

MBS Electronic Systems GmbH & Co. KG (the Company), submits all quotations and proposals and accepts all orders subject to the following conditions of contract which apply to all contracts for product supplied or work done by them or their employees to the exclusion of all other representations, conditions or warranties, expressed or implied. The buyer agrees to execute and return any license agreements as may be required by the Company in order to authorise the use of those licensable items.

Each order received by the Company will be deemed to form a separate contract to which these conditions apply and any waiver or any act of non-enforcement or variation of these terms, or part thereof, shall not bind or prejudice the Company in relation to any other contract. The Company reserves the right to i) refuse to accept orders at a price other than the price stated on the relevant quotation; ii) vary the specification or withdraw from offer any of its products without prior warning; iii) refuse to accept any contract that is deemed to be contrary to the Company's policies in force at the time.

Any typographical, clerical, or other accidental errors or omissions in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company shall be subject to correction without any liability on the part of the Company.

The application of these GTC may only be varied by agreement in writing between the buyer and the Company.

## DEFINITIONS

The following terms have been used:

FLS – field loadable software

Goods – items being procured from the Company

GTC – general terms and conditions

IPR – intellectual property rights

ITAR - The International Traffic in Arms Regulations (which controls the export and import of defence-related articles and services on the United States Munitions List (USML)).

## PRICING

All prices shown on quotations offered by the Company, are based upon the acceptance of these conditions and any additional conditions disclosed in the quotation. Any variation of these conditions requested by the buyer could result in changes in the offered pricing, or refusal to supply. All quoted prices are exclusive of any applicable taxes and delivery, but inclusive of packaging in accordance with Company's standard commercial packaging methods. Any special packing, or packaging requested by the buyer, shall be at buyer's sole expense. In addition to the invoiced value, the buyer is liable for all import duty or taxes as may be applicable in the buyer's location. If there is any documentation required for import formalities, whether or not for the purposes of duty assessment, the buyer shall make this clear at the time of order. Repair quotation costs are chargeable should the repairs not be performed. We reserve the right to charge a minimum handling fee of €200 for relevant transactions.

Annual fees may be subject to inflationary price increases at each renewal date.

## DELIVERY

All delivery times are to be treated as best estimates. For guidance, where items are not currently held on stock, standard estimated delivery time is 12-14 weeks. The Company shall deliver products using the courier service indicated by the buyer and at the buyer's cost,

for which account details must be supplied to the Company. If multiple shipments are requested by the buyer, multiple delivery charges will be incurred and separate invoices will be raised. The Company will not be liable for any

damages (liquidated or otherwise) re-procurement costs or lost profits, for any delivery delays.

## INSURANCE

All shipments from the Company must be insured by the buyer. If any goods received by the buyer are in an unsatisfactory condition, the following courses of action shall be taken:

- If the outer packaging is visibly damaged, then the goods should not be accepted from the courier, or they should be signed for only after noting that the packaging has sustained damage.
- If the products are found to be damaged after unpacking, the Company must be informed immediately.
- Under no circumstances should the damaged goods be returned, unless expressly authorised by the Company.
- Damage should be reported within 48 hours of receipt.

Any returns made to the Company for any reason, at any time shall be packaged in the original packaging or its direct equivalent and must be adequately insured by the buyer.

## PAYMENT

Payment terms for all account holders are 30 days net in the Company's bank account. If an account falls into arrears, or there are repeated instances of late payment, the Company may request advance payments for future orders. In all other cases, payment is required in advance of delivery. Any charges incurred in making the payment, for currency conversion or otherwise shall be paid by the buyer. Interest accrues on overdue payments at a rate of 8% above the European Central Bank base rate and is calculated monthly on amounts outstanding as of the date on which such amounts become due, until the date the Company receives full payment from buyer.

## TECHNICAL SUPPORT

A dedicated technical email address exists for all products which are not subject to separate support contracts (e.g. FLS-Desk). Details of support contract services provided are given separately in the respective contracts. Technical support is provided free of charge for 12 months from the invoice date for queries regarding the products used in the system configuration for which they were sold. Features not documented in the user manual, or a written offer from the Company, will not be supported. Interfacing with products, other than those that are pre-approved by the Company as being compatible, will not be supported. If the development tools and system hardware are demonstrably working, then no support can be given with application level problems.

When purchasing MBS hardware devices mandatory software update and support charges are due annually. Default in payment of these fees will result in software updates not being available.

## COMPLIANCE WITH ARINC 645

The Company can not take any responsibility for the authenticity or integrity of FLS to be loaded to aircraft that has not been digitally signed and then verified using the Carillon LSAP validation tool on the MBS device. It is the airline's responsibility to have appropriate security procedures in place concerning the acquisition, receipt and storage of FLS in the absence of digitally signed FLS in accordance with ARINC 645. To ensure full compliance with ARINC 645, the MBS security upgrade (part number CIS-LSAP-PDL-V, or CIS-LSAP-V-UPG) must be purchased and used in conjunction with the loading of software synchronised from the FLS-Desk, with the PDL in ARINC 645 (Full) mode.

## **WARRANTY**

The Company provides 12 months warranty against defective parts and workmanship. The basis of this warranty is that the fault is discussed with the Company's technical support staff before any return is made. Returned goods will not be accepted by the Company unless expressly pre-authorized. If agreed a return is necessary, then the defined faulty item shall be returned, carriage paid, to the Company and insured in accordance with the Insurance terms given above. After repair under warranty, the repaired product will be returned to the buyer, carriage paid by the Company using their preferred method.

Under no circumstances will the Company be liable for any incidental or consequential damage or expense of any kind, including, but not limited to, personal injuries and loss of profits arising in connection with any contract or with the use, abuse, unsafe use or inability to use the Company's products. The Company's maximum liability shall not exceed and the buyer's remedy is limited to, either i) repair or replacement of the defective part or product or at the Company's option ii) return of the product and refund of the purchase price, and such remedy shall be the buyer's entire and exclusive remedy. No other warranty is offered by the Company on these products.

All warranty claims are invalidated if the supplied operating or maintenance instructions are ignored; or if the buyer abuses the product, or attempts unauthorised repairs or alterations.

## **PASSING OF RISK AND TITLE**

The passing of risk for any supply made by the Company shall occur at the time of dispatch from the Company. The title however shall not pass to the buyer until payment has been received in full by the Company. The Buyer's right to possession of the Goods in which the Company maintains legal and beneficial title shall terminate if the Buyer convenes a meeting of its creditors, enters into voluntary or compulsory liquidation, or has a receiver, manager, administrator or administrative receiver appointed (or issues notice of intention to appoint) in respect of its assets. The Company reserves the right to repossess Goods in which the Company retains title without notice.

## **RIGHT OF SET OFF CLAUSE**

The Company may at any time, without notice to the buyer, set off any liability of the buyer to the Company against any liability of the Company to the buyer, whether either liability is present or future, liquidated or unliquidated, and whether or not both liabilities arise under the same contract. If the liabilities to be set off are expressed in different currencies, the Company may convert either liability at a market rate of exchange for the purpose of set-off.

Any exercise by the Company of its rights under this clause shall not limit or affect any other rights or remedies available to it under these terms and conditions, or otherwise.

## **INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY**

The buyer and the Company, their personnel and contracted specialists, shall treat all information relating to a contract, which is neither generally known nor generally accessible in strict confidence, and shall use it only for the purpose of fulfilling the contract. Buyer agrees to keep confidential, protect and preserve the IPR of the Company at all times. IPR shall remain the absolute property of the Company, unless expressly stated in the contract with the buyer.

Buyer must not reverse engineer, or reverse compile any goods, software, or other goods received from the Company, nor permit a third party to do so. In case of doubt, all information is to be treated confidentially.

## **LICENCES AND EXPORT REGULATIONS**

The sale, resale or other disposition of the products and any related technology or documentation may be subject to German export control laws, regulations and orders and may be subject to the export and/or import control laws and regulations of other countries (e.g. ITAR). The buyer agrees to fully comply with all such laws, regulations and orders and acknowledges that it shall not directly or indirectly export any products to any country to which such export or transmission is restricted or prohibited.

The buyer acknowledges their responsibility to obtain any licenses required to export, re-export or import the products and on request discloses to the Company all relevant information as may be required for the performance of the Contract. The Company reserve the right to delay the issuance of software until a valid End User License Agreement is in place.

## **WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (WEEE)**

The Company will ensure that any end-of-life items received with prior arrangement and shipped at the buyer's expense will be processed in the best available manner. This offer is limited to "Circuit boards" that have been supplied by the Company, regardless of the date of supply, and specifically excludes any associated computers, housings and power supplies that have been used with them. While this offer exceeds the legal requirements, the Company reserves the right to amend its policy without notice.

## **INDEMNITY**

The buyer agrees to defend, indemnify and hold harmless the Company against any and all claims, losses, liabilities, or expenses of any kind which may arise relating to the products supplied by the Company. Where goods are sold, resold, or otherwise transferred to a third party, such third party shall have no rights greater than those granted to buyer hereunder.

## **SEVERABILITY**

If any part of these terms and conditions be deemed incomplete, legally invalid, void or unenforceable for any reason, then such provision may be severed from these GTCs and be replaced by an effective provision as economically equivalent as possible. The remaining terms of the Contract shall remain in full force and effect.

## **FORCE MAJEURE**

The Company shall not be held responsible for failure to perform or delay in performing any of its contractual obligations, if such failure or delay is due to unforeseeable events beyond the Company's reasonable control ("Force Majeure"), including but not limited to acts of God, declared or undeclared wars, terrorism, insurrection, epidemics, sabotage, labour disputes, shortages of labour, interruption or delays in transportation, fire, explosion, equipment or machinery breakdown, failure or delays of the Company's source of supply, shortage in material or energy, acts, orders or priorities of any government, embargo and any other cause whether arising from natural causes, human agency, or anything beyond the reasonable control of the Company.

## **GOVERNING LAW**

This agreement and performance of both parties shall be governed by Federal Republic of Germany laws and, where relevant by applicable United States procurement laws. Any disputes under any contract entered into by the Company shall be settled in a court of the Company's choice operating under German law, and the buyer agrees to attend any such proceedings. No action can be brought arising out of any contract more than 12 months after the completion of the contract. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to the contract.