

Terms of Sale

These Terms of Sale (**Terms**) apply to the sale of Products and the provision of related Services by Tritium Power Solutions, Inc., Tritium NexGen Solutions B.V., Tritium Power Solutions Limited or Tritium Power Solutions Pty Ltd as the case may be (each Tritium, we, us and our) to our customers (Customer, you and your) as set out in a commercial offer, RFP response or separate quote.

These Terms are not intended and do not entitle Customers to resell Tritium Products.

1 Ordering Products

1.1 Unless you have a separate executed agreement with us, all of Tritium's commercial offers or RFP responses, and any subsequent quotes (together an Offer) are made subject to these Terms. Customer's purchase orders cannot modify or replace these Terms or the Offer.

1.2 You may accept Tritium's Offer while it remains valid by sending us an Order which matches our Offer or is set out on Tritium's purchase order template (available upon request). By issuing an Order, you agree that your purchasing terms do not apply even if the Order stipulates that they do.

1.3 Upon issuing Tritium with an Order, the Order will incorporate these Terms and take effect as a binding agreement (**Agreement**).

1.4 Our Offer, these Terms and the related Order set out the full and only Agreement under which Tritium will supply the Products and/or Services to you. Any other verbal or written terms or representations are not binding on either party. If there is any inconsistency between your Order and our Offer, our Offer will apply to the extent of any inconsistency.

2 Territory and Resale

2.1 You must not install, or allow installation, of the Products outside the Territory specified in Tritium's Offer, unless Tritium has expressly authorised in writing.

2.2 You must not resell the Products unless Tritium has expressly authorised you to in writing and you have executed the Reseller Addendum, in the form provided to you by Tritium.

3 Production Lead Time, Delivery and Storage

3.1 When Tritium accepts an Order, it will advise you of the expected production lead time and completion date for the Products (**Lead Time**). Lead Times for the Products, whether in writing or verbally, are non-binding estimates, but Tritium will use its commercially reasonable endeavours to complete production of the Products ready for collection or delivery on or before the estimated Lead Time.

3.2 Without prejudice to Tritium's rights under the Agreement or at law, Tritium may choose, at its sole discretion, not to accept an Order including where:

- (a) there are manufacturing capacity issues or supply chain issues;
- (b) Tritium is considering or has decided to stop supplying the relevant Product (temporarily or permanently);
- (c) the Order is not on terms acceptable to Tritium; or
- (d) you request to Order non-standard products is not in accordance with the Offer.

3.3 Tritium shall complete accepted Orders in accordance with the Terms of the relevant Agreement.

3.4 All deliveries are in accordance with the Offer, which will specify the agreed delivery terms, including which party is responsible for organizing and paying for freight, transit insurance, import taxes, etc, and which party is responsible for the risk of loss or damage during delivery of the Products. If Tritium's Offer does not specify an Incoterm for the supply of the Products, they will be

deemed to be supplied EXW (Tritium's local distribution centre) Incoterms 2020.

3.5 If you do not collect or make arrangements to accept delivery of the Products (including but not limited to failing to provide a delivery address) within five (5) business days of notification the Products are ready for collection or delivery, then Tritium will arrange storage of the Products at your cost and risk and will invoice you monthly for storage costs at commercial storage rates.

3.6 If you fail to:

- (a) pay a monthly invoice for storage costs charged by Tritium under clause 4.3 for more than three (3) months from the due date for payment; or
- (b) collect or arrange delivery of the Products for longer than six (6) months from the date they are first notified as available for collection or delivery,

the parties agree that it is fair and reasonable that the Deposit for the relevant Products is forfeited to Tritium and does not operate as a penalty and Tritium may resell or otherwise dispose of any or all of the Products.

3.7 Tritium will refund to you the proceeds of any resale, having deducted (i) the Deposit, (ii) the costs and expenses of the resale, (iii) any Storage Costs and expenses, and (iv) and any other sums due and owing by you to Tritium.

3.8 If pursuant to Tritium's exercise of its rights under clause 3.6 or otherwise arising in connection with this Agreement or at law, (i) Tritium is unable to resell any or all of the Products, or (ii) the amounts of any resale of any of the Products do not satisfy the amounts due and owing by you to Tritium, then and without prejudice to any other rights of Tritium in connection with this Agreement or at law, Tritium may deal with any remaining Products as it deems fit and take such action as it deems appropriate to recover the debt from you.

3.9 You agree Tritium will not be liable for any delay in delivery of the Products caused by a Force Majeure Event.

4 Prices and Invoicing

Deposit

4.1 Immediately after Tritium accepts the Order, Tritium will issue an invoice for the payment of the deposit for the Order (**Deposit**). Notwithstanding Tritium's confirmation and acceptance of the Order, such acceptance will be subject to and conditional on receipt of the Deposit. You must pay the Deposit for each Order, within the Deposit Terms period.

Invoices

4.2 Tritium will invoice you for the balance of the Price upon the earlier of:

- (a) the Products being made available for your collection (where Tritium is supplying ExW); or
- (b) you being advised the Products are ready for dispatch (where Tritium is obliged to deliver them other than ExW); or
- (c) completion of end of line testing where you have failed to provide timely instructions (such as vinyl details or SIM configurations) when requested.

4.3 You must pay an invoice issued under clause 4.2 within the Payment Terms period, from the date of invoice issue.

4.4 If you default in making a payment to Tritium in line with this Agreement and the invoice, Tritium may charge interest on your overdue account balance monthly, at a rate equal to the lesser of 10% of such invoice or the maximum amount permitted under applicable law from the date you defaulted.

Billing Disputes

4.5 If there is a dispute about whether a Deposit, Price, refund or other amount contemplated by this Agreement is payable or available, you must not withhold the amount in dispute.

5 Transfer of Ownership and Risk

Ownership

5.1 Ownership of and title in the Products (except for Embedded Software) passes to you when all amounts payable by you for the applicable Products under this Agreement have been paid in full.

5.2 Until all amounts owing by you to Tritium are paid in full, you agree:

- (a) to hold the Products in a fiduciary capacity for Tritium;
- (b) not to deal with the Products other than in the ordinary course of your business, and in doing so, grant Tritium a security interest in any payments you receive for the use or sale of the Products; and
- (c) to indemnify Tritium against all Loss incurred in connection with Tritium reclaiming possession of the Products under this clause 5.2.

5.3 You acknowledge and agree that:

- (a) the retention of title set out above creates a security interest in all present and after acquired Products (and any proceeds), securing your obligations to Tritium;
- (b) Tritium is a secured party and can register its interest on any applicable secured interest register;
- (c) if directed by Tritium, you will provide whatever assistance is necessary to ensure Tritium's security interest is perfected and enforceable;
- (d) in the event any payment owing is in arrears by more than ninety (90) days, Tritium or its agents may gain access to your premises at which the Products are located to enforce Tritium's ownership rights; and
- (e) any costs and expenses associated with Tritium's protection of its security interest will be your responsibility.

Risk

5.4 Risk in the Products passes to you in accordance with the nominated Incoterms of supply, unless otherwise agreed by the parties.

6 Customised Artwork & Approval Process

6.1 If you have requested that Tritium provide customised artwork for the vinyl wrap on your Product, the price of the Product includes the provision of two (2) complimentary design concepts based on the creative brief provided by you. Any further concept design development work beyond the two complimentary designs will incur additional charges at the applicable commercial rates.

6.2 Once your preferred concept design is chosen, you may request up to two (2) edits of the artwork content free of charge. This stage does not include any extensive design changes but is limited to changes to existing design content only.

6.3 If you require more than two (2) revisions/author corrections before approving the final design artwork, any additional revisions will incur additional charges at the applicable commercial rates.

6.4 If you provide your own detailed concept design artwork in the appropriate file format (as per the Tritium specifications provided to you in the DIY kit), we will provide one (1) revision/author correction of the artwork free of charge. Any further revisions will incur additional charges at the applicable commercial rates.

6.5 If we have notified you in writing seeking your approval of the artwork (**Approval Request**) and you fail to accept the approval request or alternatively, fail to submit a request to have the artwork revised (**Revision Request**) within five (5) business days of receipt of the Approval Request, then Tritium will arrange storage of the products for you at your cost and risk and will invoice you monthly for storage costs at commercial storage rates, until such time as you approve the final design artwork.

7 Product Installation, Commissioning, and Training

7.1 Upon request, Tritium can provide you with training on how to install, commission, maintain and support our Products. The Prices for this training and ongoing support will be set out in Tritium's Offer (where requested) and provision of those training services will be governed by this Agreement.

7.2 Our High-Power Products must either be commissioned by Tritium, or by one of Tritium's Authorised Agents. Any commissioning services provided by Tritium are provided pursuant to these Terms. If you schedule a commissioning, but the site is not ready to be commissioned on the scheduled date (including due to incomplete installation), you will be liable for all reasonable direct costs Tritium incurs rescheduling that commissioning date.

8 SIM Card Plans and Subscription Services

8.1 For SIM Card Plans and HMI Dynamic Content Services (each a Subscription), Tritium will invoice the applicable annual service fee in advance. You must pay such invoices within thirty (30) days of the invoice date.

8.2 Subscriptions automatically renew annually on the invoice anniversary date without the requirement for a new Offer or Order.

8.3 To prevent renewal of a Subscription, you must provide Tritium with written notice of cancellation at least thirty (30) days prior to the renewal date. Physical removal of a SIM card or disabling of features does not constitute cancellation and does not terminate your billing obligation.

8.4 All Subscriptions are subject to a minimum twelve (12) month term. No refunds apply for prepaid periods.

8.5 If fees remain unpaid thirty (30) days after the invoice date, Tritium may provide written notice that the Subscription will be suspended or cancelled if payment is not received within fifteen (15) days of such notice.

8.6 You acknowledge and agree that termination or suspension of SIM Card Plans may impact or disable charger functionality, and Tritium will not be liable for any Loss arising from such service interruption.

9 Intellectual Property

The Products and Embedded Software

9.1 You acknowledge and agree that the Products:

- (a) are manufactured by Tritium using certain proprietary and confidential designs, components and manufacturing techniques that are the subject of various Intellectual Property Rights; and
- (b) incorporate Embedded Software.

Licence to use the Embedded Software

9.2 Subject to the terms and conditions of this Agreement, to the extent any Product supplied to you includes Embedded Software, Tritium grants to you, a limited, non-exclusive, royalty-free, worldwide, irrevocable and non-transferable licence to use the Intellectual Property Rights in the Embedded Software solely for, and in connection with performing this Agreement.

9.3 You acknowledge and agree that the Embedded Software may contain unforeseen or unknown errors, is not virus-proof, and may not be available all of the time. Tritium will use all commercially reasonable endeavours to rectify such issues as soon as practicable after being made aware of such issues.

Reservation of Tritium's Intellectual Property Rights

9.4 Other than as expressly licensed to you herein, Tritium hereby expressly reserves and retains all Intellectual Property Rights in the Products, the Embedded Software, the Pulse Software, the Documentation and the Material.

9.5 Without limiting clause 9.4 and subject to the terms and conditions of this Agreement, you must not:

- (a) attempt to copy, modify, duplicate, create any derivative works from, frame, mirror, republish, download, display,

transmit, or distribute all or any portion of the Products, Embedded Software and/or Documentation (as applicable) in any form or media or by any means; or

(b) attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Products or Embedded Software; or

(c) access all or any part of the Products, Embedded Software and Documentation in order to build a product or service which is the same, similar or otherwise competes with the Products or the Embedded Software; or

(d) use the Embedded Software and/or Documentation to provide services to third parties (other than those expressly outlined under this Agreement); or

(e) license, sell, rent, lease, transfer, assign, distribute, display, disclose, commercially exploit, or otherwise make the Embedded Software and/or Documentation available to any third party; or

(f) attempt to obtain, or assist third parties in obtaining, access to the Embedded Software and/or Documentation, other than as provided under this clause.

9.6 You must take all reasonable steps to prevent any unauthorised access to, or use of, the Products, Embedded Software and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Tritium.

Background IP

9.7 Each party (or its licensors, as applicable) retains ownership of all Intellectual Property Rights subsisting in any Material it provides or makes available to the other party in connection with this Agreement (**Background IP**).

9.8 All modifications and enhancements to a party's Background IP are also to be treated as Background IP of that party. If a party (first party) modifies or enhances any part of the Background IP of the other party, the first party assigns to the other party all Intellectual Property Rights in those modifications and enhancements immediately from creation to the maximum extent permitted by law. If such assignment is unlawful, the first party must licence such modifications and enhancements on a royalty free basis to the other party or otherwise to the fullest extent permitted by law.

Developed IP and Charger Data

9.9 Tritium owns and retains all Intellectual Property Rights in any Material created or developed by or on behalf of Tritium in connection with this Agreement (including any creative content, ideas, developments, amendments, modifications or other improvements to the Products, Embedded Software and any feedback) (**Developed IP**).

9.10 Without prejudice to clauses 9.7 to 9.9 and subject to the terms and conditions of this Agreement, each party grants to the other party a limited, royalty-free, worldwide, revocable, non-transferable non-sub-licensable licence to use its respective Background IP and its Developed IP, solely for the purpose of and in connection with performing this Agreement.

9.11 You own and retain all Intellectual Property Rights in all performance, telemetry and diagnostic data that is produced by the Products during their ordinary operation and use, including but not limited to uptime/downtime, customer usage, geo location, error codes, etc. (**Charger Data**).

9.12 You grant to Tritium, an irrevocable, perpetual, royalty-free, worldwide, transferable and sublicensable license to use the Charger Data for Tritium's commercial purposes, including data analytics, software development, product research and development and ongoing support and maintenance services.

Trademarks

9.13 Subject to the conditions set out in clause 9.14, and you seeking and receiving written consent to the use from Tritium (which consent may be withheld without reason), Tritium grants you a limited, non-exclusive, royalty-free, revocable licence to use the

Tritium Marks in the Territory, solely for the purpose of referencing the Products.

9.14 You must:

(a) use the Tritium Marks in accordance with this Agreement and the written consent of Tritium;

(b) if requested by Tritium, include in any materials that use the Tritium Marks a notice to the effect that they are Trade Marks of Tritium or its successors in title;

(c) comply with any direction Tritium issues from time to time relating to using the Tritium Marks;

(d) if requested by Tritium, provide information about how you are using the Tritium Marks;

(e) not use any part of the Tritium Marks outside the Territory;

(f) not alter or deface any reproduction of the Tritium Marks in any way;

(g) not do or omit to do anything that might prejudice the goodwill or reputation of the Tritium Marks;

(h) not use the Tritium Marks together with any other sign, trademark or other means of identification, without Tritium's prior approval; and

(i) not authorise or assist anyone to do anything described in this clause.

10 Confidential Information and Privacy

Obligations of Confidence

10.1 Each party agrees to keep confidential, and not to use or disclose, other than as permitted by this Agreement, any Confidential Information of the other party provided to or obtained by that party before or after entry into this Agreement.

Exclusions

10.2 The obligations of confidence in clause 10.1 do not apply to Confidential Information:

(a) that is required to be disclosed by applicable law, or under compulsion of law by a court or government agency or by the rules of any relevant stock exchange or regulator, as long as the disclosing party: (i) discloses the minimum amount of Confidential Information required to satisfy the law or rules; and (ii) before disclosing any information, gives a reasonable amount of notice to the other party in writing and takes reasonable steps (whether required by the other party or not) to maintain such Confidential Information in confidence;

(b) that is in the public domain otherwise than as a result of a breach of this Agreement or other obligation of confidence; or

(c) that is already known by, or rightfully received, or independently developed, by the recipient of that Confidential Information free of any obligation of confidence.

Restriction on Disclosure

10.3 Each party may use and disclose Confidential Information of the other party only:

(a) with the prior written consent of the other party; or
(b) to that party's Affiliates, directors, agents, professional advisors, employees, contractors and permitted subcontractors solely for the exercise of rights or the performance of obligations under this Agreement.

10.4 If either party discloses Confidential Information under clause 10.3, that party must ensure:

(a) the person to whom it is disclosed is bound by obligations of confidentiality to the party at least to the extent imposed upon that party by this Agreement; and

(b) such information is kept confidential by the person to whom it is disclosed.

Injunctive Relief

10.5 Each party acknowledges that:

- (a) the other party may suffer financial and other loss and damage if any unauthorised act occurs in relation to Confidential Information of the other party, and that monetary damages would be an insufficient remedy; and
- (b) in addition to any other remedy available at law or in equity, the other party is entitled to injunctive relief to prevent a breach of, and to compel specific performance of clause 10.

Privacy

10.6 Where a party provides, or makes available Personal Information to the other party in connection with this Agreement, the first party must:

- (a) comply with all Privacy Laws in relation to that Personal Information (regardless of whether that party is otherwise obliged to comply with the Privacy Laws);
- (b) take all steps that are reasonable in the circumstances to keep that Personal Information safe and secure;
- (c) not do anything or omit to do anything that results in a breach of a Privacy Law (or would if the party were an entity regulated under that Privacy Law); and
- (d) not do anything or omit to do anything that results in the other party being in breach (or being taken to be in breach) of that Privacy Law.

10.7 You acknowledge and agree that the Developed IP and any Material produced by the Products detailing your, or end-user's use of the Products, does not represent Personal Information.

11 Limitation of Liability

11.1 Subject to clauses 10.3, 11.2 and 11.3, any liability of Tritium for any Loss however arising (including by the negligence of Tritium), incurred by you in connection with this Agreement (other than liability of Tritium for any death or personal injury caused or contributed to by any act or omission of Tritium or its employees, officers, contractors or agents) is limited to, the Fees paid or in relation to the Order that is the subject of the liability, or where claims are not part of any particular Order, USD 50,000.

11.2 The limitation set out in clause 11.1 is an aggregate limit for all claims, whenever made.

Consequential Loss

11.3 Subject to clauses 11.2 and 11.3, neither party is liable for any Consequential Loss suffered or incurred by the other party, however caused (including due to their negligence), in connection with this Agreement.

12 Warranty

12.1 Tritium warrants that the Products supplied will be free from defects in material and workmanship in accordance with the terms of its Warranty Statement.

12.2 Any warranty extensions for the Products must be purchased within ninety (90) days from the date of the Purchase Order. Tritium will not offer or honor any warranty extensions purchased or requested after this ninety (90) day period.

Consumer Law

12.3 Except as contemplated by clause 11.3, nothing in this Agreement is intended to limit or exclude any of your rights under any applicable sales or consumer legislation that prohibits the exclusion of any applicable consumer rights.

12.4 If any applicable legislation states that there is a guarantee or implied term in relation to any good or service supplied by Tritium in connection with this Agreement and Tritium's liability for failing to comply with that guarantee cannot be excluded but may be limited, then clauses 10.11 and 10.2 do not apply to that liability and instead Tritium's liability for such failure is limited to (at Tritium's election):

(a) in the case of a supply of goods, Tritium replacing the goods or supplying equivalent goods, repairing the goods, paying the cost of replacing the goods or of acquiring equivalent goods, or paying the cost of having the goods repaired; or

(b) in the case of a supply of services, Tritium supplying the services again or paying the cost of having the services supplied again.

13 Indemnity

13.1 Each party (**Party Indemnifying**) indemnifies the other party (**Party Indemnified**) and the Party Indemnified's employees, officers, contractors and agents (together **Persons Indemnified**) against all Loss incurred or suffered by the Persons Indemnified arising in connection with any breach of confidentiality obligations by the Party Indemnifying or its employees, officers, contractors or agents, except to the extent that the Loss is directly attributable to the negligence or wrongful act or omission of the Person Indemnified.

13.2 Each party indemnifies the other against any claim or allegation that the exercise by that first party as licensee of the rights contemplated by clause infringes the Intellectual Property Rights or other rights of any third party provided that the licensor of the Intellectual Property Rights is given the right to deal with the claim or allegation.

Continuing Obligation

13.3 Each indemnity contained in this Agreement is a continuing obligation notwithstanding:

- (a) any settlement of account; or
- (b) the occurrence of any other thing,

and it is not necessary for the party indemnified to incur expense or make payment before enforcing or making a claim under an indemnity.

14 Force Majeure

14.1 Neither party is in breach of this Agreement or liable for any failure or delay in performing its obligations under this Agreement to the extent that failure or delay is caused by a Force Majeure Event.

15 Taxes

15.1 The Prices do not include any local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, consumption, use or withholding taxes (**Taxes**).

15.2 Subject to Incoterms provided for in the Offer, you are responsible for payment of all Taxes associated with your Orders (excluding taxes on Tritium's income or property) and any related penalties and interest.

15.3 You must not reduce any amount payable under this Agreement to account for any withholding tax.

15.4 You must provide Tritium when asked with reasonable evidence that it has paid applicable Taxes.

16 General

16.1 The laws of the Jurisdiction of the contracting Tritium entity identified in the Offer govern this Agreement.

16.2 Each party irrevocably submits to the non-exclusive jurisdiction of the courts of the Jurisdiction outlined in the preceding clause and courts competent to hear appeals from those courts.

16.3 You agree to comply with all applicable laws, statutes, regulations or rules, including those of applicable self-regulatory bodies in:

- (a) your performance of this Agreement;
- (b) your exercise and enjoyment of its rights under this Agreement; and

(c) your taking delivery, installation, and use of the Products.

16.4 Neither party may assign, in whole or in part, or novate the party's rights and obligations under this Agreement without the prior written consent of the other party.

16.5 This Agreement does not create a relationship of employment, trust, agency or partnership between the parties other than as expressly set out in this Agreement.

16.6 A clause or part of a clause of this Agreement that is illegal or unenforceable:

- (a) may be severed from this Agreement;
- (b) is to be treated as being severed from this Agreement only in the relevant jurisdiction where it is illegal or unenforceable; and
- (c) the remaining clauses or parts of the clause of this Agreement continue in force in the relevant jurisdiction.

16.7 This Agreement supersedes all previous agreements about its subject matter. This Agreement embodies the entire agreement between the parties. Without limitation, any Customer terms or conditions have no effect, regardless of whether you purport to make an Order subject to your terms or conditions, unless Tritium expressly agrees in writing to accept a variation to this Agreement.

16.8 A right under this Agreement may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in the waiver.

16.9 This Agreement may be signed in any number of counterparts. All counterparts together make one instrument.

17 Definitions and Interpretation

Definitions

17.1 Terms defined in the Offer have the meaning given in the Offer.

17.2 Otherwise, in this Agreement:

Affiliate of a party means any entity that owns or controls, is owned or controlled by, or is under common ownership or control with, that party. Ownership or control may be direct or indirect. Ownership of an entity requires beneficial ownership of at least 50% of the voting equity securities or other equivalent voting interests in the entity. Control of an entity requires the power to direct the management of the entity's affairs.

Business Day means a day that is not a Saturday, Sunday or public holiday in the place where the relevant obligation is performed or right is exercised.

Confidential Information of a party means the terms and existence of this Agreement and any information: (a) relating to the business and affairs of that party; (b) relating to the customers, clients, employees, subcontractors or other persons doing business with that party; which (c) is by its nature confidential; (d) is designated as confidential by that party; or (e) the other party knows or ought to know, is confidential, and all trade secrets, knowhow, financial information and other commercially valuable information of that party.

Consequential Loss means any one or more of the following: (a) loss of bargain; (b) loss of revenues; (c) loss of reputation; (d) indirect loss; (e) loss of profits; (f) consequential loss; (g) loss of actual or anticipated savings; (h) lost opportunities, including opportunities to enter into arrangements with third parties; (i) loss or damage in connection with claims against a party by third parties; and (j) loss or corruption of data.

Deposit Terms means the deposit terms as specified within a relevant Offer.

Documentation means any documentation provided with or relating to a Product (including Embedded Software).

Embedded Software means any software or firmware embedded in a Product, and includes any updates of that software but excludes Pulse Software.

Force Majeure Event means any occurrence or omission outside a party's reasonable control affecting its ability to perform its obligations arising in connection with this Agreement and including (but not limited to): (a) a physical natural disaster including fire, flood, lightning or earthquake; (b) war or other state of armed hostilities (whether war is declared or not), insurrection, riot, civil commotion, act of public enemies, national emergency (whether in fact or law) or declaration of martial law; (c) epidemic or quarantine restriction; (d) strikes or industrial disputes at a national level, including port strikes; (e) a lack of resources or difficulty in obtaining utilities or supplies; (f) ionising radiation or contamination by radioactivity from any nuclear waste or from combustion of nuclear fuel; and (g) law taking effect after the date of this Agreement.

High-Power Products means products that are 150kW or higher.

Insolvency Event means any of the following events: (a) a controller is appointed to the party, or over any of the property of the party; (b) the party becomes bankrupt; (c) a controlling trustee is appointed to the party, or over any of the property of the party; (d) the party or the party's property becomes subject to a personal insolvency arrangement or a debt agreement under applicable bankruptcy or insolvency legislation or laws; (e) the party is unable to pay its debts when they become due and payable; (f) the party is the subject of winding up proceedings; (g) the party ceases to carry on business; or (h) any event happens in a country or territory in respect of a party that is similar to any of the events or circumstances referred to in this definition. If any of the preceding events occur in respect of an Affiliate of the party, it shall also be considered an Insolvency Event of the party to this Agreement. Any event that takes place as part of a solvent reconstruction, amalgamation, merger, or consolidation, on terms approved in writing by the other party beforehand and in compliance with those terms is excluded from this definition.

Incoterms means the International Chamber of Commerce International Commercial Terms 2020 published at <https://iccwbo.org/resources-for-business/incoterms-rules/incoterms-2020/>

Intellectual Property Rights means all industrial and intellectual property rights, throughout the world, and includes any copyright, moral right, patent, registered or unregistered trade mark, registered or unregistered design, trade secret, knowhow, right in relation to semiconductors and circuit layouts, trade or business or company name, indication or source or appellation of origin or other proprietary right, or right of registration of such rights.

Loss means any claim, loss, damage, liability, cost, charge or expense (including legal expenses on a full indemnity basis), however arising, and whether present or future, fixed or unascertained, actual or contingent.

Material includes software, source code, object code, designs, test cases, documents, equipment, reports, technical information, studies, plans, charts, drawings, calculations, tables, trademarks, logos, schedules, telemetry data and data stored by any means.

Offer means the document issued pursuant to this Agreement setting out the commercial terms of a supply of Products.

Order means a request for the supply of one or more of the Products.

Payment Terms means the payment terms specified in a relevant Offer. If no payment terms are specified in a relevant Offer, payment terms will be 14 days from invoice.

Personal Information means information or an opinion, including information or an opinion forming part of a database, whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

Price means the applicable price specified in a relevant Offer.

Privacy Laws means applicable legislation and laws protecting privacy and Personal Information, and includes the Privacy Policy issued by Tritium, and any other laws, industry codes and policies relating to the handling of Personal Information.

Products means those products set out in a Tritium Offer.

Pulse Software means the non-embedded device control centre software, any additional modules to the Pulse Software, and any other cloud-based software not embedded in a Product.

Reseller Addendum means the additional reseller terms which may be provided by Tritium to the Customer in its absolute discretion.

Services means services associated to the provision of our Products, including maintenance, repair, replacement, installation and commissioning of our Products.

Subscription means SIM Card Plans and HMI Dynamic Content Services as described in clause 8.1.

Territory means the territory set out in a Tritium Offer.

Trademark includes: (a) registered trademarks and trademark applications; (b) unregistered trademarks; (c) divisional applications; (d) registrations obtained on pending or divisional applications; and (e) all corresponding foreign applications and registrations.

Tritium Authorised Agent means an agent of Tritium trained by Tritium and authorised to conduct site commissioning, replacement or repairs of Tritium Products. Tritium excludes any liability for acts or omissions of entities not authorised by Tritium, including any entity that may incorrectly represent itself as a Tritium Authorised Agent.

Tritium Marks means the Trademarks Tritium nominates from time to time (if any).

Warranty Statement means the Warranty Statement set out on Tritium's website at <https://tritiumcharging.com/warrantystatement>.

Interpretations

17.3 In this Agreement:

- (a) a singular word includes the plural and vice versa;
- (b) the meaning of any general language is not restricted by any accompanying example, and the words 'includes', 'including', 'such as' or 'for example' (or similar phrases) do not limit what else might be included;
- (c) capitalised terms have the meaning given to them in this Agreement or in the Schedule(s) attached at the end of this Agreement;
- (d) this Agreement is not to be interpreted against the interests of a party merely because that party proposed this Agreement or some provision in it or because that party relies on a provision of this Agreement to protect itself; and
- (e) a reference to a party is a reference to Tritium or you, and a reference to the parties is a reference to both Tritium and you.