

## General Terms & Conditions of Sale 2020 (Hereinafter «T&C»)

### WHEREAS :

- Tech Data France (hereafter "TDF") is a wholesaler specialised in the resale of Products, as defined below, exclusively to professionals whose business relates to those Products;
- The Customer's business is, inter alia, the resale of IT products to end customers;
- As the Customer wishes to source Products from TDF, the Customer and TDF (collectively referred to hereafter as the "Parties" or individually as the "Party") have therefore decided to make that relationship of purchasing and selling the Products subject to these T&C.

In case of a difference of interpretation between the French version and the other language versions of the T&C, the French version will take precedence.

### 1. DEFINITIONS

**"Affiliate"**: means, with regard to a Party, another party directly or indirectly controlling that Party, directly or indirectly controlled by it, or controlled by an entity that also controls that Party. For this purpose, the notion of "control" is understood to be in accordance with Article L.233-3 of the French Commercial Code;

**"Customer"**: means the signatory company hereof, including its corporate officers and its employees acting on behalf of that company;

**"End Customer"**: means the end user of the Products, being specified that this is the Customer's customer;

**"Personal Data"**: means the data referred to Article 4.1) of the GDPR;

**"Dropshipment"**: means the direct delivery service to the End Customer carried out by TDF;

**"Supplier/Suppliers"**: means software publishers, manufacturers, producers and suppliers of Products;

**"Logistics costs"**: means the shipping, preparation, handling and packaging costs, which scale is on the website [fr.techdata.com/cgv](http://fr.techdata.com/cgv).

**"Tech Data Group"**: means all the companies formed by TDF and its Affiliates;

**"Confidential Information"** means any information disclosed orally or in writing or in any other form by either Party, before and/or after these T&C are signed, including commercial, financial and technical information, whether it is marked "confidential" or otherwise identified as such by either Party;

**"Customer Service Portal"**: means the link [fr.techdata.com](http://fr.techdata.com), , section "Tools and Services", "ASM - Customer Service";

**"Products"**: means all computer equipment, material and/or intangible products as well as associated services such as warranties, provided by TDF in accordance with the purchase order and these T&C.

**"GDPR"** means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

### 2. APPLICATION AND ACCEPTANCE OF THE T&C OF TDF

These T&C apply to any Product sold by TDF to the Customer. The terms of performance and/or receipt of any services will be specified in specific agreements signed by the Parties, which will take precedence over the T&C.

These T&C shall apply in full to all orders placed by the Customer with TDF, whether the Customer is in France or abroad, regardless of the place of delivery. Unless otherwise agreed by the Parties, these T&C shall take precedence over the general T&C of purchase of the Customer.

These T&C will apply until they are next updated. Any amendment will be published on the website [fr.techdata.com/cgv](http://fr.techdata.com/cgv) and will be notified in advance, by any means, to the Customer.

### 3. PROCESSING OF ORDERS

Any order placed with TDF implies acceptance of the prices in force and the General T&C of TDF and their appendices. Any order from the Customer duly accepted by TDF without any reserves constitutes a firm and final commitment between the Parties. TDF reserves the right, however, to refuse any order from the Customer due, in particular, to (a) a substantial deterioration of the Customer's financial situation, (b) territorial restrictions relating to the Products, (c) restrictions resulting from contractual agreements between TDF and any of its Suppliers and (d) any other restriction imposed by any applicable law or regulation.

The benefit of the order is personal to each Customer.

Any offer of Products is subject to available stocks at the current price, or at the special price, where applicable, at the time of placement of the purchase order in TDF's system, regardless of how the order is placed. In case of the unavailability of a Product at the current price due to a stock shortage at the Supplier premises or its removal from the catalogue, cancellation of the unaffected part of the order will not be allowed; however, two (2) cases may occur:

(a) TDF may offer a replacement product with at least the same functionality as the product ordered; the Customer shall be free

to accept or refuse that product, in writing, within seven (7) business days of the offer;

(b) If TDF is unable to offer a replacement product to the Customer, it will inform the Customer. The Customer will then be entitled to cancel the affected part of the order without charge, within seven (7) business days of receiving the information.

TDF is not obliged to provide Customers based in the European Union with information relating to the customs nomenclature or the origin of the Products.

In the case of a promotional offer of a Product, the specific terms and conditions will be indicated and made available in the Customer account of the TDF website, which will take precedence over these T&C in the event of any conflict.

#### 4. TERMS OF ORDERS PLACEMENT THROUGH TDF'S COMPUTER SYSTEM

The terms and conditions of orders placement are specified in the "TDF Computer System Access Terms" available on the website [fr.techdata.com](http://fr.techdata.com), under the heading "General Terms and Conditions", in the appendix of the document "Request to set up an access to fr.techdata.com".

#### 5. PRICES – MODIFICATIONS OF THE CONDITIONS OF SALE

The Products are billed at the TDF price in force at the date of the order, plus Logistics costs, taxes and other fees (including WEEE, private copying, etc.) applicable at the time of billing. These prices can be found on the following web link: [fr.techdata.com/tarifdebase](http://fr.techdata.com/tarifdebase). They may change at any time, including but not limited to, the following: euro/dollar or euro/yen parities, changes of any applicable fees, changes in raw materials, changes in transport costs, changes to the terms of sale of the Products by Suppliers.

In the case of an obvious pricing error attributable to TDF, be considered as such once that TDF never should contracted with the Customer for this price, TDF is entitled, as from the acceptance of the order and subject to the prior written consent of the Customer, to:

- Bill the Customer for the actual price of the Product at the order date;
- Cancel the order or, if the Products have already been delivered, have them returned at TDF's expense.

In the case of a quotation from Suppliers, the Customer unreservedly agrees to comply with the specific conditions of the quotation and to provide TDF, on request, within a maximum period of eight (8) days from that request, with any proof of delivery to its End Customer or of retention in its inventory if it has not delivered all or some of the products subject to the quotation.

## 6. ACCOUNT OPENING - PAYMENT PERIODS AND TERMS

### 6.1 account Opening

Any new TDF Customer must, prior to placing an order, submit a request to open an account on the TDF website, [fr.techdata.com/ouverture](http://fr.techdata.com/ouverture), by filling out a form and providing all the necessary documents for the online account opening procedure.

For the purposes of performing these T&C, any person acting on behalf of the Customer shall be deemed to represent it and have the mandatory authority to commit the Customer towards TDF.

### 6.2 Billing - Payment periods

The following billing and payment terms are enforceable to all deliveries, partial and/or complete.

If the Customer is not granted a credit line, orders are payable in cash by bank transfer or credit card. No cash payment is accepted.

If the Customer has a credit line, a payment period not exceeding thirty (30) days from the invoice date shall be granted. Any Customer wishing to benefit from a credit line must send a request via the credit portal: [fr.techdata.com/credit](http://fr.techdata.com/credit). In this case, the Customer agrees that its Personal Data will be sent to TDF's financial partners for this purpose in accordance with the conditions of Article 27 of the T&C. TDF remains free to grant or refuse a credit line to the Customer according to the results of the financial analysis conducted by its teams and by its credit insurer. In the case where a credit line is set up, the Customer's payments may be made by bank draft, truncated bill of exchange, bank transfer or credit card. Customers must state, at the time of payment, their TDF customer number and the reconciliation details by e-mail to: [frencaissement@techdata.fr](mailto:frencaissement@techdata.fr). TDF reserves the right to modify or cancel the credit line granted to the Customer at any time, who will be notified thereof.

In the case where the Customer is part of a group of companies, the Tech Data Group credit department may, at its discretion, grant a global credit line to cover the needs of the group, regardless of the geographic location of the Customer's Affiliates. The Tech Data Group credit department also reserves the right to claim, from any of the Customer's Affiliates, security or a guarantee in the event that the Affiliate's financial profile does not provide sufficient guarantees of solvency.

Moreover, in the event of non-compliance by any of the Customer's Affiliates with its payment obligations, the Tech Data Group credit department reserves the right to terminate the global credit line granted, regardless of whether the Customer's other Affiliates comply with their payment obligations.

An early payment discount calculated at the annual rate of two point five per cent (2.5%) will be granted by TDF to Customers with a credit line in the event of payment with receipt of funds within ten (10) days of the date of the invoice. That discount is calculated on the net amount received.

Any dispute of an invoice must be reported to TDF via the Customer Service Portal, within a maximum of fifteen (15) days from the date of the invoice. After that period, the dispute reported will be rejected and the invoice must be paid in full, without any deduction. It is stipulated that if a Customer disputes an invoice, this does not authorise it to suspend, deduct or even defer the payment of that invoice. Unless expressly agreed otherwise by the Parties, the Customer is not authorised to conduct any set-off. No complaint about the quality of the deliveries can justify suspension of their payment by the Customer, unless it produces proof that the defective Products are attributable to TDF and that proof is duly noted and acknowledged by TDF before the invoice due date.

All payment made by the Customer will be net of bank charges. Subject to TDF's prior agreement, any payment by the Customer in a currency other than the billing currency will be made at the exchange rate published on the European Central Bank's website at the date of payment.

### 6.3 Late payment

In case of payment after the due date shown on the invoice, TDF reserves the right to ask for the immediate payment of all invoices that are not yet due. Moreover, in case of late payment by the Customer, at the due date, TDF may, without any reminder being necessary and without prejudice to its other rights and remedies, charge late payment penalties on the outstanding amount at a rate equal to three (3) times the statutory interest rate in effect in France.

That interest will be automatically payable, i.e. without prior notice, as from the day after the payment date shown on the invoice. Late payment may also result in the suspension of orders and deliveries in progress and the withdrawal of any payment period as mentioned above.

Furthermore, in accordance with Article L. 441-10- of the French Commercial Code, any late payment shall automatically, without the need for any reminder, in addition to the late payment interest mentioned above, result in an obligation for the Customer to pay fixed compensation for recovery costs of forty euros excluding VAT (€40 excl. VAT) per invoice.

In the case of late payment for subscriptions, notwithstanding any other remedies against the Customer, TDF reserves the right to suspend the subscription concerned, by notifying the Customer in writing with immediate effect.

## 7. ELECTRONIC BILLING

Unless agreed otherwise in advance by the Parties, the Customer unreservedly agrees to receive invoices issued by TDF exclusively in electronic format, in accordance with Article 289 of the French General Tax Code. However, the Customer may ask TDF to receive an invoice in paper format, subject to the payment of administrative management fees of five (5) euros per invoice excluding VAT or subject to the payment of an annual subscription for an amount of one hundred and fifty (150) euros excluding VAT.

## 8. TERMS OF DELIVERY OF THE PRODUCTS

### 8.1 Terms of delivery and transfer of risk

#### 8.1.1 Terms of delivery in France

#### a. Collection of material Products by the Customer or its carrier from the TDF site of Bussy Saint-Georges

Unless agreed otherwise by the Parties, material Products are supplied to the Customer and/or its carrier (subject to compliance with the logistics charter) at the TDF site of Bussy Saint Georges. Delivery is in accordance with the Incoterm® EXW Warehouse Bussy St Georges. Collection shall take place from premises on the TDF site of Bussy Saint Georges from Monday to Friday during opening hours within three (3) days of the supply of the Products by TDF on that site. In order to avoid fraudulent collection of the Products, a power of attorney on Customer's headed paper signed by the legal representative and a certificate of incorporation issued within the last 3 months must be handed over by the person collecting, together with its own ID card and the ID card copy of the legal representative.

In case of non-collection within three (3) days, except in case of force majeure, TDF reserves the right to cancel the product order and to charge storage fees without any reminder or prior formal notice according to the current "Logistic costs" scale applicable, available on the website of TDF.

#### b. Optional delivery service

The Customer may also authorise TDF to organise the transport of those Products to the delivery address according to the information provided by the Customer, subject to the payment of logistics costs. The Customer is solely responsible for the accuracy of information, in particular in relation to the delivery address specified and any consequences that may result from the provision of incorrect information (theft, loss, etc.).

In all cases, unless agreed otherwise by the Parties, delivery shall be made, at the time of collection of the Products by the Customer, its carrier or the carrier commissioned by TDF in the name of and on behalf of the Customer (the "Delivery Date").

### 8.1.2 International delivery terms

In the case where the Parties have agreed to international deliveries and provided that those deliveries are made by a carrier authorised by TDF and are not subject to Article 8.1.3 or 8.1.4:

- Incoterm® DDP 2010 will apply to all deliveries within the European Union;
- Incoterm® CIP 2010 will apply to all deliveries outside the European Union.

In the event of a change of version of the Incoterm®, the rules referred to above will be replaced by the equivalent new rules, particularly in terms of risk transfer and related logistics costs.

### 8.1.3 Direct delivery to an "End Customer" (Dropshipment service)

The Customer is able to authorise TDF to deliver the Products ordered to its End Customer, in the name of and on behalf of the Customer, in accordance with the terms and conditions specified in a separate agreement, which must be agreed in advance in order to benefit from this service according to the schedule of logistics costs. The Customer is responsible for the accuracy of the information it provides to TDF, such as the address of the End Customer. TDF shall not be held liable for the Customer's negligence or lack of vigilance particularly in case of, without limitation, fraud or identity theft.

### 8.1.4 Direct delivery by the Supplier (Direct shipment service)

Subject to the prior agreement of the Supplier, the Customer and TDF may agree to a direct delivery by the Supplier to the Customer. In this case, the risk will be transferred in accordance with the conditions defined between TDF and the Supplier.

### 8.1.5 Transfer of risk

Unless otherwise agreed by the Parties, the risk will be transferred at the Delivery Date. Consequently, for Products delivered in France, the Products shall travel at the exclusive risk of the recipient.

## 8.2 Delivery times

Unless agreed otherwise in writing, delivery dates are given for information purposes only. Any delivery date expected by the Customer is subject to the approval of TDF. TDF will make every effort to deliver the Products within the times indicated, subject to the availability of the Products from its Suppliers. No compensation or penalty (excluding actual loss proven by the Customer, the subsequent compensation of which will have been discussed and approved in advance by the Parties) shall be granted to the Customer in the event of a delay, which is not directly, exclusively attributable to TDF. Moreover, no order can be cancelled as a result of this, except with TDF's prior consent in writing. In the event of a stock shortage of one or more Products ordered, TDF will partially deliver the Products available; unless otherwise requested by the Customer in

writing, asking for a complete delivery of the order, (except in the case of orders for specific Products). Partial delivery may not, however, be deferred by more than forty-five (45) days, subject to the agreement of the Parties. At the end of that period, the Customer may cancel the ordered Products which are not available free of charge and the other Products will then be delivered in accordance with these T&C. Partial delivery will be invoiced in accordance with clause 6.2.

## 8.3 Receipt of Products

### 8.3.1 Transport of Products organised by TDF in the name of and on behalf of the Customer

In the case where the Customer authorises TDF to organise the transport of the Products, it is the Customer's responsibility to check the Products upon receipt. Any anomaly concerning the Products (missing Product, incorrect Product number, damage or apparent defect) must be noted by the Customer in the form of handwritten, clear, precise and complete reservations on the consignment note, a copy of which shall be kept by the Customer.

In accordance with Article L.133-3 of the French Commercial Code, the Customer undertakes to take any action against the carrier, in particular, in case of a missing product, damage, or established delay in the delivery of the Products by the carrier, and to notify the carrier of any objections in writing within three (3) days following receipt of the Products.

### 8.3.2 Collection by the Customer or its carrier on site

The Customer, or the carrier commissioned by it, is required to check the number of packages or pallets (if the packages are palletised) and the conformity of the Product numbers to the order as well as the absence of apparent defects.

Consequently, any anomaly concerning the Products (incorrect Product number, missing product, apparent defect) must be noted by the Customer or its carrier, in the form of handwritten, clear, precise and complete objections on the delivery note.

### 8.3.3 Complaint

In any case, within a maximum period of five (5) business days of receipt, as defined in Articles 8.3.1 and 8.3.2 of these T&C, the Customer must also confirm the complaints mentioned in those Articles on the website [fr.techdata.com](http://fr.techdata.com), via the Customer Service Portal.

In any case, no claim or complaint will be favourably processed by TDF after thirty (30) days as from receipt of the Products. The Customer is reminded that if it fails to strictly comply with this procedure and observe the timeframes, any request to open a dispute file will be irrevocably refused, such that no action will be admitted against TDF.

Moreover, the refusal of the Products upon delivery by the Customer may be regarded as abusive if the Customer cannot

justify the anomalies mentioned on the delivery note. In case of abusive refusal of the Products, TDF may claim fixed compensation from the Customer of forty-six euros excluding VAT (€46 excl. VAT) or ten per cent (10%) of the value of the Products abusively refused, where that value is more than five hundred euros excluding VAT (€500 excl. VAT), for management fees.

### 9. PURCHASE OF EQUIPMENT FREE OF VAT

A Customer, whose registered office is in metropolitan France and who has a VAT-free purchasing quota, must first ask TDF's account opening department to open a VAT-free account. The Customer must, prior to any delivery, provide the following two both documents, solely by registered letter with acknowledgment of receipt:

- A photocopy of the annual visa exemption for the current year, issued by the Customer's Tax Office, which is subject to a compliance check;
- An unencrypted annual VAT-free purchase certificate, drawn up as an original copy, on the Customer's letterhead, and signed by a person authorised to represent the company.

In addition, the Customer must stipulate VAT-free invoicing when placing an order. If any of these conditions are missing, VAT-free billing is definitively refused. The Customer will be solely responsible for the validity and authenticity of the documents provided. In the event of a problem with the certificate, the Customer undertakes to refund the amount of VAT concerned to TDF.

### 10. ENVIRONMENTAL CONTRIBUTION - PRIVATE COPYING

TDF undertakes to comply with the environmental regulations in force applicable to the distribution of the Products which it markets. In particular, it undertakes to fulfil the following obligations:

#### 10.1 Environmental contribution

In accordance with the regulation on the prevention and management of Waste Electrical and Electronic Equipment ("WEEE"), TDF has committed to an approved eco-organisation to manage the operations of collection, processing, recovery and recycling of household and commercial electrical and electronic waste. A **WEEE** contribution may be applied and charged in addition to the price of the Products to the Customer according to the regulations in force at the time of the sale. The amount of that environmental contribution is not negotiable and cannot be included in the Customer's turnover used as a basis to calculate any price reduction.

#### 10.2 Private copying

Except in case of a statutory, regulatory or contractual exemption, the amount of the remuneration for private copying

will be invoiced in addition to the price of the Products and will appear separately on the invoice. Its amount is included in the total price of the Product on which VAT is calculated. The amount of the remuneration for private copying is not negotiable and cannot be included in the turnover used as a basis to calculate any price reduction.

TDF reserves the right to demand the production of any document, which may justify exemption from that royalty. The Customer will be solely responsible for the validity and authenticity of the documents provided.

In case of rejection of the application for a refund by the competent authority, the Customer agrees to refund the amount of the fee paid by TDF to that authority within thirty (30) calendar days of TDF's request.

### 11. COMPLIANCE WITH EXPORT REGULATIONS

The Customer acknowledges and agrees that the Products purchased from TDF are subject to the laws and regulations on export control applicable in France, the European Union and the United States (in particular the "Export Administration Regulations" ("EAR") and the penalty systems provided for by the US authorities (Treasury Department and foreign capital/assets control authorities). The Customer undertakes to comply with all those laws and regulations.

The Customer undertakes not to export, re-export or transfer, directly or indirectly, Products purchased from TDF to a country subject to a trade embargo implemented by the United States, the European Union or to one of its residents or citizens / or to a person or entity included in the lists of prohibited entities issued by the United States Department of Commerce and the United States Treasury Department or any other equivalent list established by the European Union or by France - without first obtaining the necessary authorisations from the competent authorities.

Moreover, the Products purchased from TDF may not be exported, re-exported or transferred to an end user involved in activities relating to weapons of mass destruction. This includes but is not necessarily limited to: (1) the design, development, production or use of nuclear materials, equipment or weapons; (2) the design, development, production, or use of missiles or support for projects involving missiles; and (3) the design, development, production or use of chemical or biological weapons.

### 12. TERMS OF WARRANTY - LIABILITY

#### 12.1 Warranties

In addition to the statutory warranty provided under in Articles 1641 to 1649 of the French Civil Code, TDF shall transfer all statutory warranties relating to the Products, previously granted by the Supplier. As a result, the Products sold by TDF

are guaranteed in accordance with terms determined by the Supplier, which solely commit the Supplier. They will be notified to any Customer requesting this in writing. Furthermore, the commercial warranty terms issued by Suppliers, where applicable, are available on the Customer Service Portal of the TDF website.

In the case where the Supplier does not detect any defect in the returned Product under the warranty or when the Product is not eligible for the warranty (in particular in the event of oxidation, shock, improper use, expiry date, etc.), TDF reserves the right to bounce back the said Product to the Customer and to re-invoice the latter with the price of the Product and charge a handling fee of forty-six euros excluding tax (46 € HT).

As a professional reseller, only the Customer shall be liable towards consumers for the conformity obligation, as defined by Article L. 217-4 of the French Consumer Code.

For all intents and purposes, TDF specifies that Products that have been subject to deterioration are excluded from the Supplier's warranty, except in the case where that deterioration is exclusively attributable to the Supplier or TDF. In the event of termination of a Supplier's activity, TDF will not be liable for any commercial warranty in relation to the Products of that Supplier which it has sold to Customers. In any case, TDF stipulates that an activation of the warranty cannot, under any circumstances, be a reason for non-payment of the corresponding invoice, which will be paid on the due date specified.

The software is provided "as is". In case of non-conformity of the software, the Customer must inform TDF within ninety (90) days of delivery. In this case, the only obligation of TDF will be to replace the defective software with an updated version of that software.

### 12.2 Liability

TDF shall not be liable to compensate the Customer for material damage to goods other than the Products supplied by it.

TDF does not accept any liability in the event of breakdown or damage resulting from the following cases:

- Storage without protection, incorrect uses, handling or maintenance error or use which is not in accordance with the Supplier's technical specifications as stated in the User Manual provided to the Customer;
- Any modification, transformation or addition made to the Product by a person other than the Supplier or TDF or not approved by the Supplier in advance;
- More generally, malfunctions due to non-compliance with the installation or user instructions or due to an extraneous cause unrelated to the equipment, to modifications of the Product made without TDF's written consent.

Only damage actually suffered and proven by the Customer may be compensated by TDF.

In any case, unless the law stipulates otherwise, TDF's liability for direct material damage, whatever the basis, shall not be more than (i) the price paid by the Customer to purchase the material Products giving rise to the damage or (ii) the price of the intangible Products paid by the Customer over the last six (6) months prior to the damage; or (iii) the price of the associated service.

## 13. RETURN OF THE PRODUCTS

### 13.1 Return requests

Any return by the Customer must be requested exclusively via the TDF website, stating the information necessary to process that complaint, within a maximum of three (3) business days from delivery.

No Products may be returned without the express prior consent of TDF. The return number provided by TDF's Customer Services must be prominently displayed on the outside of the returned package. TDF can only authorise a return in the cases legally provided for by law and in case of the non-conformity of the delivered Products in relation to the purchase order.

As soon as possible after receipt of the return request by the Customer, TDF will agree the return of the Product or will give a reason for its refusal to take back that Product.

Moreover, for any authorised return, where applicable, the Customer is responsible for complying with any specific obligation, including in relation to packaging, labelling and marking.

In case of a latent defect or the recall of defective products, TDF will inform the Customer whether the Product must be returned to TDF or directly to the Supplier's approved service center. In any case, no Products return may be accepted in case of:

- 1) Consumables,
- 2) Products with opened or damaged packaging unless the deterioration or damage is exclusively attributable to TDF,
- 3) Products that have been ordered specifically for the Customer (CTO, Products ordered for a project,...)
- 4) Products that have been modified on behalf of the Customer,
- 5) Products declared to be obsolete.

The terms and conditions in relation to the return of licences specific to each publisher are available on request or in the Customer Service Portal on the TDF website.

In case of a recall of a defective Product by the Supplier or by any other competent authority, TDF will inform its Customers by any means and will apply the procedures stipulated by the Supplier of the Product concerned.

## 13.2 Consequences of Products return

### 13.2.1 Accepted returns

No Product will be accepted if it is returned after eight (8) business days from the date expressly agreed by TDF in advance. Returns as a result of Customer's error when placing the order and agreed by TDF will result in the preparation of a credit note, the amount of which will be equal to the TDF price excluding VAT in effect at the date of TDF's agreement to the return of the Products, within the limit of the amount originally invoiced. No credit note will be issued for returned Products with opened or damaged packaging, or Products that have been installed or tested, except in the case of deterioration or damage exclusively attributable to TDF.

Except in case of a return solely attributable to TDF, the costs and risks of the return will be borne by the Customer (TDF advises the Customer to take out insurance covering transport risks). In the case of Products returned from overseas:

- The Incoterm® DDP TDF warehouse will apply where the Product has been delivered within the European Union;
- The Incoterm® CIP will apply to all Products, which have been delivered outside the European Union.

In the event of a change of version of the Incoterm®, the rules referred to above will be replaced by the equivalent new rules, particularly in terms of risk transfer and related logistics costs.

In the case where the return is exclusively attributable to it, TDF will authorise a carrier to organise the return of the Product. The Customer shall then deliver the Product to the carrier and shall require and retain proof of delivery of the Products to that carrier. TDF stipulates that any Customer who is not able to produce proof of delivery to the carrier shall be deemed to still be in possession of the Products in question, which must be paid for in full to TDF.

Any accepted return for reasons attributable to the Customer will result in the charge of management fees of forty-six euros excluding VAT (€46 excl. VAT). Beyond a value of five hundred excluding VAT (€500 excl. VAT) of total value of the returned Products, the invoicing of management fees will be equal to 10% of the total value of this Products.

### 13.2.2 Returns not accepted

Except in cases covered by the statutory warranty, no return will be accepted for a total value less than fifty euros excluding VAT (€50 excl. VAT). In general, in case of failure to strictly comply with the provisions of Clause 13.1 of these T&C, the requested return will be systematically refused. In particular, the return will be refused and the nonconforming Product will be either (a) made available to the Customer at the TDF registered office for a maximum of forty-five (45) calendar days as from the date

of receipt of the Product, or (b) returned to the sender at its sole cost and risk in the following circumstances:

- In case of a return which has not been expressly agreed in advance by TDF in writing, or;
- In case of a return which is not in accordance with TDF's agreement (different Product, Product with different serial number, additional Product not included in the return agreement, Product and/or packaging damaged/opened, product used and/or tested, etc.), or;
- In case of a return outside the timeframes.

In the case where the Product is made available at TDF's registered office, the Customer will receive a notification e-mail at the address provided to TDF when requesting the return or reporting the dispute. In case of failure to collect the Product within the given timeframe, TDF will be free to dispose of the Product and the Customer will lose all rights over it.

## 14. INTELLECTUAL PROPERTY

The Customer undertakes not to reproduce, represent, adapt or modify, in any way whatsoever, the distinctive signs of TDF and/or of the Suppliers, including their trademark, company name or logo (hereafter the "**Distinctive Signs**"), except with the express prior consent of TDF and/or the Supplier concerned in writing, where applicable. Where TDF authorises the Customer to use the Distinctive Signs, the Customer undertakes to do so strictly within the limits of that authorisation and to scrupulously observe the style requirements communicated to it by TDF and/or the Supplier, as well as all instructions of use.

Moreover, all Distinctive Signs and intellectual or industrial property elements incorporated in the Product, marked on the Products, or attached to the Products, packaging or documentation supplied by TDF must not be removed, altered or removed by the Customer. More generally, the Customer shall not interfere with or infringe the services, Products, trademarks, logos, drawings, models, software or any other element covered by an intellectual property right. The Customer shall not, directly or indirectly, perform any action of reverse engineering, including but not limited to copy, decompile, disassemble the Products in whole or in part, extract the source code or modify, adapt, or reproduce their components.

The sale of software licences and other Products shall not imply, under any circumstances, an assignment of the reproduction, representation or exploitation rights or, more generally, any intangible rights recognised or to be recognised to those who participated in the production of the software and other Products and to their assigns. Consequently, the Customer undertakes to ensure compliance by its End Customer with this same obligation, or any similar obligations which would contain in any other contract within TDF and the Customer. Similarly, the Customer shall not reproduce, have reproduced or allowing

the reproduction, even in part, of that software or other Products, whatever the methods. Breach of these provisions may result in the cancellation of any order in accordance with Article 20 below, notwithstanding the initiation of legal action.

The Customer agrees to TDF using the Customer's name and/or logo for reference purposes and mentioning it on all media unless the Customer informs TDF in writing that it is withdrawing its consent. The Customer commits to respect any intellectual property rights owned by TDF or Products Suppliers in the wide world territory.

#### **15. RETENTION OF TITLE**

TDF expressly reserves ownership of the Products delivered until full payment of their principal price, interest, costs and incidental charges. Payment will only be considered to have been made when actually received by TDF. In the absence of full payment of the price of the Products in principal, interest, costs and incidental charges, TDF may take back the Products, at any time, from the Customer. TDF may also take back unpaid Products from sub-purchasers or demand payment directly from them. The provision of a deed creating an obligation to pay, a bank draft or otherwise shall not constitute a payment in accordance with this Article.

Until the price is paid in full, the Customer may not pledge the Products, exchange them or transfer them as security. This retention of title clause shall not prevent the risk being transferred to the Customer upon delivery of the Products, as stipulated in Article 8.1.5 of these T&C.

The Customer undertakes to take all necessary care with the security and preservation of the Products and to take out any necessary insurance. Delivered Products which have not been paid for in full must be separated and not mixed with other products. The initiation of a insolvency proceeding against the Customer shall not frustrate TDF's claim over the Products.

#### **16. EXCLUSION OF PENALTIES**

No penalty, of any nature whatsoever and, as such, no predetermined penalty that may be included in commercial and contractual documents issued by the Customer, will be applied to TDF and cannot be deducted from sums owed by the Customer, unless agreed to in advance in writing, regardless of the reason for the penalty. In this case, penalties cannot be deducted without TDF having been able beforehand, to verify the accuracy of the corresponding grievance, on the sole condition that's conforming to a certain, liquid, due and payable debt.

In case of non-compliance with this clause by the Customer, TDF may refuse any new order of Products and suspend deliveries. TDF further reserves the right to charge the Customer any amount, which the Customer has automatically deducted in breach of this Article.

#### **17. STATUTORY LIMITATION PERIOD**

Notwithstanding Article L. 110-4 of the French Commercial Code, a Customer complaint will not be admissible after a period of one (1) year as from the date of the event forming the subject of that complaint.

#### **18. OUTSOURCING AND ACTION AGAINST ILLEGAL WORK**

TDF reserves the right to outsource the performance of its obligations under these T&C to its partners complying with the applicable law; at its sole expense and risk, and at its own liability; which the Customer recognises and expressly accepts. In accordance with the French laws enforcing the fight against illegal work, the Customer agrees to give, on TDF's first request, the documentation provided for in article D. 8222-5 of French Labour Code.

#### **19. APPLICABLE LAW AND JURISDICTION**

The T&C and the commercial relationship between TDF and the Customer are governed by French law. The provisions of the United Nations Convention on Contracts for the International Sale of Goods, signed at Vienna on 11 April 1980, shall not apply to the relationship between TDF and its Customer.

The Commercial Court of Paris is expressly awarded jurisdiction for any litigation, dispute or claim that may arise between TDF and the Customer, including in the event of summary proceedings, the introduction of third parties or multiple defendants.

#### **20. TERMINATION**

In the event of non-compliance by one of the Parties with any of its obligations, forty-eight (48) hours after formal notice has been ineffective, the other Party reserves the right to automatically terminate the order affected by the breach to the sole prejudice and detriment of the other Party.

#### **21. CONFIDENTIALITY**

Each Party undertakes not to disclose the Confidential Information of the disclosing Party and to take precautions, for the purposes of maintaining the confidentiality of the Confidential Information of that Party, at least equivalent to the precautions it takes to protect its own Confidential Information of a similar nature, it being required, in any event, to deploy reasonable effort in this respect. For the purposes of this clause, each Party is responsible for its own employees and for itself.

The following information shall not be regarded as Confidential Information: 1) Information which has fallen into the public domain without this being the result of a fault or breach of the Receiving Party; 2) Information which the disclosing Party usually communicates to third parties without imposing any restrictions on disclosure; 3) Information which the Receiving Party receives from a third party without breach of a duty of



confidentiality and without any restriction on disclosure; 4) Information which the Receiving Party can prove to have been in its possession prior to disclosure by the other Party; 5) Information which is developed independently by the receiving Party's employees who do not have access to similar Confidential Information obtained from the other Party; and (6) Information, the disclosure of which is required by a judicial, administrative or regulatory authority in relation to an action, prosecution, proceeding or claim, or the disclosure of which is required, more generally, by the applicable law, though it is stipulated that the disclosing Party shall, if permitted by law, give the other Party sufficient advance notice of that disclosure requirement as soon as possible in order to enable the other Party to seek an exemption from disclosure or measures to make the disclosure confidential.

This clause will remain in force after the termination of the commercial relationship between the Parties for a period of three (3) years.

Each Party further acknowledges that in the event of non-compliance or risk of non-compliance with this clause, compensation in the form of damages may not be an adequate solution for the other Party and that consequently, that Party will be entitled to seek an injunction or the benefit of any other enforcement measure.

## 22. AUDIT

Under its responsibility, after having notified the Customer in writing giving a minimum of thirty (30) days' notice, TDF may, at its expense and once (1) per quarter at most, carry out an audit, or have an audit carried out, to check the Customer's compliance with its contractual obligations. The Customer may ask the auditor taking part in such an audit to sign a non-disclosure agreement. All the files audited, as well as all the information disclosed during such an audit, will be regarded as Confidential Information. The Customer agrees to cooperate with the auditor in good faith and to facilitate the audit by providing it with all the necessary information and responding to all its requests in relation to the audit. The audit will be conducted during the normal working hours of the Customer. However, it is specified that the audit shall not disrupt the Customer's business in any way. A copy of the audit report prepared by the auditor will be provided to each Party within thirty (30) days of the completion of the audit and will be reviewed jointly by the Parties.

## 23. ETHICAL PRINCIPLES

Each Party agrees to comply with all applicable anti-corruption laws (collectively, the "Anti-Corruption Laws"). In particular, each Party shall not: (a) Take any action or allow or authorise any action by a third party in breach of the Anti-Corruption Laws; (b) Use any money or any other consideration paid by the other Party (and neither Party shall use its own funds on behalf

of the other Party) for unlawful purposes, including for purposes that breach the Anti-Corruption Laws, to help the other Party obtain or unduly retain a deal or a contract or any undue advantage; or (c) Directly or indirectly, offer, promise, give, solicit or accept anything to or from a civil servant or public official, an undertaking or company controlled by the government, a political party or any other individual or legal entity to unduly obtain a commercial/financial advantage or to influence any act or decision.

Each Party shall refrain, in good faith, from adopting any measure it believes to be in breach of the laws or commercial policies applicable to the business relationship between the parties.

As far as each Party is aware, none of their directors, board members or employees is: (a) government official or employee (at any level of government); (b) an employee of an undertaking or company controlled by the government; or (c) an active representative of a political party. The Parties certify that neither them nor their directors, board members or employees have been formally charged with and/or convicted of any offence/offences involving fraud or corruption. Each Party undertakes to inform the other Party immediately if that situation changes.

Finally, the Customer acknowledges that it has read the Tech Data Group Code of Conduct available on the TDF website under the heading "Ethics at Tech Data" and observe principles which are at least equivalent to those included in that code.

## 24. ASSIGNMENT

Each Party shall enter into these T&C in consideration of the person of the other Party (*intuitu personae*). Accordingly, each Party may not, except with the prior consent of the other Party in writing (which cannot be unreasonably withheld, delayed or refused) assign, contribute or transfer to a third party, including any of its Affiliates, in any form whatsoever (including by way of company contribution, assignment of goodwill or assignment of agreement), all or some of its rights and obligations under these T&C.

## 25. INSURANCE

Each Party certifies that it has taken out professional indemnity insurance covering all its activities, in particular, all financial consequences of its professional, tortious and/or contractual liability for any damage that may be caused in relation to its business as part of the performance hereof.

Each Party represents that insurance has been taken out with companies known to be creditworthy, established in France and that the payments of premiums are up to date.

Each Party further undertakes to provide to the other Party, upon request, all supporting documents or certificates,

Initials :

particularly in relation to the type of risks covered and the payment of premiums, dated within the last six (6) months.

## **26. UNFORESEEABLE CIRCUMSTANCES AND FORCE MAJEURE**

### **26.1 Unforeseeable circumstances**

In the event of the occurrence of an event which is beyond the control of the Parties and compromises the equilibrium of the contract to the point of rendering the performance of its obligations detrimental, the Parties agree to negotiate the amendment of the contract in good faith. In particular, the following events are covered: change in the price of raw materials, change to customs duties, changes to the law and change in the Customer's financial situation. In the absence of agreement between the Parties within a reasonable timeframe, taking into account the economic stakes, either Party shall be entitled to terminate the contract by giving one month's notice.

### **26.2 Force majeure**

In case of the occurrence of an event of "force majeure" as recognised by case law, the Party concerned shall inform the other Party by registered letter with acknowledgment of receipt within fifteen (15) days of the occurrence of that event and the obligations of the Parties will be suspended for the entire duration of the force majeure event, without compensation.

If the force majeure continues for more than three (3) months, these T&C and/or any other contract concerned may be automatically terminated by either Party without compensation.

## **27. PROCESSING OF PERSONAL DATA**

In general, and in the context of the processing of Personal Data, each Party undertakes to comply with the applicable regulations on data protection, including the General Data Protection Regulation of 25 May 2016, in particular by fulfilling the formalities incumbent upon it under those regulations.

The Customer acknowledges that it has read and accepted the TDF Personal Data Protection Policy available at [fr.techdata.com/cgv](http://fr.techdata.com/cgv).

Finally, in accordance with the regulations in force, the Parties undertake to sign a specific agreement dedicated to the protection of Personal Data, in accordance with the model available at [fr.techdata.com/cgv](http://fr.techdata.com/cgv).

## **28. NON-WAIVER**

If a Party does not avail itself, at any given time, of any of the provisions of these T&C, it cannot be interpreted by the other Party as a waiver to avail itself of any of the provisions of these T&C at a later date.

## **29. THIRD PARTY BENEFICIARY**

None of the provisions of these T&C is intended to confer or be deemed to confer any rights or benefits on anyone other than the Parties. Moreover, within the limit of what is permitted by the applicable law, the contract entered into between the Customer and the End Customer must stipulate that the End Customer cannot take any action against the Suppliers, TDF or their service providers/suppliers.

Customer number (if applicable):

Company Name:

Represented by:

Date: / /

Signature:

Company stamp: