1. DEFINITIONS

1.1. In these General Terms of Sale ("General Terms") and in the accompanying Bid or Proposal, "Customer" shall mean the person or entity ([where the context permits the singular shall include the plural and vice versa]).

1.2. "Customer" shall mean any entity controlling, controlled by or under common control with a Party, where "control" means an entity that owns at least 50% of the voting power of the entity being controlled or has the right to vote by proxy or otherwise.

1.3. "TESAT" means TESAT-Spacecom GmbH & Co.KG.

1.4. "CFR" or "Customer-Furnished Items" shall mean all necessary information, drawings, details, sketches, charts, brochures, and other documents and services that TESAT may reasonably require from the Customer so as to permit TESAT to fulfill without interruption the obligations under the Contract.

1.5. "Contract" shall mean the agreement between TESAT and the Customer for the sale and sale of the Works pursuant to Clause 4, comprising:
   (i) TESAT's Proposal, including documents, if any, incorporated by express reference and the acceptance thereof by the Customer in accordance with Clause 4.1; or
   (ii) the order by the Customer and TESAT's acceptance thereof in accordance with Clause 4.2.

1.6. "Customer" shall mean the company, public authority or organization to which the Works are sold.

1.7. "Day" shall mean calendar day.

1.8. "Deliverables" shall mean all goods, materials, supplies, equipment, products, hardware or data system software (if not declared as Services).

1.9. "Design" shall mean a factory acceptance test in accordance with the test procedures and acceptance criteria agreed in the Contract or, in case of any such specific test procedures and acceptance criteria, the TESAT quality test procedures with regard to a factory acceptance test.

1.10. "Intellectual Property Rights" or "IPR" shall mean patents, trademarks, designs, trade names, service marks, copyrights, (including rights in computer software in object and source code), rights to and in data bases and database entries, rights in drawings, models, plans, technical specifications and other documents of any kind, and any other intellectual property rights, in each case whether registered or unregistered.

1.11. "Party" or "Parties" shall mean Customer and/or TESAT as the case may require.

1.12. "Proposal" shall mean the written offer by TESAT to the Customer:
   (i) is either marked as binding or non-binding;
   (ii) includes all documents incorporated by express reference, and
   (iii) details the price, scope, quantities, specifications and delivery periods for the Works or other relevant information.

1.13. "Services" shall mean all training, maintenance, integrated logistic support, program management, engineering, installation, commissioning and other services.

1.14. "Works" shall include without limitation all Deliverables and any other goods or services ancillary to the sales of goods that are ordered by TESAT in the Proposal and furnished to the Customer in performance of and pursuant to the ensuing Contract.

2. SCOPE OF APPLICABILITY AND GENERAL OBLIGATIONS OF EACH PARTY

2.1. These General Terms form an integral part of the Proposal and terms and conditions of sale and supply of Works by TESAT, unless otherwise agreed by TESAT in writing.

2.2. In case of a Contract formation pursuant to Clause 4, TESAT shall not be bound by any terms and conditions of sale or supply that are attached to offers or orders placed by the Customer for the Works in accordance with the terms and conditions set forth herein.

2.3. It is expressly understood and agreed that TESAT may use subcontractors and/or suppliers for the performance of its obligations under the Contract at its own discretion.

3. SCOPE OF WORK

3.1. The scope, quantities, specifications and delivery period of the Works shall be as agreed between the Parties in the Proposal confirmation. Any change thereof is subject to TESAT's written consent and may in particular have an impact on prices and delivery schedule. In the absence of any specific requirement, the Works shall adhere to the specifications generally applicable to similar goods or services.

3.2. Any documentation including marketing material provided by TESAT to the Customer prior to the conclusion of the Contract, including drawings, sketches, brochures, specifications, weight or measurements, calculations, etc. are not deemed part of the Contract, unless specifically referred to in the Contract.

3.3. Unless otherwise agreed, all modifications, additions, variations or modifications and/or new versions meet the requirements of the Contract.

4. FORMATION OF CONTRACT

4.1. An order placed by the Customer based on a non-binding Proposal (an invitation to offer) or an order placed by the Customer based on a Proposal explicitly marked by TESAT as binding, shall constitute a binding offer, which TESAT is free to accept or reject within ten (10) calendar days from the date of receipt of the written offer.

4.2. An order placed by the Customer based on a non-binding Proposal or any conflicting or additional, disclaiming terms in Customer's order of purchase (if any, incorporated by express reference and the acceptance thereof by the Customer in accordance with Clause 4.1; or (ii) the order by the Customer and TESAT's acceptance thereof in accordance with Clause 4.2 shall not become effective, unless either agreed by both Parties in writing or
   (a) the order is repeated, varied or suspended by the Customer with the agreement in writing of TESAT and on terms that the Customer shall indemnify TESAT in full against all losses (including loss of profit), costs, damages, charges and expenses incurred by TESAT as a result of such cancellation, variation or suspension.

5. PRICING AND PAYMENT

5.1. All prices are expressed and all payments for the Works shall be made in Euros (EUR).

5.2. Any reference to an amount or an amount added to or included in any amount by way of taxes or duties, shall mean the amount plus any taxes or duties levied or charged on the amount in compliance with the applicable law.

5.3. Any and all income tax, withholding tax, and any other taxes or duties that are levied or charged on the amount shall be charged to and paid by the Customer to TESAT in addition to the agreed net prices. In the event that the Customer has failed to assess any such taxes, the Customer shall remit these taxes to the fiscal authorities without deduction of the agreed net prices.

5.4. Payment for the Works shall be made as follows:
   (a) 30% of the total Contract Price as advance payment within 15 (fifteen) Days as of the date of receipt of either: the written acceptance of the Proposal in accordance with Clause 4.1 or the order confirmed in accordance with Clause 4.2, above;
   (b) 20% of the total Contract Price pro rata after successful completion of the respective Deliverable;
   (c) 50% of the total Contract Price pro rata upon delivery of the respective Works (delivery of Deliverables or performance of Services).

5.5. All payments shall be made in bank transfer and shall be made within thirty (30) Days from receipt of the corresponding invoice.

5.6. In the event of any delay in payments, the Customer shall pay interest on the amount delayed at the rate of five percent (5%) per annum as of the date delayed from the due date to the date of actual payment, calculated on the basis of a 365-day year, or
   (b) the maximum rate allowed by applicable law.

5.7. In the event of any delay in payments, the Customer shall pay interest on the amount delayed at the rate of either (a) Euribor (3 months) + ten percent (10%) per annum for each day elapsed from the due date to the date of actual payment, calculated on the basis of a 365-day year, or
   (b) the maximum rate allowed by applicable law.

6. DELIVERY TERMS, RISK AND TITLE

6.1. All supply of Deliverables shall be effected Free Carrier (Deliverers) Backnang (Incoterm 2010). Risk of loss and damage in the Deliverables shall pass to the Customer in accordance with the above stated Incoterm. The Customer shall take delivery of all Deliverables at the Factory of TESAT and the freight or packing charges shall be charged separately. Any transport damages are at the expense of TESAT and the shipper company in writing immediately upon receipt of delivery at the agreed place.

6.2. In the event that the Customer delays or fails to claim the delivery, the delivery shall be postponed beyond the agreed delivery date and TESAT shall have the right to charge the Customer the cost of additional costs beginning with the agreed delivery date or, in the event of storage in the TESAT factory, an amount equal to 0.3% of the total Contract price for each additional week commenced for such storage. The Customer is free to prove that TESAT has incurred lesser costs as a result of the storage.

6.3. Subject to the exception stated in Clause 15 below, the title in the Deliverables shall pass to the Customer upon full payment of the Contract price. The Customer is not entitled to lien the Deliverables or transfer title therein for purposes of security. If a third party nevertheless acquires any rights into the Deliverables, the Customer already now assigns any and all rights in and to the Deliverables residing therein to TESAT. The Customer is obligated to immediately notify TESAT if in relation to the Works a lien, an attachment or other disposition is made by a third party.

7. DELIVERY SCHEDULE AND DELAYS

7.1. The Parties shall agree on the overall delivery schedule in the Contract, indicating the relevant time periods and dates for the delivery, installation, testing and rendering of the Works. In the absence of such express agreement, TESAT shall perform the Works within the period stated in the Proposal.

7.2. In the event that a delivery date is explicitly agreed and the Delivery of Works is delayed for 30 (thirty) Days from such agreed delivery date, the Customer shall have the right to claim liquidated damages for delay at the maximum rate of 0.5% (point five percent) of the contracted price for the delayed Works for each full week of delay, up to a total and aggregate maximum of 5 % (five percent) of the contract price. The Parties agree to the aforementioned liquidated damages not constitute a penalty and are genuine and good faith punitive damages.

7.3. The Parties agree that the aforementioned liquidated damages do not constitute a penalty and are genuine and good faith punitive damages. The Customer shall have the right to claim liquidated damages for delay at the maximum rate of 0.5% (point five percent) of the contracted price for the delayed Works for each full week of delay, up to a total and aggregate maximum of 5 % (five percent) of the contract price.

8. ACCEPTANCE AND INSPECTION

8.1. Where Deliverables are supplied to the Customer and no other inspection, installation, erection or commissioning is contracted:
   (a) The Customer is obliged to inspect the Deliverables and shall notify TESAT within one (1) week after receipt of the Deliverables if there are any defects to it. Such notification of defects shall be accompanied with relevant supporting evidence.
   (b) If TESAT is not notified of defects within one (1) week after receipt of the Deliverables, the Deliverables shall be deemed to have been accepted by the Customer.
   (c) If the Deliverables are non-conforming within the acceptance criteria, all failures and discrepancies identified during the acceptance process shall be immediately reported in writing by the Customer to TESAT.

8.2. The Deliverables and the associated Services shall be deemed to be accepted by the Customer if:
   (i) the Deliverables are put to use by the Customer for commercial or other purposes other than testing; or
   (ii) the Customer fails to accept the Deliverables within such two (2) weeks period without providing any written reasons or specific details of such rejection.

9. LIMITATION OF LIABILITY

9.1. Prior to DRB and delivery, the Parties shall agree on specific criteria and procedures for the Deliverables acceptance.

9.2. The Customer shall not be entitled to withhold acceptance for:
   (a) minor deviations or deficiencies which do not materially affect the functioning of the Deliverables;
   (b) defective installation or erection not carried out by TESAT and/or its subcontractor; or
   (c) failure to comply with the reasonable control of TESAT.

9.3. In case of not passing an acceptance test, only the failed test criteria shall be subject to correction.

9.4. Any costs and expenses related to the inspection and/or acceptance of the Deliverables shall be borne by the Customer.
9. WARRANTY

9.1. TESAT warrants that it will perform the Services where required in accordance with the Contract and that the Deliverables shall correspond with their contractually agreed specification at the time of delivery and will be free from defects in material and workmanship for a period of one (1) year following their delivery ("Warranty Period"). The warranty period shall begin on the date of delivery of the Deliverables ("Contract Date").

9.2. Any Deliverables being replaced or repaired under warranty shall remain subject to the full original Warranty Period.

9.3. Any warranty obligation of TESAT shall lapse in case:

(a) of any defect in the Deliverables arising from any drawing, design or specification supplied by the Customer;

(b) of use of the Deliverables by the Customer before acceptance of the Deliverables; or

(c) of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow TESAT’s instructions (whether and/or in writing, misuse or alteration or removal of the Deliverables without TESAT's approval or impror or inadequate maintenance by the Customer); or

(d) if the Deliverables consist of software: for non-obligatory software errors.

9.4. In the event of a defect in the warranty obligations specified in Clause 9.1 above, all other warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

9.5. TESAT shall be entitled to remedy defects in the Deliverables in a timely manner. Where there is a force majeure event, TESAT shall be entitled to an extension of the contractually agreed delivery due dates. Consequently, if the defects cause any unforeseen event beyond the reasonable control of TESAT and not occasioned by fault or negligence of TESAT, such as, but not limited to, any governmental act (including non-obtaining, refusal or withdrawal of an export license), war (including acts of terrorism and warlike acts), even if in a formal state of war has been declared, civil or military uprising, sabotage, fire, floods, droughts, monsoon, natural calamities, epidemics, pandemics, quarantine restrictions and embargoes, disturbance in supplies from normally reliable sources (including, but not limited to electricity, water, fuel and the like), TESA shall not be held responsible for any delays in delivery or performance of its contractual obligations.

10. FORCE MAJEURE

10.1. TESAT shall not be liable to the Customer or deemed to be in breach of any of its obligations under the Contract, nor be able to perform any of its obligations in relation to the Works, if the delay or failure was due to force majeure. For the purposes of this Clause, "Force Majeure" means any unforeseen event beyond the reasonable control of TESAT and not occasioned by fault or negligence of TESAT, such as, but not limited to, any governmental act (including non-obtaining, refusal or withdrawal of an export license), war (including acts of terrorism and warlike acts), even if in a formal state of war has been declared, civil or military uprising, sabotage, fire, floods, droughts, monsoon, natural calamities, epidemics, pandemics, quarantine restrictions and embargoes, disturbance in supplies from normally reliable sources (including, but not limited to electricity, water, fuel and the like), TESA shall not be held responsible for any delays in delivery or performance of its contractual obligations.

11. LIABILITY

11.1. Notwithstanding anything to the contrary in the Contract and except to the extent required by law, the total liability of TESAT in respect of all losses, costs, damages and expenses suffered by or arising out of the provision of the Works, in each case, shall not exceed the respective amount of the contract price charged for the Works.

11.2. TESAT shall not be liable to the Customer for any indirect, consequential, punitive or special damages or losses, including (without limitation) loss of profit, loss of business, loss of business opportunity, loss of savings or damage arising from or in connection with its performance or non-performance under the Contract and whether based upon tort, contract, or any other legal theory.

11.3. The limitations and exclusions of liability pursuant to this section shall not apply in cases of gross negligence or willful misconduct, and if and to the extent such liabilities are determined by law (such as the Product Liability Act) or as a result of a guarantee providing for liability regardless of negligence or fault.

12. EXPORT CONTROLS

12.1. An act of Government or any public authority which has a direct and material adverse effect on the Works may not be supplied, e.g., non-license, restriction and/or revocation of export, import or other required licenses, permits, or authorizations, export or import regulations or authorizations, or restrictions on participation in contracts or performances in accordance with the Contract or TESAT shall not be liable in this regard even if the Works are not the subject of any contract. Where such an act occurs for more than one hundred eighty (180) Days, TESAT shall not be liable in accordance with the Contract. In such a case, TESAT shall make every effort to deliver the Works in accordance with the agreed contract price, costs of capital, cost of replacement, loss of reputation, loss of information or data, loss from any third party contract, loss due to third party business interruption, loss or consequential losses or damages arising from or in connection with its performance or non-performance under the Contract and whether based upon tort, contract, or any other legal theory.

13. PROPRIETARY RIGHTS

13.1. TESAT shall provide the Customer with all information reasonably required, any other expenditure reasonably incurred in the expectation of completing the Works as well as the reasonable costs for removal of TESAT’s equipment and demobilization of personnel.

14. CONFIDENTIALITY

14.1. TESAT shall keep in confidence all material and information received from the other Party, and marked as confidential or which should be understood to be confidential, and shall not disclose any such material or information to any third party without first obtaining written consent of the disclosing Party, through written consent, and shall not disclose such material or information to any third party, whether or not specifically listed in the Proposal or the ensuing Contract, without the prior written permission of the disclosing Party. Each Party will use reasonable efforts to ensure that its personnel and Affiliates for any act or omission, whether in connection with the Project or: (i) is rightfully obtained by the receiving Party from a third party, without any obligation of confidentiality; or (ii) is rightfully obtained by the receiving Party without access to or use of the confidential information; or

14.2. any Defective deliverables that are in part or in whole the fault of the Customer or any of its employees or agents or (iii) is rightfully obtained by the receiving Party with the prior written approval of the disclosing Party.

15. INTELLECTUAL PROPERTY RIGHTS

15.1. TESAT shall provide the Customer with all information reasonably required, any other expenditure reasonably incurred in the expectation of completing the Works as well as the reasonable costs for removal of TESAT’s equipment and demobilization of personnel.

16. GENERAL TERMS OF SALE (EXPORT)
GENERAL TERMS OF SALE (EXPORT)

16. ENVIRONMENT, HEALTH AND SAFETY
Customer assumes full responsibility and cost for the health and safety of the Works operations, including maintenance of equipment and sites, and for the proper removal, control, collection, recycling, and disposal according to sound environmental principles in accordance with the applicable laws.

17. TERMINATION IN CASE OF DEFAULT
In the event that a Party is in default of a material obligation under the Contract (delivery, payment, or to remedy (or, as applicable, to take sufficient action to remedy) such default within a reasonable time fixed by the non-defaulting Party (which period shall not be less than 60 days and 30 days from the date of written notice drawing the attention of the defaulting Party to the default and requiring the same to be remedied), then the non-defaulting Party shall have the right to terminate the respective Contract within 60 days of the expiry of the period stipulated, provided that the period during which the defaulting Party shall have the right to cure such a default shall be extended as long as the defaulting Party is diligently and promptly taking actions to cure such a default. In the event of bankruptcy, receivership or comparable procedure under applicable law of a Party hereof or in case the default is not capable of being remedied, then the non-defaulting Party may terminate the Contract forthwith. Termination shall apply to such part of the Contract which remains unperformed, unless it would be manifestly unreasonable to require the terminating Party to retain the part performed by the defaulting Party.

18. APPLICABLE LAW AND DISPUTE RESOLUTION
18.1. The Contract including this dispute resolution clause shall be governed by and construed in accordance with the laws of Switzerland with the exception of its conflict of law provisions. The Parties expressly exclude the application of the International Sales of Goods Act (the “CISG”).
18.2. Any dispute out of or in connection with the Contract (including its existence, validity, interpretation, performance, breach or termination) that the Parties cannot settle amicably within thirty (30) Days from the date of written notice of the dispute from either of them to the other shall be exclusively referred to binding arbitration under the Rules of Arbitration of the International Chamber of Commerce (the “Rules”) in effect on the date of this Contract, by one (1) or more arbitrator(s) appointed in accordance with said Rules. Where the International Court of Arbitration of the International Chamber of Commerce (the “ICC Court”) determines that three arbitrators shall be appointed, the two party-appointed arbitrators shall jointly nominate a Chairman within fifteen (15) Days of their appointment by the ICC Court. All proceedings shall be conducted in the English language. The place of the arbitration shall be Zurich, Switzerland, or such other location as the Parties may mutually agree. The award of the arbitral tribunal shall be final and binding on both Parties and both Parties waive the right to any appeal under any system of law, to the fullest extent possible. The award shall be enforceable before any court of competent jurisdiction upon the application to such court by either Party. Notwithstanding the foregoing, either Party may seek and obtain temporary injunctive relief from any court of competent jurisdiction against any breach by the other Party of its obligations under the Contract.

19. MISCELLANEOUS
19.1. Any notice to be served by either Party upon the other shall be deemed to have been duly given 2 (two) Days after being sent to the intended recipient at its last known address by pre-paid first class post or its last known number or email address one (1) Day after being sent by telex or by email.
19.2. If any provision in these terms shall be found or held to be void, the validity of the remaining provisions shall not be affected thereby. The replacing provision and any other required modification shall be subject to new negotiations between the Parties.
19.3. Neither Party shall assign or transfer to any third party, without the prior written consent of the other Party the Contract or any part thereof. Notwithstanding the foregoing, TESAT shall be entitled to transfer or assign this Contract in whole or in part to any of its Affiliates without the prior written consent of the Customer, or assign its receivables to a third party by notifying the Customer of the assignment in writing.
19.4. The relationship between TESAT and the Customer during the term hereof shall be solely that of vendor and vendor; the Customer, its agents, employees, representatives or affiliates shall under no circumstances be deemed agents or representatives of TESAT, and the Customer and said agents, employees, representatives or affiliates shall have no right to enter into any contracts or commitments in the name of or on behalf of TESAT or to bind TESAT in any respect whatsoever.
19.5. No waiver by TESAT of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provisions. If TESAT delays, forgives or does not enforce its rights under the Contract, it shall not affect its right to do so at a later stage.
19.6. The Proposal and all documents related thereto have been made in the English language. All technical documentation or manuals that may, if explicitly ordered, be part of the Works shall be in the English language. In case of translation into any other language, the English version shall prevail.
19.7. The Contract is the entire agreement between the Parties and may not be changed unless mutually agreed by the Parties in writing. The Contract shall supersede any other express or implied, written or oral terms, arrangements, customs or practices.

TESAT-Spacecom GmbH & Co. KG
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Registered Office: Backnang/Germany; Registration Court: Amtsgericht Stuttgart HRB 270977
General Partner: Tesat-Spacecom Geschäftsführungs-GmbH; Registered Office: Backnang/Germany;
Registration Court: Amtsgericht Stuttgart HRB 271658; Executive Board: Dr. Marc Steckling, Kerstin Basche, Ralf Zimmermann