

GENERAL TERMS AND CONDITIONS FOR SALE

1. PURPOSE AND CONTRACTUAL DOCUMENTS

These general terms and conditions for sale and service provision (hereinafter the "**General Conditions**") define the applicable terms to any hardware, software and services supplied by CENTREON, a limited liability company with a share capital of 500.000 EUR, registered in France under number 483 494 589 RCS Paris, and having its registered office at 46/52 rue Albert, 75013 Paris, whose SIRET number is 483 494 589 00045 and intra-community VAT number is FR02483494589 (hereinafter "**CENTREON**") to the client for his professional needs (hereinafter the "**Client**").

The General Conditions govern all order forms, cost estimates, commercial propositions and invoices issued in application hereby.

CENTREON and the Client are hereinafter referred to jointly as the "**Parties**" and individually as "**Party**".

The agreement (hereinafter the "**Agreement**") includes the following documents, which prevail in case of inconsistency, in the following order of priority:

- the order form(s) ;
- the license terms and/or the agreement for access to the support and software updates, as the case may be ;
- the General Conditions ;
- the commercial proposal of CENTREON, as the case may be.

This Agreement does not include hardware, software and services other than those specifically identified in the order form(s).

CENTREON reserves the right to modify at any time these General Conditions. In case of modification, the version in force at the time of contracting will apply.

The Agreement includes all rights and obligations of the Parties. It cancels and replaces all documents formerly exchanged between the Parties. The Parties expressly agree that the data recorded by CENTREON relating to the Agreement constitute the evidence of all commercial operations entered into between them. Retention of contractual documents is done on a reliable and long lasting support that can be produced as evidence.

2. ORDER

Orders may be done on-line on CENTREON's web portal or directly requesting CENTREON.

Any order implies the express acceptance without reservations by the Client hereof. Hardware, software and services supplied by CENTREON are described in each order forms and technical documentation. Any order is firm and final from the written order confirmation by CENTREON or the receipt of the detailed cost estimate established by CENTREON and signed by the Client.

The quotes and the commercial proposals of CENTREON are valid for thirty (30) days.

To process an order on-line on CENTREON's web portal, the Client is requested to create a user account and to that effect, needs to communicate to CENTREON necessary information. The Client may delete its user account at any time. The total price of any on-line order is due and payable upon order.

The Client undertakes to provide to CENTREON upon the first order its bank account details, a certificate of registration (K-bis), and, upon request by CENTREON and if the Client agrees, its last balance. CENTREON reserves the right to make the acceptance of the order conditional on the payment of the full price of the order or the provision of appropriate warranties by the Client.

Unless otherwise expressly agreed and subject to a compensation by the Client of the costs incurred by CENTREON, no change, suspension or cancelation of any order shall be enforceable against CENTREON from the written confirmation of the order by CENTREON or the receipt of the quote established by CENTREON and signed by the Client.

Any change of an order by the Client requires the prior written approval of CENTREON. CENTREON reserves the right to review applicable prices and schedule accordingly.

Any order cancelation by the Client leads to the payment of cancelation fees of twenty percent (20%) of the canceled order amount, including all taxes, without prejudice to the repayment by the Client to CENTREON of potentially incurred fees.

3. DELIVERY

CENTREON can modify, at any time and without prior notice, hardware and software ordered to add any new technical development, which does not affect the quality of hardware and software and without price change.

The Client undertakes to accept delivery of hardware and software ordered upon first delivery as long as they comply to the order and technical documentation.

3.1 Hardware

At the request of the Client and subject to availabilities, hardware is delivered, on the choice of CENTREON, by post or by a third-party carrier or directly to the Client by CENTREON. Hardware is delivered to the address indicated on the order form or any other address agreed between the Parties.

The conditions and charges of carriage, delivery and insurance are set out on the order form.

Delivery is subject to availability. CENTREON reserves the right to proceed to partial delivery without any damages to the Client.

Hardware is delivered with the documentation of the manufacturer or the distributor, as the case may be. Such documentation may also be accessible from the manufacturer or the distributor's website.

3.2 Software

Software proposed by CENTREON are standard solutions developed to address the needs of a large number of users.

Software is provided to the Client in digital form by the Internet. Delivery is considered effective when CENTREON provides to the Client the activation key (token) corresponding to the order. At the explicit request of the Client and with additional charge, software can be provided on CD-ROMs.

4. TIMEFRAME

CENTREON makes its best effort to comply with delivery dates indicated on the order form or agreed with the Client. However, delivery dates are indicative and no delay can excuse the cancelation of the order or lead to any damages.

5. RETENTION OF TITLE / TRANSFER OF RISK

CENTREON retains the property of purchased hardware and software (including documentation) until full payment of the price which is the effective receipt by CENTREON of the payment made by the Client.

The Client shall not agree any deposit on purchased hardware under the retention of property, or use or resale them until full payment of their price to CENTREON.

In case of transformation or incorporation of hardware, the transformation or incorporated hardware becomes the property of CENTREON in proportion of the outstanding amount of the price due by the Client.

In case of receivership or compulsory liquidation of the Client, CENTREON can claim the property of hardware, in accordance with applicable law.

Unless otherwise agreed, the risk of loss or deterioration of hardware or software, as well as all damages caused, are transferred to the Client from their delivery to the sender, to the carrier or to the Client, as the case may be.

6. INSTALLATION

If expressly included in the order form, CENTREON proceeds to the installation of hardware and software specifically identified at the address appearing on the order form or any other address agreed between the Parties. The installation assistance is limited to the connection of hardware with the Client's computer system and installation of Software, to the exclusion of any other service.

7. ACCEPTANCE

The Client has the obligation to check the conformity of hardware and software to the order upon receipt and to notify any apparent defect to be considered. Except the case where CENTREON delivers hardware and software to the Client, any loss, missing or deterioration must be notified directly to the carrier on the order form. The Client undertakes to make any reservation to the carrier or to take appropriate action for preserving its rights. A copy of the order form is sent to CENTREON within three (3) days to justify such reservation.

In the absence of reservation, delivered hardware and software are deemed in conformity with the order.

No return can be effected without the prior approval of CENTREON. If the return is authorized, hardware and software are sent back to CENTREON at the costs and risks of the Client. The return of hardware and software does not excuse the Client of his duty to pay invoices in accordance with the contractual payment terms.

Returned hardware and software are, on the choice of CENTREON, replaced, returned in state or reimbursed within a reasonable period.

8. WARRANTY

CENTREON warrants hardware under the conditions set out in the warranty terms granted by the manufacturer or the distributor, as the case may be. The Client reads and acknowledges the warranty terms prior to any order.

Unless otherwise agreed in the order form, the starting point of the warranty period is the one provided by the manufacturer or the distributor. This warranty is transferred to the Client who contacts directly the manufacturer or the distributor, as the case may be, excluding any claim against CENTREON.

Any intervention on hardware by the Client or a third-party, who is not authorized by CENTREON, leads to the cancellation of the warranty.

CENTREON warrants the conformity of proprietary software to its documentation. If software is delivered on CD-ROMs, CENTREON will replace the defective medium by a non-defective medium. CENTREON undertakes to correct reproducible defects of software within three (3) months of the date of delivery. The application of the provisions of article 1641 and subsequent articles of the French civil code are expressly excluded for software.

Any commercial warranty of CENTREON is stipulated on the order form. Any claim must be addressed to CENTREON by registered letter with an acknowledgement of receipt within three (3) days of the delivery, from the discovery of hidden defect or from the day where it should have normally been discovered, as the case may be. Any legal action taken against CENTREON, should, to be considered, be previously the object of an amicable claim and be initiated within six (6) months of such claim.

In any case, the Client can invoke the warranty only if hardware and software, which are used in compliance with the technical specifications and the usage regulations, are not modified and/or are not used with a hardware, a computer system or a program provided by a third-party, without prior approval from CENTREON.

9. FEES AND PAYMENT TERMS

Hardware, software and services are invoiced at the price set out on the order form. Prices are set in accordance with the public tariff in force on the date of the order. The conditions to get a discount are defined in the public tariff of CENTREON.

The license-fees are invoiced in Euros, the risk of a change rate is supported by the User. All license-fees are exclusive of taxes (including in the case of source withhold), taxes being payable by the User at the rate and in the manner prescribed by applicable law. The price including all taxes is indicated on the order form and on the corresponding invoice.

The transportation, delivery, packaging (except standard packing) and insurance fees are supported by the Client and are also indicated on the order form.

The license fees are annually and automatically revised, on 1st January of each year, in proportion with the SYNTEC index on the basis of the application of the formula $P = P_0 * S_1/S_0$, in which P is the revised amount, P_0 the initial amount or from the last reviewing, S_0 the index value in force from the date of entry into force of the Agreement or at the last reviewing, S_1 the index value for the considering year. If this index disappears, the Parties will substitute it with a replacement index. In case of dispute, a new index will be chosen by the Paris commercial court.

Any on-line order is fully payable upon processing of the order. In such case, the invoice can be accessed and downloaded on-line from the user account. The price of software depends on the duration of the subscription.

Alternatively, invoices are due and payable within thirty (30) days of the date of the invoice issue, net without any discount.

The payment of the service price is made in accordance with the schedule agreed between the Parties or yearly in advance for recurrent services.

Any payment by compensation is excluded. In the event the User fails to pay any undisputed invoice within thirty (30) days, the Client shall pay to CENTREON late payment interests, at the rate applied by the European Central Bank increased by ten (10) points, notwithstanding the payment of a fixed late payment indemnity of forty (40) EUR per unpaid invoice and the reimbursement to CENTREON of any collection expenses and any damages, which CENTREON could claim.

For public procurement contracts, in the event the Customer fails to pay any undisputed invoice within thirty (30) days, the Customer shall pay to CENTREON late payment interests, at the rate applied by BCE increased by eight (8) points, notwithstanding the payment of a fixed late payment indemnity of forty (40) Euros per unpaid invoice and the reimbursement of any collection expenses and without prejudice to any remedy available to CENTREON.

In addition, CENTREON reserves the right to suspend any pending order, and to terminate immediately without having to file any claim before the competent court to this effect ("*de plein droit*") and without prejudice to other remedies available for any damages suffered, the Agreement and/or part or all of the order and to request the restitution of the delivered hardware and software.

10. CONFIDENTIALITY

Any information provided by one Party to the other Party or to whom a Party has access during the negotiation and/or execution of the Agreement of any nature whatsoever (technical, financial, legal, commercial, strategic, computer-based) transferred either in material form (containing inside a physical medium of any form or nature whatsoever) or in immaterial form (verbally, digital or audiovisual media, etc.) is confidential.

Any information relating to hardware or software, the documentation, the commercial proposals of CENTREON, also to the commercial strategies and business processes of one or other of the Parties are notably considered as confidential.

The Parties undertake to keep confidential the aforesaid information and to apply at least the same provisions than those usually applied to protect their own confidential information, and must uphold the same obligation of confidentiality to all their employees of any position whatsoever for any confidential information as defined hereinabove.

The Parties acknowledge that the following information should not be considered as confidential:

- information that is in the public domain ;
- information previously known by the receiving Party, which is not subject to an obligation of confidentiality ;
- information lawfully obtained from a third-party or independently of the execution of the Agreement.

The provisions of this article remain in force during the term of the Agreement and for five (5) years from the expiration or the termination for any reason whatsoever.

11. INTELLECTUAL PROPERTY

The Agreement does not confer any right to the Client to use the commercial name and/or the trademark and/or the distinctive signs of CENTREON, even for commercial reference.

The Client acknowledges and admits that CENTREON and/or the third-manufacturers or third-publishers own and retain all intellectual property rights relating to hardware, software and services, considering that only a non-exclusive license on software could be granted to him.

12. PROTECTION OF DATA AND SYSTEMS SECURITY

The Client is solely liable of the back-up of any data that it processes or retains and acknowledges that it needs to perform regular back-up of data, to check the content of back-up and to use appropriate back-up media.

The Client is solely liable of the security of its IT systems and acknowledges that it is responsible for implementing a security policy specifically tailored to its operations.

13. PERSONAL DATA

The Client retains the full control over personal data and is liable, as data controller, in compliance with the provisions of the amended French Data Protection Act of January 6th, 1978.

CENTREON does not have access to personal data of the Client. Otherwise, CENTREON acts exclusively as data processor in the meaning of the amended French Data Protection Act of January 6th, 1978 only on instructions from the Client.

In this case, CENTREON and the Client will take appropriate technical and organizational measures to satisfy the requirement of the law on data protection applicable to protect personal data against any fraudulent use. In any case, personal data are not processed outside of the European Union by CENTREON.

The Client have a right of access, rectification and opposition to the processing of personal data relating to him that may be exercised by contacting the commercial department of CENTREON.

14. LIABILITY / INSURANCE

The Parties expressly agree in case of any problem occurring in the provision of the Services to adopt a constructive attitude in order to solve the problem rather to attempt to identify their respective liabilities.

CENTREON shall only be liable in case of proven breach and for damages that are directly resulting from such breach which are not covered by the infringement indemnity or a service credit. CENTREON is bound by an obligation of means.

In any case, CENTREON shall not be liable for any direct or indirect and/or immaterial damages suffered by the Client as a result of losses of profit, losses of customers, operating losses, disruption or cost increase of the Client's activities, losses of data, damage to reputation or other moral damages, even if CENTREON was aware of the possibility of such damages.

As a decisive and essential term of the Agreement, CENTREON's aggregate liability to the Client for all damages and all other losses for any cause arising under this Agreement is limited to and will not exceed fifty percent (50%) of the order amount excluding taxes, when the liability is engaged, or the amount excluding taxes paid by the Client within the twelve (12) months prior of the event giving rise to the damage.

If the Agreement provides for the application of penalties, these are, unless otherwise explicitly agreed, exclusive from any other compensation that the Client could claim.

The aforementioned provisions do not apply to damages resulting from death or personal injury, caused by fraud, gross negligence or willful misconduct any other type of liability that cannot be limited or excluded as a matter of law.

The Parties acknowledge that the price of the Agreement reflects the allocation of risks between them and the global economy of the Agreement and that limitation of liability is a decisive factor of their consent.

Each Party shall be insured by an insurance company that is known to be solvent for any damaging consequences of acts for which it could be held liable under this Agreement.

15. TERM AND TERMINATION

The Agreement enters in force on the date specified in the order form for the period agreed between the Parties.

The termination of the Agreement leads to the automatic termination of all orders in force. The termination of an order does not lead to the automatic termination of the Agreement.

In the case of any breach by either Party of its obligations hereunder, this Agreement may be terminated by the non-breaching Party, without having to file any claim before the competent court to this effect ("*de plein droit*") and without prejudice to other remedies available for any damages suffered, subject to a thirty (30) day prior notice from the receipt of the acknowledgement of the registered letter, if the breaching Party does not cure its breach within thirty (30) days of the date of receipt of the failure notification.

The recurrent services provided by CENTREON to the Client may be terminated at any time by the Client subject to a sixty (60) days' prior notice and the payment of a termination compensation corresponding to half of the yearly still ongoing royalties.

In case of termination of the Agreement, the Client remains liable for the payment of all outstanding amounts until the effective date of termination, and more generally, for the payment of all invoices unpaid despite the effective termination.

16. COMMERCIAL REFERENCE

Unless otherwise expressly agreed in the order form(s), the Client authorizes CENTREON to disclose its name as a commercial reference in its presentations, its commercial propositions, its commercial documentation, its website and to make reference to this Agreement. Any other type of communication shall be specifically subject of prior written approval of the User.

17. FORCE MAJEURE

CENTREON shall not, in any case, be liable and no indemnity can be requested for delay or in consequence of damages in the event of force majeure.

Internal or external strike, any destruction for any reason whatsoever of all or part of the CENTREON' premises or installations, any government decisions, any difficulties in oil and energy supply or traffic and communication networks disturbances, on which depend CENTREON, and more generally any unforeseeable event of human or natural origin that prevents or reduces the possibility of execution by CENTREON of its contractual obligations are expressly considered as constituting force majeure or unforeseeable circumstances, except those considered as such by French court.

The event of force majeure suspends the execution of the Agreement and the current orders, except the obligation for the Client to pay the due sums until the date of force majeure.

If such force majeure event lasts for more than one (1) month, the Agreement could immediately be terminated at no cost immediately upon a registered letter with an acknowledgement of receipt, without having to file any claim before the competent court to this effect ("*de plein droit*").

18. MISCELLANEOUS PROVISIONS

If any provision of this Agreement is held to be invalid or unenforceable for any reason, it will be deemed to be severed from

this Agreement and the remaining provisions will continue in full force and effect.

The fact that one or other Party does not require, temporally or definitely, the application of a provision of this Agreement shall not be considered as a waiver of the rights, which are held by this Party.

Any exchange of postal or electronic mail between the Parties cannot modify this Agreement. Any change of this Agreement require an amendment signed by the Parties.

The Client may not sell, assign or transfer its rights or delegate its duties under this Agreement in whole or in part without prior written approval of CENTREON. CENTREON reserves the right to transfer this Agreement or all or part of its rights or duties under the Agreement to any transferee of its choice.

The Parties are independent contractor and shall not be considered agent of each other.

None of the Parties has the power to bind or commit the other Party.

19. GOVERNING LAW AND JURISDICTION

The Agreement is governed by the French law, to the exclusion of the Vienna Convention on Contracts for the International Sale of Goods.

ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WHICH CANNOT BE SETTLED AMICABLY SHALL BE BROUGHT EXCLUSIVELY BEFORE THE COMMERCIAL COURT OF PARIS, EVEN IN THE CASE OF A THIRD-PARTY PROCEEDING, A PLURALITY OF DEFENDANT OR A PROCEDURE FOR INTERIM MEASURES.

20. CONCILIATION PROCEDURE

The Parties undertake to try to settle amicably any dispute before initiating any proceeding. To that effect, the claiming Party shall notify the other Party of the dispute by registered letter with acknowledgement of receipt. The Parties undertake to meet within fifteen (15) days from the receipt of the notification. Unless an agreement is reached within thirty (30) days from this first meeting, conciliation will be considered to have failed. Discussions during the conciliation procedure are confidential. In case of agreement of the Parties, the Parties will sign a written conciliation statement.

The Parties reserve the right to go through a mediation process or any alternative dispute resolution process that they will deem appropriate to their dispute.