

# TITAN COMMUNICATION SYSTEMS

## General Terms and Conditions of Sale

(Vers. September 2013)

### Scope of Applicability

1.1 These General Terms and Conditions of Sale ("GTCS") apply to all delivery and sales of products and software (hereinafter "Products") produced or supplied by Titan Communication Systems ApS (hereinafter "Titan" or "Us") notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other communication from customer (hereinafter "Customer" or "You"). No such conflicting, contrary or additional terms and conditions shall be deemed accepted by Titan unless and until Titan expressly confirms our acceptance in writing.

1.2 Titan reserves the right to change these GTCS at any time. Titan will give You Thirty (30) calendar days' notice of any changes by posting notice on our website.

### Offers, Purchase Orders and Order Confirmations

2.1 All offers made by Titan are open for acceptance within Fifteen (15) calendar days from the date of issue, unless otherwise specifically stated therein, and are subject to the availability of the Products offered.

2.2 All purchase orders issued by You shall specify as a minimum the type and quantity of Products requested, applicable unit prices, delivery place and requested delivery dates. No purchase order shall be binding on Titan unless and until confirmed by Titan in writing.

2.3 Confirmed orders cannot be changed or cancelled unless Titan has expressly and in writing consented to such specific change or cancellation.

### Prices and Terms of Payment

3.1 The prices for Products shall be those set forth in our order confirmation. All prices are exclusive of taxes, impositions and other charges, including, but not limited to, sales, use, excise, value added and similar taxes or charges imposed by any government authority.

3.2 Payment for the Products must be received by Titan prior to the shipment of the Products (the provision of the software), or if agreed in writing, within the time period noted on the order confirmation, or if not noted within Thirty (30) days from the date of invoice.

3.3 You must submit such financial information from time to time as may be reasonably requested by Titan for the establishment or continuation of payment terms. Titan may in our sole discretion at any time change agreed payment terms without notice by requiring payment cash in advance or cash on delivery, bank guarantee, letter of credit or otherwise.

3.4 If You fail to pay any invoice within Seven (7) calendar days of the due date of payment, Titan may suspend delivery of any purchase order or any remaining balance thereof until payment is made or terminate delivery of any purchase order or any remaining balance thereof by providing written notice of termination to You within Seven (7) calendar days of the expiration of the grace period. Further, Titan may charge You interest from the due date to the date of payment at the rate of 1 ½ % per month above the Danish National Bank's base rate and calculated on a daily basis. This shall be in addition to, and not in limitation of, any other rights or remedies to which Titan are or may be entitled at law or in equity.

3.5 Title to Products delivered shall remain vested in Us and shall not pass to You until the Products have been paid for in full. If You fail to pay any invoice within Fourteen (14) calendar days of the due date of payment, Titan may retake the Products covered by the invoice. You must insure all Products delivered to their full replacement value until title to the Products has passed to You.

3.6 If the Products have been processed or finished by Customer, our retention of title shall extend to the new finished products. If the Products have been processed, combined or mixed by You with products of others, Titan acquire joint title pro rata to that part of the new products representing the invoiced value of our Products in relation to the total value of the other products which have been processed, combined or mixed.

3.7 In the event our Products are combined or mixed with finished products of You or of any third party, You hereby assigns to Us its rights with regard to such finished products. If You combine or mix our Products with finished products of a third party for a payment, You hereby assign to Us its right to payment from such third party.

3.8 You may, in the ordinary course of its business, resell any Products which are subject to our retention of title. If, upon such resale, You do not receive the full purchase price in advance or upon delivery of such Products, you shall agree with your customer a retention of title in accordance with these conditions. You hereby assign to Us all your claims arising from such resale and your rights arising from the said agreement for retention of title. When requested by Us, You shall advise your customer of such assignment of rights and provide Us with the information and documents necessary to enforce our rights. Notwithstanding the foregoing, You shall only be entitled to collect payments from claims arising from such resale if You have properly satisfied your liability to Us.

3.9 In the event that the security interests granted to Us exceed the value of our claims, Titan shall, when requested, release the security interests as Titan deem appropriate. In the exercise of our retention of title, a rescission of contract can only be made with our prior express written consent.

## Terms of Delivery

**4.1** Unless expressly stated otherwise in our order confirmation, all deliveries of Products shall be EXW in accordance with the most recent Incoterms. The risk of loss of or damage to Products shall pass to You in accordance with the agreed delivery term.

**4.2** The delivery dates of Products set forth in our order confirmation are indicative and non-binding. Titan shall not be liable for any loss (including loss of profits), charges, damages, costs, or other expenses caused directly or indirectly by any delay in delivery of the Products, nor will any delay entitle You to terminate or cancel our agreement.

**4.3** Titan reserves the right to make delivery in instalments.

## Acceptance of products

**5.1** You must inspect Products delivered upon receipt. You are deemed to have accepted Products delivered unless written notice of rejection specifying the reasons for rejection is received by Us within Five (5) calendar days after delivery of the Products. Thereafter, any claims will be handled within the scope of warranty.

## Warranty

**6.1** Titan warrants that upon delivery and for a period of Twelve (12) months from the date of delivery hardware products purchased hereunder will conform in all material respects to the applicable manufacturer's specifications for such products and will be free from material defects in workmanship, material and design under normal use.

**6.2** Titan hereby warrants that for a period of Ninety (90) days from the date of delivery the software will comply with a reasonable interpretation of its specification. Titan does not warrant that the operation of the software will be uninterrupted or error free.

**6.3** The warranty does not cover damage resulting from misuse, alterations, modifications and adjustments made to the Products, negligent handling, lack of reasonable maintenance and care, accident or abuse by anyone other than Us. All warranties, conditions and other terms implied by law are to the fullest extent permitted by law, excluded from this Agreement.

**6.4** With respect to Products which do not conform to the warranty our liability is limited, at our election, to (i) refund of the purchase price for such Products less a reasonable amount for usage, (ii) repair of such Products, or (iii) replacement of such Products; provided, however, that such Products must be returned to Us at your own expenses, along with acceptable evidence of purchase, within Fourteen (14) calendar days after You discovered the lack of conformity or ought to have discovered it.

**6.5** Titan makes no other warranty, express or implied, with respect to Products delivered hereunder, and the warranty constitutes our sole obligation in respect of any lack of conformity of Products delivered hereunder (except title). In particular, Titan makes no warranty with respect to the merchantability of Products delivered.

**6.6** Titan shall not be liable for any claims based on our compliance with Your designs, trademarks, specifications or instructions or repair, modification or alteration of any Products by parties other than Us, or use in combination with other products.

**6.6** Neither of us will be entitled to, and neither of us shall be liable for, indirect, special, incidental, consequential or punitive damages of any nature, including, but not limited to, business interruption costs, loss of profit, removal and/or reinstallation costs, procurement costs, loss of data, injury to reputation or loss of customers. Your recovery from Us for any claim shall not exceed the purchase price for the Products giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty or otherwise.

## Indemnity from You

**7.1** You will indemnify Titan from any third party claims, demands or causes of action resulting from: a) any alteration, modifications or adjustments made to the Products and software other by Titan, b) the incorporation, use and operation of the Products in connection with third party products (the combination of which causes the claimed infringement) c) Titans compliance with Your specifications or directions d) Your breach or alleged breach of the applicable export laws.

## Proprietary Rights

**8.1.**All Intellectual Property Rights (including Trademarks and logos) embodied in and related to the Products (including, without limitation, any ideas, concepts, know-how, documentation, and techniques associated with such products and software), shall belong solely and exclusively to Titan, its suppliers or its licensors.

## Software

**9.1** To the extent the scope of delivery includes software, and unless subject to a separate license agreement, Titan hereby grant You a non-exclusive, non-transferable license that is limited to a definite time period pursuant to the provisions of the particular delivery, to use the software and its accompanying documentation in connection with the relevant delivered item. The software may not be used in connection with more than one delivered item. The granting of sublicenses is not permitted. You may not reproduce, revise, translate or modify from object code to source code the software or otherwise. You may not remove manufacturer information -- in particular copyright labels or notices-- or make any other modifications without Titans prior written express consent. Titan reserves all other rights to the software and the accompanying documentation, including copies.

## **Intellectual Property Rights Infringement**

**10.1** If any Products delivered hereunder are held to infringe a third party's patent, utility model, design, trademark or other intellectual property right and You are enjoined from using same, Titan will, at our option and expense, (i) procure for You the right to continue using the Products; (b) replace the Products with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function; (c) modify the Products to make them non-infringing; or (d) refund the purchase price of the Products less a reasonable amount for usage. The foregoing states our sole liability for intellectual property rights infringement.

## **Product Liability**

**11.1** Injury to persons and damage to objects, provided the object in question by its nature is normally intended for non-business use and where such injury or damage is caused by a defect in Products sold by Titan, compensation shall be paid to the extent it can be documented that Titan is liable for such injury or damage cf. the applicable rules of Danish law on product liability at any given time.

**11.2** Titans liability for any claim, except for personal injury, shall not exceed the purchase price for the Products giving rise to such claim irrespective of the nature of the claim, whether in contract, tort, warranty or otherwise. Titan shall in no case be liable for indirect, incidental, consequential loss that results from product injury or damage including operating loss, time loss, loss of margin, loss of profit etc.

**11.3** With regard to injury or damage caused by a product in which Titan's Products are included as ancillary products, Titan shall not be liable if the injury or damage is caused by a defect in the finished product or instructions given by the manufacturer of the finished product, or if the quality management in subsequent links is not in accordance with good practice.

To the extent that Titan is held liable in regard to product liability towards a third party, You shall be obliged to indemnify Titan to the same extent as Titan's liability is restricted as stated in these terms and conditions, including injury and damage caused by Your faulty use or instructions regarding the Products. You shall be obliged to accept legal action in the same court that hears a compensation claim against Titan on account of a claim from third party.

If a third party advances a claim against You for compensation in accordance with this article, You shall immediately notify Titan accordingly.

## **Force Majeure**

**12.1** Either party shall be excused from any delay or failure in performance if caused by reason of any occurrence or contingency beyond its reasonable control, including, but not limited to, acts of God, acts of war, fire, insurrection, strikes, lock-outs or other serious labor disputes, riots, earthquakes, floods, explosions or other acts of nature. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the time period equal to the period of such excusable interruption.

When such events have abated, the parties' respective obligations shall resume. In the event the interruption of the excused party's obligations continues for a period in excess of Thirty (30) calendar days, either party shall have the right to terminate the applicable contract(s) of sale, without liability, upon Thirty (30) calendar days' prior written notice to the other party.

## **Compliance with laws:**

### **Data Privacy**

**13.1** To the extent Titan and You are data controllers for the purpose of any personal data processed under or in connection with this Agreement, each party shall comply with the provisions and obligations imposed by the Directive 95/46/EC and to the extent required by that legislation of each party. As data controller, each party confirm that they have obtained all necessary authorisations for lawful processing, prior to passing personal data to the other party. If any of the parties processes personal data as a data processor for the other party under or in connection with this Agreement, such party shall ensure appropriate protection is in place to safeguard such personal data.

### **WEEE Compliance**

**13.2** Both parties take responsibility for compliance with the Waste Electrical and Electronic Equipment Directive 2002/96/EC ("WEEE"), where applicable, including without limitation: reporting of equipment placed on the market, payment of ECO-fees to the appropriate authority where required and take back of Product at Titan provided collection facilities in accordance with WEEE as transposed in national legislation. Products deposited at collection facilities will be recycled by Titan in accordance with WEEE. Customer shall be responsible for returning Products at its cost to Titan's designated collection facilities as per Titan's WEEE recycling instructions.

### **Anti-bribery.**

**13.3** Both of us will maintain our own anti-bribery policies and adequate measures to comply with mandatory anti-bribery laws.

### **Export controls and compliance.**

**13.4** The Products may be subject to export control laws and the regulations of the EU, the United States or those of other countries from which they were supplied and in which they are used, and the delivery is therefore subject to the granting of the export authorisation and any applicable authorisation required. You agree to abide by these applicable laws and regulations.

### **Applicable laws, directives and certificates**

**13.5** You shall be solely responsible for the compliance with applicable laws, directives and regulations of countries in which You conduct business, and obtain all necessary permits, approvals and licenses, related to the purchase, marketing and sale of the Products by You.

## **Confidentiality**

**14.1** Each party must treat all Confidential Information received from the other party as it would treat its own confidential information generally, but with no less than a reasonable degree of care.

## **Miscellaneous**

**15.1** Notices given under these GTCS shall be in writing. Any changes to any agreements entered under these GTCS shall not be valid or binding unless it is in writing and agreed by both parties.

**15.2** Neither Party may assign or transfer the agreement entered under these GTCS without prior consent of the other party, except no consent is required by Titan to assign to its affiliated companies and Titan may subcontract its obligations under these GTCS.

**15.3** The United Nations Convention for the International Sale of Products shall not apply to these GTCS or to any contracts of sale entered into between us.

**15.4** No waiver of any provision of these GTCS shall constitute a waiver of any other provision(s) or of the same provision on another occasion. Failure of either party to enforce any provision of these GTCS shall not constitute a waiver of such provision or any other provision(s) of these GTCS.

**15.5** Should any provision of these GTCS be held by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision may be modified by such court in compliance with the law giving effect to the intent of the parties and enforced as modified. All other terms and conditions of these GTCS shall remain in full force and effect and shall be construed in accordance with the modified provision.

**15.6** These GTCS and all contracts of sale entered into between You and Titan shall be governed by and construed in accordance with the laws of Denmark without giving effect to any choice of law or conflict of law provisions. Any suits, actions or proceedings that may be instituted by either of us against the other shall be instituted exclusively before the competent courts of Copenhagen, Denmark, however, without prejudice to our right to bring suits, actions or proceedings in any other court which would have jurisdiction if this provision had not been incorporated into these GTCS.