1. APPLICABLE TERMS: It is agreed that sales of products and/or services or licensing of software hereunder are made expressly conditioned upon the Terms and Conditions contained herein, and to the extent of any conflict these shall take precedence over any terms and conditions which may appear on your (“Buyer’s”) own Purchase Order, commercial or other documents, unless expressly accepted by the contracting Thales entity (“Seller”) in writing. Any proposal for additional or different terms or any attempt by Buyer to vary in any degree any of these terms is hereby objected to and expressly rejected. Buyer’s placement of a Purchase Order, acceptance of and/or payment for the products, software or services offered by Seller shall constitute express acceptance of these Terms and Conditions, without modification. The Parties acknowledge and agree that Seller would not offer for sale the products or services or for license the software without acceptance of these Terms and Conditions by Buyer. Notwithstanding the foregoing, if there is a pre-existing contract between the parties that expressly governs transactions such as this between the parties, the conditions of such agreement shall apply.

2. PAYMENT TERMS: All invoices are due and payable thirty (30) days from date of invoice in the manner set forth in Seller’s quotation, provided that Buyer’s creditworthiness is established in advance by Seller. If not so established, payment shall be made in advance. For any amounts payable to Seller that are unpaid after thirty (30) days from date of invoice, Seller may without prejudice to any other rights, either suspend delivery to Buyer, ship any future order only upon pre-payment, terminate the contract, and/or charge Buyer a finance charge of 1.5% per month on the unpaid balance (up to the maximum amount permitted by law). No payment due to Seller shall in any circumstances be offset against any sum owed by Seller to Buyer whether in respect to the present transaction or otherwise. No discount for early payment is authorized. In the event any proceeding is brought by or against Buyer under any bankruptcy or insolvency laws, Seller shall be entitled to cancel any order then outstanding and shall receive reimbursement for reasonable cancellation charges. Seller shall retain a purchase money security interest in all products delivered hereunder until all associated invoices therefor are paid in full, and Buyer shall execute any documentation reasonably requested to enforce such security interest.

3. TAXES: All prices are exclusive of any present or future sales, revenue, or excise taxes, customs or duties, or other tax applicable to the products or services covered by this order or the manufacture or sale thereof. Such taxes, when applicable, shall be added to the invoice and shall be paid by Buyer, unless Buyer provides Seller with the proper tax exemption certificates. Buyer shall indemnify, defend, and hold Seller harmless from any and all assessments levied by a proper taxing authority for any taxes applicable to the products or services sold hereunder, including any interest, penalties, or late charges due to Buyer’s failure to pay such taxes in a timely manner.

4. DELIVERY TERMS: Unless otherwise specified in Seller’s quotation, all sales are made FCA (Incoterms 2020) from the Seller’s shipping point. Risk of Loss shall pass to Buyer at point of shipment. Seller’s liability for shipment and delivery ceases upon delivery of products in good condition to shipping company or common carrier designated by Buyer, or Buyer’s representative or employee. Except as provided herein, Seller shall have no responsibility to store any products for Buyer except as may be required during manufacturing or processing. Products placed in segregated inventory at the request of Buyer shall be deemed to have been delivered to Buyer at the time such products are placed into segregated inventory whereupon Seller may charge to Buyer a reasonable storage fee and Buyer shall be responsible for any loss thereto, except for losses resulting from Seller’s gross negligence. All stipulated delivery or shipment dates are estimates only. Seller reserves the right to make deliveries of products in installments, and any delay in delivery, or other default of any installment of any one or more products, shall not relieve Buyer of its obligation to accept and pay for the remaining deliveries. If delivery is delayed due to Buyer, Seller may store the Products at Buyer’s risk and issue an invoice for the products as if was delivered.

5. CARD QUANTITIES: Quantities specified in quotations are for uninterrupted production and one shipment to one destination, unless otherwise specified. Quantity variations of plus or minus 10% shall constitute an acceptable delivery and the excess or deficiency shall be billed proportionally.

6. INSPECTION AND ACCEPTANCE: Buyer shall inspect and accept or reject products within ten (10) days from delivery thereof. If Buyer fails to notify Seller in writing of its rejections and the reasons therefore within such time period, the Buyer will be deemed to have accepted such shipment and waived any right to later reject the products.

7. CANCELLATIONS, RETURNS AND CHANGES: Orders may not be cancelled, suspended, changed or returned without written consent of Seller. Products cannot be returned except pursuant to Section 9 (Warranties). If, after an order is accepted by Seller, Buyer requests changes to delivery location/term, specification, or quantity, and such changes are accepted by Seller, Seller shall prepare a quotation. If accepted by Buyer, the order shall be amended. Cancellation fees will apply pursuant to the terms set forth in Thales’s terms and conditions stated in the offer provided. In the event Buyer has a signed agreement with us, the terms of that agreement shall have precedence over the terms herein.

8. CARD ART, PROOFS AND COLOR MATCH: (a) Art Work: Prices for custom-manufactured cards are based on camera-ready art available from Buyer. Artwork developed by Seller at Buyer’s request will be charged at current rates. Art and designs created by Seller shall remain Seller’s exclusive property, including electronic media, negatives, positives and printing plates (to be disposed of at Seller’s convenience in a secure manner); (b) Proofs: Only four-color process designs require press proofs and Buyer approval before production run. All proofs requested will be quoted separately; (c) Color Match: Colors will be matched within reasonable commercial variations.

9. WARRANTIES: (a) Warranties. Seller warrants that at the time of delivery the products furnished hereunder will, under normal and proper use, be free from defects in material and workmanship and conform to Seller’s applicable standard written specifications for a period of one (1) year from delivery. Any software licensed hereunder, subject to Section 13, shall meet Seller’s specifications for a period of ninety (90) days from date of delivery. Seller warrants the services provided to Buyer shall be done in accordance with generally accepted industry standards. Buyer’s only remedy and Seller’s sole obligation under this Section is limited to, at Seller’s option, replacing or repairing any products or software, re-performing the service or, refunding the amounts paid by Buyer for the product, software or service that does not meet the warranties set forth in this Section 9. The foregoing obligations only apply when (i) written notice of non-conformance is received before the expiration of the warranty period and no later than thirty (30) days after Buyer knows or should know of such defect; (ii) in the case of products and after Seller’s authorization in accordance with Seller’s RMA (Return Merchandise Authorization) process, if applicable, such products are returned to Seller’s original shipping point, freight...
THALES

charges prepaid: and (iii) after Seller has confirmed the non-conformance. Any repair or replacement shall not extend the period within which such warranty can be asserted. (b) Exclusions. The relevant warranty shall not apply to products or software which have been subjected to operating and/or environmental conditions in excess of the maximum values therefore in the applicable specifications or otherwise have been subjected to post-processing (except as provided herein), misuse, tampering, neglect, improper installation, abnormal stress, repair, modification, alteration, or damage. Seller is not responsible for defects or non-conformance to Seller’s specifications if product is produced according to Buyer’s specifications or approved proofs, colors, or test cards. Seller does not and shall not warrant that the products or software will be free from errors or resistant to all possible efforts to defeat or disable its functions, including its security mechanisms, and shall not incur, and disclaims, any liability in these respects. The software warranty is only valid for products in which the software used have been supplied or approved by Seller and neither the software nor hardware has been modified in any way. Seller is not liable and expressly disclaims all liability for Replacement Costs and Expenses (means costs and expenses incurred by a replacement of products and relating to but not limited to the removal of a defective product, customer support, calling center, channel support, products return (i.e., return of the product on a standalone basis, the vehicles or product, device, system into which the product is installed), workmanship to remove and reinstall the product, shipping and handling, scrapping). Seller does not and shall not warrant that the products will be resistant to all possible attacks and shall not incur, and disclaims, any liability in this respect. Even if each product is compliant with current security standards in force on the date of their design, the Buyer acknowledges that the resistance of the security mechanisms necessarily evolves according to the state of the art in security and notably under the emergence of new attacks. Under no circumstances, shall Seller be held liable for any third party actions or claims and, in particular, in case of any successful attack against systems, equipment or any other third party product incorporating the products. THIS WARRANTY MAY BE ASSERTED BY BUYER ONLY, NOT BY BUYER’S CUSTOMERS OR USERS OF THE BUYER’S PRODUCTS AND IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY AND NON-INFRINGEMENT, AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE SELLER’S PART.

10. LIMITATION OF LIABILITY: Buyer’s exclusive remedy and Seller’s total liability for any and all losses and damages from any cause whatsoever arising from or related to or arising out of the products, software, service and these Terms and Conditions (whether such cause be based in contract, negligence strict liability, tort, indemnity, warranty or otherwise) shall in no event exceed the lesser of (i) purchase price paid under the order that gave rise to the claim and (ii) total price actually paid to Seller during the six months prior to the claim for damages for the product, software or service that is the basis of the claim. IN NO EVENT SHALL SELLER BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT OR PUNITIVE DAMAGES RESULTING FROM ANY SUCH CAUSE. THESE LIMITATIONS SHALL APPLY EVEN IF ANY LIMITED REMEDY FAILS IN ITS ESSENTIAL PURPOSE. Buyer acknowledges that using or selling products or software in devices or systems, or use of Seller’s service in connection therewith, where malfunction may result in personal injury, death, damage to property or the environment is at Buyer’s own risk and agrees to indemnify and hold Seller harmless from all loss, expense and damages (including reasonable attorney’s fees) which may be incurred by Seller as a result of any claims or actions resulting from damages caused by the use of the products, software or services in or with such devices or systems by Buyer or any party to whom the Buyer has directly or indirectly supplied Seller’s product, software or service.

11. FORCE MAJEURE: Seller shall not be liable to non-performance or delays caused by act of God, wars, riots, strikes, fires, floods, shortages of labor or materials, labor disputes, governmental restrictions or any other causes beyond its reasonable control, impeding or making unreasonably costly the fulfillment of the obligation under this contract. In the event of any such excused delay of failure of performance or a failure of performance on the part of Buyer or any of its subcontractors, the date of delivery shall be deferred for a period equal to time lost by reason of the delay.

12. INDEMNITY: Buyer shall hold Seller harmless against any expense or loss resulting from infringement of any patent arising from compliance with Buyer’s designs, specification or instructions. Except as provided in the preceding sentence, subject to the limitations in Section 10 and pursuant to the terms and conditions of this Section 12, Seller shall indemnify Buyer for a claim that any product (or part thereof) manufactured by Seller and furnished under these Terms and Condition constitutes a direct infringement of any United States patent, provided Seller is promptly notified in writing and given authority, information and assistance (at Seller’s expense) for the settlement of defense of same. Seller shall have no obligation for indemnification where such claim is based upon (a) any use of the products in combination with other products which were not supplied, not in accordance with instructions provided by Seller as part of the product, (b) use of the product in combination with product, business process, software, data or equipment if the infringement was caused by such use or combination, regardless of whether or not the product or elements of the product are a material part of the infringement, (d) any content and/or materials introduced or made available in or through the product by Buyer, Buyer’s client(s), end users, and/or any third parties, (c) damages attributable to the value of the use of a non-Seller product, service, data or business process, (f) the infringement of any method or process in which any product may be used but not covering the products when used alone, (g) the use of the product other than as permitted in the related documentation or Section 9 or (h) use of the product(s) during any time period after Seller has notified Buyer to discontinue use of the same. Subject to Sections 10 and 12, Seller shall pay the damages and costs awarded against Buyer, or agreed upon in such settlement therein, for which Seller has an indemnification obligation under this Section 12. Seller may (at its option and expense) take one of the following actions: (i) procure for Buyer the right to continue using said product or part, or (ii) furnish a non-infringing product, or (iii) modify the product so it becomes non-infringing, or (iv) refund the purchase price and transportation cost thereof upon return authorized by Seller. For the purpose of this Section 12, “product” includes product and/or software. THE FOREGOING STATES THE ENTIRE LIABILITY OF SELLER FOR PATENT INFRINGEMENT BY SAID PRODUCTS OR ANY PART THEREOF.

13. SOFTWARE: All software (whether in source or object code) transferred to Buyer is hereunder considered by Seller to be an unpublished work and is protected under the copyright laws of the United States. Buyer agrees that ownership of all copyright and other intellectual property rights of whatever nature that subsist or may subsist in any Seller-created software (whether in source or object code), specifications, drawings, plans, designs, flowcharts, and technical documents and Information supplied by Seller to Buyer are and shall be held exclusively by Seller. Buyer agrees to keep confidential and not to modify or make any copy of any such software, specifications, drawings, plans, designs, flowcharts and technical documents and information except as expressly approved in writing by Seller. Buyer is granted a limited non-exclusive, non-sub licensable, non-transferable license to use any software, supplied with or incorporated in the products, only on such products or, if software is provided separately, to use pursuant to Seller
instruction for providing goods or services to Buyer’s end users. Buyer further agrees not to reverse compile or reverse engineer the software. Buyer retains its intellectual property rights to any supplied information, specifications, plans, designs, flowcharts and technical information provided by Buyer to Seller. All other rights are reserved to Seller.

14. GOVERNMENT END-USE: If any products or software is acquired by or on behalf of a unit, department, agency or other entity of the U.S. Government (the “Government”), this provision applies. If a user of a product is Government entity, the use, duplication, reproduction, release, modification, disclosure, or transfer of such product, or of any related documentation of any kind, including technical data, is restricted in accordance with Federal Acquisition Regulation (“FAR”) 12.212, Defense Federal Acquisition Regulation Supplement (“DFARS”) 227.7202, subparagraph (c)(1)(i)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 225.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Any software licensed or otherwise provided hereunder (i) was developed at private expense and no part of it was developed with Government funds; (ii) is a trade secret of Seller for all purposes of the Freedom of Information Act; (iii) is "commercial computer software" subject to limited utilization as provided in the contract between the vendor and the governmental entity; and (iv) in all respects is proprietary data belonging solely to Seller. When regulations of the Department of Defense (DOD) are applicable, this software is sold only with “Restricted Rights” as that term is defined in the DOD Supplement to the Federal Acquisition Regulations, 52.227-7013. Use, duplication or disclosure is subject to restrictions of the Rights In Technical Data and Computer Software clause at 52.227-7013 Manufacturer: Thales DIS USA, Inc. If this software was acquired under a GSA Schedule, the Government has agreed to refrain from changing or removing any Insignia or lettering form the software that is provided or from producing copies of manuals or disks (except one hard disk copy and one backup or archival copy) and (i) title to and ownership of the software and related documentation and any reproductions thereof shall remain with Seller; (ii) use of this software and related documentation shall be limited to the facility for which it is acquired; and (iii) if use of the software is discontinued at the Installation specified in the purchase/delivery order and the Government desires to use it at another location it may do so by giving prior notice to Seller, specifying the type of computer and new locations site


16. MODIFICATIONS: These Terms and Conditions constitute the entire agreement between the parties relating to the sale of the products, software or services described in a quotation, and no addition to or modification of any provision herein, shall be binding upon Seller unless made in writing and signed by a duly authorized officer of Seller. Buyer has not relied on any representations, oral or written, except as are made in or expressly referenced by this document or Seller's quotation.

17. DISPUTES RESOLUTION: Any dispute, controversy or claim between the Parties arising out of or in connection with the existence, validity, construction, performance and/or termination of the Proposal and/or the Contract, which the Parties are unable to settle amicably shall be submitted to settlement proceedings under the ICC ADR Rules. If the dispute has not been settled pursuant to the said Rules within forty-five (45) calendar days following the filing of a Request for ADR or within such other period as the Parties may agree upon writing, such dispute or other dispute shall be finally settled by the International Chamber of Commerce, by one or more arbitrators appointed in accordance with said Rules. The place of Arbitration shall be New York, USA. The arbitral proceedings shall be conducted in the English language, its conclusions shall be final and binding. The arbitration award will be in writing and will specify the factual and legal basis for the award. Either Party may seek interim or provisional relief in any court of competent jurisdiction if necessary to protect the rights or property of that Party pending the appointment of the arbitrator(s).

18. EXPORT LAW: Regardless of any disclosure by Buyer to Seller of the contemplated destination of the products; Buyer shall not export, directly or indirectly, any product acquired hereunder (or the direct product of any software product) without first obtaining an export license from the US Department of Commerce or other agency of the US Government as required.

19. TEST PRODUCTS: The provisions of Sections 8, 9, 12, and do not apply for Test Products purchased from Thales. Test cards, and the related software used with the test cards, (collectively, “Test Products”) are provided “as is, with all faults”. THALES DISCLAIMS ALL LIABILITY FOR TEST PRODUCTS. Test Products are not intended for commercial use, only internal test environments.

20. TERMINATION

20.1 Thales may terminate the Purchase Order and/or its obligations hereunder at any time upon:

- Default by Buyer in the payment of any amount due to Thales hereunder;
- Buyer’s failure to pay any debt to Thales;
- Buyer’s bankruptcy, insolvency or receivership;
- Breach by the Buyer of the Article 21 “Anticorruption and influence peddling”;
- Any material default by the Buyer under the Purchase Order not cured within fifteen (15) days of the date Thales notifies Buyer of such default.

20.2 The licenses granted under this Contract shall terminate immediately upon the termination of this Purchase Order.

20.3 Thales shall not be responsible for the performance of the software provided by Thales to Buyer under the Purchase Order for any reason other than the late delivery of such software.

21. DATA PROTECTION (as may be applicable)

21.1 The parties shall comply with their respective obligations under data protection regulations (including the European Regulation 2016/679 relating to the processing of Personal data (GDPR)) that apply in the context of the performance of this Purchase Order. With respect to the personal data made available by the Buyer to Thales under the Purchase Order, Buyer shall act as a data controller and Thales shall process personal data only on behalf of the Buyer. Acting as data processor, Thales shall be responsible for the Buyer personal data according to the Buyer documented instructions as further described in the orders and for no other purposes than the ones expressly defined and approved by the Buyer, unless required to do so by European Union or Member State law to which Thales is subject. In such a case, Thales shall inform the Buyer of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest.

Thales shall ensure that it has in place appropriate technical and organizational measures designed to ensure an appropriate level of security of the Buyer personal data in accordance with article 32 of the GDPR. If relevant, the Parties mutually agree on a form describing the processing activities under the template provided by Thales. In addition, Thales shall:
ensure that persons authorized to carry out processing of Buyer personal data are committed to confidentiality obligations and commit to have its sub-processors comply with the same obligations as the one defined hereunder;

assist Buyer, at Buyer’s costs, by appropriate technical and organizational measures, insofar as this is possible, taking into account the nature of the processing activities, for the fulfillment of Buyer’s obligations to respond to requests for exercising the data subjects’ rights laid down in the applicable data protection legislation;

immediately inform Buyer in writing if it believes that Buyer’s instructions with respect to the processing of Buyer personal data infringes any applicable data protection legislation;

make available to Buyer, at Buyer’s costs, all information necessary to demonstrate compliance with the obligations set out in article 28 of the GDPR and, upon two (2) weeks prior advance notice to Thales, allow for and contribute to audits, including inspections, conducted by Thales or another auditor mandated by Buyer;

taking into account the nature of the processing activities and the information available to Thales, assist Buyer, at Buyer’s costs, in ensuring compliance with the obligations as set out in articles 32 to 36 of the GDPR;

at the end of the Purchase Order, Thales shall, at the choice of Buyer, delete or return to Buyer all Buyer personal data and destroy existing copies unless otherwise required by applicable laws;

not transfer Buyer personal data out of the European Economic Area without Buyer prior express consent; and

notify Buyer without undue delay after becoming aware of a personal data breach.

Buyer hereby gives a general authorization to Thales to share Buyer personal data with sub-processors, it being understood that Thales shall inform Buyer of any changes of sub-processors, thereby giving Buyer the opportunity to object to such changes in writing, for legitimate reasons and within thirty (30) calendar days following receipt of Thales’ notice. Thales shall remain fully liable to Buyer for the performance of the sub-processors’ obligations.

21.2 Retention period: Pursuant to the Personal Data Protection Program, from the date of delivery of the Files (input and output files) to Buyer via the Allynis Connect highly secure data exchange solution, Thales retains the input files for a period of four (4) months and the output file for a period of seven (7) months (collectively referred as the “Thales Retention Period”). The retention of the Files is subject to the Retention Terms and Principle available on Thales web site: https://www.Thales.com/companyinfo/privacy-policy (the “Retention Terms”). The Retention Terms are incorporated by reference into these General Sales Terms and Conditions and above URL link provides specific, direct instructions on how to access the Retention Terms on the website www.Thales.com. The Retention Terms are subject to change, and the Retention Terms in effect at the time of each new order or delivery shall be those on the above identified website at the time of such order or delivery.

22. ANTI-CORRUPTION AND INFLUENCE PEDDLING

Buyer represents that it shall comply with applicable national and foreign laws and regulations related to the prevention of risks of corruption and influence peddling. Whether directly or through third parties, Buyer shall not offer or promise any gift or advantage to a person, for himself or for others, with the purpose that this person abuses or because this person would have made illegitimate use of its real or supposed influence in order to obtain distinctions, jobs, contracts or any other favorable decision. Buyer shall not solicit or accept for itself any offer or promise, gift or advantage of any kind, to make illegitimate use of its influence for the purpose of making or obtaining any favorable decision. Buyer declares to have implemented a compliance program that meets the requirements of applicable laws, insofar as the Buyer is subject to this requirement. Thales reserves the right to perform an integrity assessment of all third parties with whom Thales intends to enter into or to continue a business relationship with. In the event that the due diligence performed by Thales on this basis is not satisfactory, Thales shall, without incurring payment of damages or indemnity to Buyer, be entitled to unilaterally terminate this Purchase Order. This termination shall be effective immediately upon written notice to Buyer and shall be without prejudice to any other remedies that may be available to Thales under applicable law. Any violation by the Buyer of this Article shall be deemed a material breach, entitling Thales either to suspend the Purchase Order performance as long as the breach is not satisfactorily remedied, or to terminate the Purchase Order immediately and without prejudice to any other remedy for which it may be entitled under contractual and/or legal provisions.

End of Terms and Conditions