering the foregoing, the Customer specifically acknowledges that the Product may have defects in whatever shape or form, including with regard to integrity, reliability, and sound condition, and agrees to purchase the Product nonetheless in their current state.

## **12** | Liability

- 12.1** TDA's liability for indemnification, irrespective of the legal basis, particularly for impossibility, default, delivery of defective goods or wrong delivery, breach of contract, breach of duties in contract negotiations, and unauthorized actions, subject to factual fault, is limited by the provisions of this article.
- 12.2** TDA is not liable for any damages, costs, and defects arising out of the sale of the Product other than those provided in this Agreement.
- 12.3** TDA is not liable to the Customer for any incidental, consequential, special, indirect, or exemplary damages arising from or in connection with the Agreement, including but not limited to lost profits or costs of cover, loss of use, product recall costs, or business interruption.
- 12.4** TDA's cumulative liability in connection with or arising out of the Agreement, however caused and whether arising under statutory law, contract, negligence, duty to undo, or any other theory of liability, will in no event exceed the sum of the purchase price paid by the Customer to TDA for the batch of the Product in respect of which such liability arises.
- 12.5** The aforementioned exclusions and limitations to liability also apply for the benefit of TDA's executive organs, legal representatives, employees, and other vicarious agents.
- 12.6** In so far as TDA provides technical information or gives advice, and this information or advice is not owed as part of the scope of services as agreed in the contract, it is provided free of charge and exclusive of any liability.
- 12.7** The limitations of liability set forth in this article apply to the maximum extent permitted under applicable law and regulations. Nothing in the Agreement will limit either Party's liability in a manner that would be unenforceable or void as against public policy in the relevant jurisdiction.



## 13 | Compliance with Export Control and Trade Sanctions Rules

- 13.1** Customer hereby acknowledges and agrees that the Products and related technical data ('Data') may be subject to applicable export control and trade sanction laws, regulations, rules and licences, including without limit Council Regulation (EC) No. 428/2009, the U.S. Export Administration Regulations, the U.S. International Traffic in Arms Regulations, any legislation replacing the foregoing and any orders issued under the foregoing ('Export Control and Trade Sanctions Rules').
- 13.2** Customer shall comply with the Export Control and Trade Sanctions Rules and agrees that it alone is responsible for ensuring its compliance with Export Control and Trade Sanctions Rules. In particular:
- (a) Customer warrants that none of its personnel, directors, officers, shareholders or business partners are designated or sanctioned parties under Export Control and Trade Sanctions Rules. Customer will not use, sell, resell, export, re-export, transfer, divert, distribute, dispose of, disclose or otherwise deal with the Products and/or Data, directly or indirectly, to any companies, organizations, entities or individuals as designated under Export Control and Trade Sanctions Rules, including, but not limited to EU sanctions regulations, UN Security Council resolutions, US sanctions or other Export Control and Trade Sanctions Rules as are, amongst others, identified on the US OFAC SDN list (<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or EU consolidated designated party list ([http://eeas.europa.eu/cfsp/sanctions/consol-list\\_en.htm](http://eeas.europa.eu/cfsp/sanctions/consol-list_en.htm)) or other lists as established under Export Control and Trade Sanctions Rules, as such lists may be updated from time to time, nor to any country or destination designated or sanctioned under Export Control and Trade Sanctions Rules.
  - (b) Customer will not, and will procure that none of its Affiliates or Subcontractors will, use, sell, resell, export, re-export, transfer, divert, distribute, dispose of, disclose or otherwise deal with the Products and/or Data, directly or indirectly, to any country, destination or person without first obtaining any required export license or other governmental approval and completing such formalities as may be required by Export Control and Trade Sanctions Rules.
  - (c) Where, under the Export Control and Trade Sanctions Rules, TDA is required by any governmental authority to impose obligations on Customer, Customer shall comply with such obligations.
- 13.3** Both parties shall obtain all necessary authorizations and licenses as may be required by it under Export Control and Trade Sanctions Rules for the export of the Products and/or Data to customer. Notwithstanding the foregoing, Customer expressly acknowledges that TDA's obligation to furnish Products and/ or Data hereunder is subject to the ability of TDA to supply such items consistent with Export Control and Trade Sanctions Rules. TDA reserves the right to refuse to enter into or to perform any order, and to cancel any order placed under this Agreement if TDA in its sole discretion determines that the entry into such order or the performance of the transaction to which such order relates would violate any Export Control and Trade Sanctions Rules to which it is subject. TDA shall be excused from performance, and not be liable for damages or costs of any kind, including but not limited to penalties, for late delivery, for failure to deliver or delay in delivering the Products and/or Data resulting from an authority's denial, withdrawal or delay in granting such authorizations or licenses.
- 13.4** Customer shall obtain and provide to TDA in a timely manner end-user, end-use and other documentation, certifications and information as may be requested by TDA in support of TDA's applications to the appropriate authorities in connection with the export and/or sale of the Products and/or Data to Customer. If TDA has reason to believe that Customer has misrepresented or failed properly to disclose any material fact, including without limitation the intended end-use/end-user or destination of the Products, TDA may terminate the Agreement immediately in writing and discontinue all performance hereunder with no further obligation to the Customer.

- 13.5** Customer shall not do anything which would cause TDA to be in breach of the Export Control and Trade Sanctions Rules and shall protect, indemnify and hold harmless TDA from any fines, damages, costs, losses, liabilities, fees and penalties incurred by TDA as a result of the errors, mistakes, failures or omissions of Customer to comply with this Clause.
- 13.6** In its contracts with any third party pertaining to the Products, Data and/or any products derived therefrom, Customer agrees to impose on such third party the same obligations and requirements imposed on it by TDA in this Clause.
- 13.7** Failure by Customer to comply with any part of this Clause shall constitute a material breach of the Agreement. Customer's obligations under this Clause shall survive termination of this Agreement for any reason whatsoever.

## **14 | Customer's Representations and Warranties**

- 14.1** The Customer shall at all times comply with all applicable laws, rules, regulations, and Statutory requirements that from time to time come into force that relate to competition, anti-corruption and bribery, Sanctions, and export controls.
- 14.2** The Customer represents and warrants that it has obtained the necessary authorization required to enter into and execute the Agreement and has taken all actions necessary to execute, deliver, exercise their rights, and perform their obligations under the Agreement.
- 14.3** The Customer represents and warrants that neither it nor any of its affiliates, shareholders, beneficial owners, officers, directors, employees, agents, (sub)contractors, or any other party controlling it or acting for or on its behalf, is a Restricted Person, is affiliated with a Restricted Person, or is acting for or on behalf of a Restricted Person.
- 14.4** The Customer represents and warrants that on the effective date of the Agreement, there are no disputes, lawsuits, bankruptcy submissions, or ongoing claims that could materially affect the ability of each Party to carry out their obligations under the Agreement and/or affect the validity of the Agreement.

## **15 | Remedies**

- 15.1** Notwithstanding other provisions of this T & C, in the event of default or non-compliance of the Agreement by the Customer, TDA is entitled to, without prejudice to its other rights and remedies and without being liable for any compensation, by giving the Customer written notification taking immediate effect: a. Terminate the Agreement, either partially or entirely; b. Cancel or suspend further deliveries; c. Take repossession of any delivered Product which has not been paid for; and/or d. Demand compensation for the damages and costs incurred.
- 15.2** In the event of default by the Customer, all indebtedness of the Customer to TDA becomes due and payable and must be paid immediately.

## 16 | Force Majeure

- 16.1** A party shall not be in breach of this Agreement in respect of, or liable for, any failure or delay in performance of its obligations under this agreement arising from, or attributable to acts, events, omissions that cannot within reason be attributed to the breaching party ("Force Majeure Event"), including, without limitation, any of the following events: fire, flood, earthquake, windstorm or other natural disaster; war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; terrorist attack, civil war, civil commotion or riots; nuclear, chemical or biological contamination; explosion or accidental damage; loss at sea; adverse weather conditions; collapse of building structures, failure of plant machinery, machinery, computers or vehicles; any labor dispute, including strikes, industrial action or lockouts; non-performance by suppliers or subcontractors; and interruption or failure of utility service, including but not limited to electric power, gas or water.
- 16.2** In the event that a delay is caused by a Force Majeure Event, the delivery dates of the Products shall be extended accordingly for a period at least equal to the duration of the Force Majeure Event. In no event shall TDA be liable for any special, incidental or consequential damages as a result of a Force Majeure Event.

## 17 | Other Provisions

- 17.1** The Agreement language is English.
- 17.2** This agreement is governed by the laws of the Netherlands, notwithstanding its conflicts of law provisions. The Vienna Convention on the International Sale of Goods 1980 (CISG), is not applicable. Any dispute or claim that arises out of or in connection with this agreement, tort or otherwise will be exclusively settled by the competent court of Amsterdam (the Netherlands).
- 17.3** The Agreement (including these T & C, the Order, and other related documents) and any information related thereto are confidential and must not be disclosed to any third party unless otherwise agreed between the Parties or required by applicable laws.
- 17.4** Neither Party may assign or transfer any of its rights or obligations under the Agreement without the prior written consent of the other Party, except that TDA may assign or transfer any or all of its obligations under the Agreement to any affiliated company.
- 17.5** If any provision of this T & C or the Agreement is determined to be invalid or unenforceable under applicable law, such provisions are amended by the Parties to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions of the Agreement continue in full force and effect.
- 17.6** Any waiver of, failure, or delay in the exercise of rights or remedies under this Agreement does not operate to waive or impair such rights or remedies, or be construed to require future or further waivers.
- 17.7** The provisions of the Agreement may not be modified or amended, except by a written instrument duly executed by each Party.
- 17.8** TDA may change these T & C from time to time at its sole discretion without prior notice to the Customer. However, TDA shall announce amendments by publishing the revised version on TDA's official site. Revised T & C, or any part thereof, are deemed effective and applicable from the moment they are published and made available for review, except when such amendments provide otherwise. Changes do not affect Orders executed in accordance with the version of the T&Cs in force on the day of signing the respective Order by both Parties.