

TAIT COMMUNICATIONS GMBH TERMS OF SALE

DEFINITIONS

Acceptance Test Plan means the plan setting out test procedures designed to verify substantial conformity of the Products with the Specifications, and agreed between the Parties in writing prior to Delivery, or failing such agreement Tait's standard test procedures and "Acceptance Testing" shall be construed accordingly;

Confidential Information means all financial, business, technical or other data and all other information (whether written, oral or in electronic form or on magnetic or other media) concerning the business and affairs of a Party that the other Party obtains, receives or has access to as a result of the discussions leading up to, or the entering into, or the performance of, a SOW;

Customer means the Customer named in the SOW;

Defect(s) means defects caused by defective material, workmanship or design which result in a failure of the Products to substantially conform to the Specifications;

IPR includes all patents, copyright, moral rights, registered designs, registered and unregistered trademarks, trade secrets, knowhow and confidential information and all other intellectual property as defined in Article 2 of the Convention Establishing the World Intellectual Property Organisation of July 1967 and "IPR" has a similar meaning;

Products mean equipment or software to be delivered by Tait and specified in the SOW;

Services mean such services as Tait agrees to provide under the SOW;

SOW means a statement of work or purchase order or any other relevant documentation agreed in writing by both parties, incorporating these Terms to form the contract for the sale of Products and Services by Tait to Customer;

Specification means the specifications set out in the SOW, or in the absence of such schedule, Tait's standard product specification; and

Tait means Tait Communications GmbH, Stipcakgasse 40, 1230, Wien, AUSTRIA.

1. APPLICATION AND ACCEPTANCE OF TERMS:

- 1.1. These Terms shall apply to all purchases by Customer of Products and Services from Tait unless otherwise agreed in writing by the General Manager of Tait or delegated authority. These terms shall be deemed to be included in SOWs unless agreed otherwise in writing by the General Manager of Tait or delegated authority. Requests for delivery of Products or Services either verbally or in writing by Customer shall represent acceptance of these terms and accordingly the contract between Tait and Customer shall be deemed to be complete and binding. Tait reserves the right to amend these terms from time to time.
- 1.2. In the case of conflict or ambiguity between any provisions contained in any document forming part of the SOW, the order of precedence shall be, in descending order: any special conditions agreed in writing between the parties, these terms, the SOW, any other document.
- 1.3. Customers standard terms of purchasing are expressly rejected by Tait and shall not apply to any sale between Tait and the Customer regardless of any wording to the contrary included in Customers' standard purchasing documentation purchase orders or similar, unless Tait provides an updated quotation or order confirmation specifying the acceptance of Customer's standard procurement terms.

2. PRICE AND PAYMENT:

The price for Tait Products and Services shall be as specified on the SOW. Unless otherwise specified, the following shall apply:

- 2.1. The price of the Products is exclusive of the costs of packaging, freight, insurance, delivery charges and all applicable taxes, duties, tariffs and charges of any nature whatsoever imposed in any country or territory, either directly or indirectly, in respect of the sale or supply of the Products, or payments for them. In particular, without prejudice to the generality of the foregoing, the price of the Products is exclusive of Value Added Tax. All such additional costs shall be payable by Customer in addition to the price for the Products.
- 2.2. Where Customer has received approval from Tait following completion of Tait's standard Credit Account Application, customer shall pay the price including all applicable taxes without deduction within 30 days of date of invoice. Unless otherwise specified by Tait, the terms of

payment shall be 30% on order and 70% prior to shipment from Tait's store.

- 2.3. If Customer is overdue with any payment then, without prejudice to any other right or remedy available to Tait and subject to written notification by Tait to Customer of its intention to exercise the rights set out in this clause:
 - a) Customer shall be liable to pay interest on the overdue amount at the lesser of 1.25 per cent or the maximum permitted by law per complete month until Tait has received payment of the overdue amount together with interest that has accrued; and
 - b) Tait reserves the right to suspend contractual performance and/or exercise a lien over un-shipped Products until Customer has paid in full and the exercise of any such suspension or lien shall not affect Customer's obligation to pay any amounts due in respect of delivery or any other invoice due prior to suspension.
- 2.4. Where Tait carries out on the instruction of Customer any Services which are not Services included in the SOW ("Additional Services"), Tait shall be entitled to charge for Additional Services in accordance with its standard charging rates on a time and materials basis (or such other basis as is agreed in writing by the parties). Wherever reasonably practical the value or likely value of charges for Additional Services shall be notified to Customer in advance of the provision of the Additional Services. For any work to be charged on a time and materials basis Tait shall invoice Customer monthly in arrears, invoices payable 30 days from date of invoice, unless otherwise agreed in writing. System Acceptance shall not be delayed pending completion of such Additional Services.

3. DELIVERY, TITLE AND RISK:

- 3.1. Delivery dates are estimates only and not of any contractual effect.
- 3.2. Tait reserves the right to deliver Products in more than one consignment and to invoice each consignment separately.
- 3.3. All Products will be delivered CIP (Incoterms 2010) from the Tait Distribution Centre by the carrier of Tait's choice unless a specific carrier is nominated by Customer or as mutually agreed otherwise in writing.
- 3.4. Risk in any Products supplied by Tait to a Customer shall pass when such Products are delivered to Customer or into custody on Customer behalf in accordance with clause 3.3
- 3.5. Title to Products (both legal and equitable) is retained by Tait until full payment is made for such Products and/or for all Products supplied to the Customer. The Customer acknowledges this Agreement creates a security interest in favour of Tait in Products supplied by Tait to the Customer which have not been paid for in full, as security for payment of all monies payable from time to time to Tait by the Customer and for the performance of all the Customer's other obligations from time to time to Tait. The Customer agrees to do anything including signing and delivering any documents Tait reasonably requires to ensure Tait has a perfected security interest in goods supplied.
- 3.6. If Customer fails to take delivery of the Products or fails to give to Tait adequate delivery instructions when notified that the Products are ready for delivery then, Tait may store the Products until actual delivery and charge to Customer the costs associated with storage including insurance.
- 3.7. Customer is responsible for obtaining any import licences which are required for the country for which the Products are destined.
- 3.8. Customer is required to give Tait notice of shipment shortages or damage no later than 7 days after the date of receipt of the Products by Customer. Packing slip number(s) must be quoted with all complaints or returns. No Products are to be returned without prior written authorisation and shipping instructions from Tait.

4. SEPARABLE PARTS OF THE PROJECT:

- 4.1. Where the project can be broken up into separable parts then it is possible for those separable parts to be handed over to Customer on an individual basis. In this case once Customer takes possession of any part of the project then that part will be deemed to have commenced the warranty phase of the project. Notwithstanding the requirement for Tait to complete some finishing of works the separable part will be

deemed to have reached final completion and payment will be required accordingly unless mutually agreed otherwise in the SOW. Any additional work required to provide separate parts of the project, beyond that required for the contract, to meet Customer requirement will be to Customer's account.

5. CUSTOMER OBLIGATIONS:

- 5.1. Customer shall promptly undertake and complete all actions identified as Customer's responsibilities in the SOW, or in any project plan or specification, and shall:
- make available such Customer personnel as may be reasonably required for Tait to comply with its obligations under these Terms including the provision of a designated representative who is suitably qualified, informed and able to make decisions and provide approvals on behalf of Customer;
 - obtain any frequency licences, permits or other consents and procure any necessary construction permits, building permits, zoning variances or other consents;
 - prepare the installation site(s) and have such sites available for commissioning by Tait;
 - provide Tait with all information, data, document approvals, materials, assistance, access, power and other utility supplies as required and facilities; and
 - provide a safe working environment.

In each case without undue delay, in accordance with the project schedule and as reasonably required from time to time to facilitate the proper and timely performance of the SOW.

- 5.2. All prices for project work are based on customer fulfilling the above obligations unless specifically detailed otherwise in the contract documents. Unavailability of access to the sites will be reasonable grounds for Tait to both extend the contract completion timetable and recover any additional costs and expenses incurred. If access to the required sites is not obtainable then Customer is responsible for any additional costs incurred in developing alternate sites including any subsequently necessary changes to project design. In this event any delays in obtaining the licences will be cause for the extension of the project completion date. In addition Product delivery times will be quoted from allocation of the licences. Any additional costs incurred by Tait caused by the required frequencies not being available will be to Customer's account.

6. INTERFERENCE:

While every effort will be made by Tait to minimise any radio interference experienced on a site any additional costs incurred by Tait in investigating and eliminating interference problems will be to Customer's account. This additional work could include coordination with the frequency allocation authority, on site work to discover the source of any interference etc. Any additional work carried out by Tait due to interference problems including reprogramming of radio equipment, provision of additional filtering, rearrangement of antennae etc will be to Customer's account.

7. COMMISSIONING:

Where Customer desires to be present at commissioning Tait will make reasonable efforts to meet any Customer required schedule. However Customer will not impose unreasonable schedule requirements on Tait. Any rescheduling required due to Customer's inability to attend may result in additional cost to Customer's account.

8. ACCEPTANCE TESTING:

- 8.1. If stated in the SOW, the Products shall be subject to acceptance tests described in the SOW or agreed Acceptance Test Plan as applicable. Unless agreed otherwise in writing, such tests may comprise:
- a Factory Acceptance Test ("FAT"); and
 - a System Acceptance Test ("SAT").
- 8.2. The FAT is intended to be an internal Tait test and carried out for Tait's benefit prior to Delivery. Notwithstanding this, Customer shall be notified of the dates on which the FAT is to be carried out and shall be invited to attend and to receive details of the test results.
- 8.3. Tait shall notify Customer when the Products are ready for SAT. Tait and Customer agree to commence SAT within ten (10) business days after receiving such notification in accordance with the Acceptance Test Plan. If Acceptance Testing is delayed for reasons within the control of Customer or its contractors, agents and consultants for more than fifteen (15) business days after notification and a commercially reasonable revised schedule is not agreed between the Parties, payment of the outstanding payment milestones will become due and the Warranty Period will commence.

8.4. During System Acceptance Testing:

- if the Acceptance Test plans include separate tests for individual Sites or subsystems, Tait shall prepare and Customer shall promptly sign an acceptance certificate classified as a "Pass" upon the successful completion of testing of such Site or subsystem, and the Payment Milestones in the Statement of Work may be applied to each Site or subsystem separately;
- minor omissions or variances in performance which do not materially affect the operation of the Products will not postpone acceptance; and
- Customer and Tait will jointly prepare a list of such omissions and variances which Tait will correct according to an agreed upon schedule ("Punch List").

8.5. If the Products (or a relevant Site or subsystem) fail the System Acceptance Test(s) but such failure would not prevent the Products being put into operation (such failures being "Minor Defects") Tait shall prepare and Customer shall promptly sign an Acceptance Test Certificate classified as "Conditional Pass" with a list of identified Minor Defects and Tait shall be entitled to invoice Customer for any payment corresponding to System Acceptance referred to in this Agreement and Tait shall use commercially reasonable efforts to remedy such identified Minor Defects within 30 business days of the issue of the Conditional Pass Acceptance Certificate.

8.6. If the Products fails the System Acceptance Test(s) and such failure is not for Minor Defects, Tait shall endeavour to remedy the substantial non-conformities and shall notify Customer when the remedy for the identified substantial non-conformities is ready for testing whereupon the System Acceptance Test(s) shall be repeated with particular attention to the previously identified substantial non-conformities and the provisions of clauses 8.4 and 8.5 shall apply to the repeated tests.

8.7. Tait may, but is not obligated to, issue written authorisation for Customer's use of the Products or a subsystem(s) for limited training, testing or live use purposes, prior to the completion of testing by Tait. Any use of the Products without prior written authorisation by Tait shall constitute Acceptance.

9. HANDOVER:

Once a system supplied by Tait is accepted or is in operation by Customer (without having first been accepted), the system shall be deemed to be handed over to Customer. Handover shall be the date at which the warranty/maintenance period commences for any parts of the system for which the warranty period has not already started and the date at which final completion invoices can be issued.

10. CUSTOMER INITIATED CHANGES:

Any change or addition to the SOW must be agreed in writing between the Parties. Changes or additions are subject to quotation by Tait which may result in changes to both the cost of the project and completion time.

11. SPECIFICATIONS:

Tait reserves the right to modify specifications of Products, provided that the modification does not materially affect performance. Tait will use its best efforts to ensure that products are accurately described in company publications. However, no responsibility can be assumed by Tait as a result of any inaccuracy or error.

12. WARRANTY:

- 12.1. No claim for shortage, out-of-box failure, or damage in respect to Products delivered will be considered unless notice is received in writing by Tait within 7 days from the earlier of the date of receipt of the Products by Customer, or by a third party on Customer's behalf.
- 12.2. Tait provides an express limited warranty to Customer with respect to the Products. To the maximum extent permitted by law any and all implied warranties with respect to Products or parts sold by Tait including but not limited to implied warranties of merchantability, fitness for a particular purpose or non-infringement, are hereby excluded.
- 12.3. Tait warrants that it shall repair or replace any Product covered by the warranty exhibiting Defects under normal use and service during the term of this warranty, at no charge for parts or labour.
- 12.4. Customer acknowledges that any software supplied cannot be tested in every possible permutation and accordingly Tait does not warrant that software supplied will be free of all Defects or that its use will be uninterrupted or error free or that software will interoperate with other software unless stated otherwise in the agreed specification.
- 12.5. Any Products replaced shall become the property of Tait. In the event that it is not commercially feasible to dispatch repaired or replacement or substitute Products within a reasonable time (being not less than 30 business days from the Defect being logged with the Service Desk and

if applicable, receipt by Tait of the relevant Product), and Tait is unable to provide Customer with an alternative reasonably acceptable solution, Tait shall at Customer's request accept the return of the Products not useable in consequence of the warranted Defect and refund to Customer that part of the price attributable to the same.

12.6. Tait shall not be liable for a breach of the warranty to the extent that:

- a) the Defect arises and/or is exacerbated as a result of misuse, neglect (including without limitation failure to notify Tait of the failure within a reasonable time), alteration, mishandling, attempted repair, maintenance or unauthorized manipulation by any person other than Tait authorized personnel; or
- b) the Defect arises because Customer failed to follow Tait's instructions as to the storage, installation, use or maintenance of the Product or (if there are none) good trade practice; or
- c) Customer alters or repairs such Products without the written consent of Tait; or
- d) the serial number on Products has been defaced or removed.

12.7. Where Products are submitted for warranty Services but are found to be ineligible for service, Tait may at its option, provide an estimated quotation for the repair which Customer may accept. The repair will be completed by Tait upon receipt of payment.

12.8. Repaired and replacement Products provided pursuant to the provisions of this clause shall have the benefit of a warranty in the terms of this clause for the remainder of the Warranty Period for the original Product or 3 months from provision of the repair or replacement, whichever is longer.

12.9. For third party products, Customer shall only be entitled to such warranty or other benefit as Tait has received from the manufacturer or licensor and is able to pass on. Except as provided in this clause, no warranty (whether express, statutory or implied) is given to Customer by Tait or any licensor of Tait in respect of the whole or any part of a third party product, and such suppliers and licensors disclaim all such warranties including without limitation any warranties of merchantability, non-infringement or fitness for a particular purpose.

12.10. Any work carried out by Tait at Customer's request which is not required to satisfy Tait's warranty obligations under this clause shall be charged as Additional Services. Tait shall be entitled to dispose of any Products that have been sent to Tait for repairs or upgrades which remain uncollected and in respect of which Customer has incurred charges that remain overdue for more than 60 days.

12.11. The Products are not designed, tested, manufactured or intended for operation or use in relation to any:

- a) on-line control of aircraft, air traffic, aircraft navigation or aircraft communications;
- b) potentially explosive environments (unless intrinsically safe equipment is specifically ordered and supplied and used in accordance with the supplied instructions);
- c) design, construction, operation or maintenance of any nuclear facility; or
- d) any inherently dangerous, life-endangering or life-support applications. If Customer (or Customer's users) uses the Products for any such use, then such use is at Customer's (or Customer's user's) own risk without any recourse against or with respect to Tait and Customer shall indemnify and hold Tait and its third party licensors harmless from any claims for loss, cost, damage, expense or liability arising out of or in connection with any such use and performance.

13. SOFTWARE:

13.1. As to any software provided by Tait as a distributor or licensor to Customer, Customer agrees to be bound to the terms of the licence as expressed herein regardless of whether the software is already installed on a Tait Product, provided by a compact disk or downloaded from the Tait website. Use of the software constitutes your acceptance of these terms.

13.2. Software and the IPR in the Products shall at all times remain the exclusive property of Tait or its suppliers. All IPR arising under the SOW including without limitation IPR arising from the supply of the Products, except to the extent that they comprise or incorporate IPR supplied by Customer, shall vest in and be owned by Tait or its suppliers absolutely, and Customer shall acquire no right, title or interest therein.

13.3. Third Party software and software in third party products may be subject to separate terms and restrictions and if so these shall be notified to Customer in writing or contained in any "box" or "on-screen" licence supplied with such third party products (copies available on request),

and Customer shall be obliged to comply with the same.

13.4. Subject to clause 13.2, in consideration for Customer paying the relevant fees hereunder Tait shall grant to, or procure the grant to, Customer of a worldwide, non-exclusive, non-assignable, non-transferable licence to use the software (in executable form only) and the Products for the installation, configuration and use, for normal business purposes, of the software in connection with the Products to which it relates or for the purpose identified in, and subject to any restrictions contained in, the SOW or user documentation (including without limitation restrictions on the numbers of users or copies), and in accordance with the provisions of this clause 13.

13.5. Customer shall be entitled to grant a sub-licence to any person installing, configuring or using the Products in the terms and subject to the conditions of the licence granted to Customer under this clause 13.

13.6. If the software licensed or sub-licensed under the agreement contains or is derived from Open Source Software, the terms and conditions governing the use of such Open Source Software are in the Open Source Software Licences of the copyright owner and not in these terms. If there is a conflict between these terms and the terms and conditions of the any applicable Open Source Software Licences, the terms and conditions of the Open Source Software Licences will take precedence. For information about Open Source Components contained in Products and the related Open Source licences, see: <http://support.taitradio.com/go/opensource>

13.7. Customer may make copies of any software for reasonable back-up purposes and, upon request, shall advise Tait of the location of any software and its back-up copies.

13.8. Subject to clause 13.7, Customer shall have no right to copy, adapt, reverse engineer, decompile, disassemble, lease, sell, assign, modify or create derivative works of any software in whole or in part except:

- a) as specifically permitted by law; or
- b) with Tait's prior written consent.

The restrictions in these licence conditions are made for the benefit of Tait and its suppliers and may be enforced by such suppliers to the extent that they relate to any software and IPR supplied by such suppliers.

13.9. The licence granted under clause 13.4 (and any sub-licence granted under clause 13.5) shall be without limit of period but Tait may immediately terminate such licence (and the right to continue any sub-licences) to use the relevant software and/or Products by notice in writing to Customer if Customer or any sub-licensee breaches any terms of the licence or sub-licence (and such breach is incapable of remedy or is not remedied within a reasonable time of a request to do so), whereupon Customer shall, at Tait's direction, immediately return to Tait or destroy the software and any back-up copies (and procure that sub-licensees do the same) and certify in writing to Tait that this has been done.

13.10. Customer represents and warrants that it has the necessary rights or licences to provide any Customer materials, information or system access to Tait as may be required under these terms and conditions.

13.11. The licence terminates automatically without notice from Tait in the event that Customer fails to comply with the terms and conditions of these terms and conditions.

13.12. Software provided by Tait to Customer shall be provided subject to compliance with any licence agreement to be executed by Customer for non-exclusive use of the software.

14. CONFIDENTIALITY:

14.1. The Parties undertake to keep all Confidential Information disclosed by the other party strictly confidential, in a safe and secure place using reasonable technical and organisational security measures to prevent unauthorised access, destruction or loss and to only disclose Confidential Information to its Affiliates, employees, agents, advisers or sub-contractors on a "need to know" basis. The parties may only use the Confidential Information in performing its obligations under this agreement and not for its own benefit or the benefit of any third party. Each Party undertakes to the other to make all relevant employees, agents, advisers and sub-contractors aware of the confidential nature of the Confidential Information disclosed by the disclosing Party.

14.2. The confidentiality obligations do not apply to information that is or becomes public knowledge other than by breaching the confidentiality obligations, or that come into the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party, or that are received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure, is independently developed without access to any Confidential Information disclosed by the disclosing Party, or where disclosure is required by law.

15. NO WAIVER:

The parties may only waive rights or remedies in writing.

16. ASSIGNMENT:

Neither party may assign their rights or obligations applicable to these terms and conditions or the contract between the parties without the written consent of the other party. Such consent shall not be unreasonably withheld or delayed.

17. FORCE MAJEURE:

17.1. Tait shall not be liable for delay in delivery, nor for any failure to perform this agreement, or for loss or damage to the Products directly or indirectly caused by any act of God, fire, theft, riot, war, embargo, natural disaster, adverse weather or action of any government or any other occurrence (whether or not of a similar nature to those specified) beyond the control of Tait. Tait agrees to make and Customer agrees to accept delivery whenever such causes of delay have been remedied making delivery possible.

17.2. If either party is prevented or delayed from performing any of their obligations under the SOW by force majeure, then he may notify the other party of the circumstances constituting the force majeure incident and of the performance which is thereby delayed or prevented. The party giving the notice shall thereupon be excused the performance or punctual performance (as the case may be) of such obligations for so long as the circumstances of prevention or delay may continue. Notwithstanding that either Party may have been granted an extension of the time for the completion of the SOW by way of a notification of a force majeure incident, either party shall be excused the performance of any obligation for continuous period of 120 days, then either party may at any time thereafter and provided that such performance or punctual performance is still excused, by notice to the other terminate the contract.

17.3. If the SOW is so terminated then Customer shall pay to Tait in so far as the same shall not already have been included in certificates of payment made by Customer or be the subject of an advance payment, the contract value of the works executed prior to the date of termination. Tait shall also be entitled to have included in such payment:

- a) the cost of materials or goods reasonably ordered for the contract or for use in connection to the contract which have been delivered to Tait or for which Tait is legally liable to accept delivery. Such materials or goods shall become the property of Customer when paid for by Customer;
- b) the amount of any other expenditure which in the circumstances was reasonably incurred by Tait in the expectation of completing the whole of the contract;
- c) the reasonable cost of removal of Tait's equipment and the return thereof to Tait's office;
- d) the reasonable cost of repatriation of all Tait staff and subcontractors employed at Customer's site on or in connection with the contract at the date of such termination.

18. LIMITATION OF LIABILITY:

18.1. Customer warrants that it has not relied on any representation made by Tait or upon any catalogues or publicity material produced by Tait which has not been stated expressly in these terms and no statement made or agreed to and no liability undertaken orally shall be binding upon Tait unless confirmed by Tait in writing.

18.2. Unless otherwise provided by applicable law, Tait's liability, if any, for any allegedly defective Product, part or software shall be limited to repair or replacement of the Product, part or software, at Tait's option, and the liability of Tait, if any, for damages relating to defective Product, part or software shall be limited to claims made within 6 months of the reseller becoming aware of circumstances giving rise to the damage or injury to another party.

18.3. Neither Party's liability for any of the following is excluded or limited by these terms:

- a) death or personal injury caused by that Party's negligence or the negligence of its employees agents or sub-contractors;
- b) fraud or other criminal act;
- c) fraudulent misrepresentation;
- d) breach of any confidentiality obligations; and
- e) for anything else in relation to which, under the law governing these terms, liability cannot be excluded or limited.

18.4. Subject to clause 18.3, neither Tait, nor any supplier or licensor of Tait, nor Customer shall be liable under or in relation to this Agreement

(whether the liability arises for breach of contract, negligence, under an indemnity, obligation to refund, under any other theory of law or for any other reason) for any:

- a) loss of profits;
- b) loss of turnover;
- c) loss of or damage to goodwill or reputation;
- d) loss of, or loss of the use of, any software or data;
- e) losses or liabilities in relation to any other contract; or
- f) indirect, special or consequential loss or damage. For the purposes of this clause the term "loss" includes a partial loss or reduction in value as well as a complete or total loss.

18.5. Subject to clauses 18.3 and 18.4, Tait's total liability in connection with these terms or any SOW subject to these terms (whether the liability arises from breach of contract, warranty, negligence, under an indemnity, obligation to refund, under any other theory of law or for any other reason) shall be limited to the direct damages recoverable under law but not to exceed the total amount paid or payable by Customer for the Products or Services with respect to which the liability arises.

18.6. Customer agrees that it shall take reasonable precautions (relative to the importance to Customer of the Products concerned), including without limitation backing up software and data at reasonable intervals, implementing back-up systems or redundancy and maintaining suitable numbers of spare units at suitable locations (at a minimum to the Tait's recommended spares levels). Subject to clause 18.3, Tait shall have no liability for any losses suffered by Customer to the extent that the loss concerned would have been prevented by the taking of such reasonable precautions.

18.7. Notwithstanding anything in these terms Tait will not be liable for any claim for damages or losses malfunctions or failures caused by the following:

- a) Customer's failure to comply with reasonable directions of Tait with respect to operation of the Products;
- b) Computer programs not supplied by Tait;
- c) Modification, revision, variation, translation or alteration of the Products not authorised by Tait;
- d) Incorrect use of the Products;
- e) Incorrect or unreliable information supplied to Tait by Customer or persons under the control of Customer;
- f) Improper installation of the Products by Customer;
- g) Malicious or reckless abuse of Products by users.

19. INTRINSICALLY SAFE PRODUCT SALES:

19.1. If the SOW is for the purchase of Intrinsically Safe (IS) Products (both IS radios and IS accessories) the following terms shall apply:

- a) Tait Intrinsically Safe portable radios are certified to the standards and ratings specified in the relevant IS Certificate as held by the Certification Body;
- b) The customer confirms that the IS rating of the ordered IS Product is appropriate for the conditions of use required by the customer. The customer further confirms that the functional requirements for the IS Products have been agreed with Tait and are as set out in the specification, statement of work or other agreed requirements document. Where no specification, statement of work or agreed requirements are specified then the customer acknowledges that the standard Tait product specification applies;
- c) It is a condition of use of a Tait IS radio that the radio is only used with compatible IS accessories. Compatible IS accessories must:
 - (i) comply with Tait interface entity parameters; and
 - (ii) be certified to the applicable IS rating. An Intrinsically Safe Product must be serviced in accordance with Tait repair policy and at Tait authorised facilities in order to maintain its IS rating;
- d) Tait shall not be held liable for any loss or damage resulting from the incorrect use or servicing of Intrinsically Safe Products;
- e) If the customer is acquiring the IS Product under this SOW for resale and is not the end user, the customer shall maintain accurate records of all Tait IS product sales made including product serial numbers and end user details. In the event that Tait identifies a safety critical defect the customer shall make such information available to Tait immediately upon request.

20. CANCELLATION, TERMINATION AND SUSPENSION

- 20.1. Customer may not cancel the whole or any part of a SOW for convenience without the prior written consent of Tait. If Tait agrees in writing to the cancellation, work on the specified cancellation shall be stopped as quickly as is practical and Customer will pay to Tait the payments required under clause 21.1.
- 20.2. Tait or Customer may terminate a SOW immediately at any time by written notice to the other if:
- the other commits a material breach of these terms which it fails to remedy within thirty (30) days of receiving written notice requiring it to do so; or
 - the other becomes insolvent, has an administrator, receiver or manager appointed of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its winding-up dissolution or liquidation (other than for the purpose of solvent amalgamation or reconstruction) or any event occurs in a foreign jurisdiction analogous to, or comparable with, any of the above.
- 20.3. If any appropriate instructions, information, technical documents, design approval, letters of undertaking, licenses or authorizations required to be provided by Customer have not been provided, or Customer is otherwise in breach of any of its obligations under these terms (except for non-payment which shall be handled in accordance with Clause 2.3) and Tait has provided Customer of at least 14 days written notice of its intention to exercise such right, Tait reserves the right to suspend contractual performance or withhold any relevant shipment until each of the same have been satisfied.

21. CONSEQUENCES OF TERMINATION

- 21.1. If:
- customer terminates the SOW under clause 20.1 (Customer convenience); or
 - Tait terminates the SOW under clause 20.2; then Customer shall pay Tait:
 - the value of the proportion of the Products and Services provided but not paid for by Customer when the SOW is terminated;
 - for work in process, a percentage of the Price based on the work completed up to the time of cancellation and work is

stopped;

- the cost of materials and equipment properly ordered for the Project for which Tait has paid or is legally bound to pay, provided that the value of such items is not included in the amount payable under clauses 21.1(e) or 21.1(f); and
- for Services a percentage of the Price for all Services performed up to the date of cancellation which for the avoidance of doubt may include Additional Services required to demobilize the work.

- 21.2. If a party terminates for Force Majeure the terms of clause 17.3 shall apply.
- 21.3. As soon as reasonably practicable after termination each party shall return to the other all Confidential Information, documents, equipment and materials belonging to the other Party.
- 21.4. Any termination of a SOW (howsoever occasioned) shall not affect any accrued rights or liabilities of either Party nor shall it affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into force or continue in force on or after that termination. Notwithstanding the foregoing, the parties agree that the equitable remedy of specific performance of either party is hereby expressly excluded.

22. GOVERNING LAW AND RESOLUTION OF DISPUTES:

These terms and the SOW and any non-contractual matters arising out of them or in connection with them, shall be governed and construed in all respects in accordance with Austrian law excluding the conflict of laws rules and the UN Convention on Contracts for the International Sale of Goods. Any provisions which violate those laws shall be deemed to not be a part of this Agreement. Notwithstanding the foregoing the parties shall attempt to resolve in good faith any disputes arising between them and shall give due consideration to the use of mediation or alternative dispute resolution techniques and reference to independent experts prior to the issue of court proceedings.

23. LOCATION BASED SERVICES:

To provide location-based services on Tait products, Tait may collect and use precise location data, including real-time geographic location of your Tait device. This location data is collected anonymously in a form that does not personally identify you and is used by Tait to provide and improve location-based products and services.