



TERMS AND CONDITIONS OF SALE OF TELEMAC

The following Terms and Conditions shall govern the sale of any product or service (collectively referred to herein as the "Products" or a "Product") sold by TELEMAC SAS ("TELEMAC") directly or indirectly through its authorized agents, distributors or resellers, to the purchaser stipulated on a TELEMAC invoice or price quotation ("Purchaser"), unless otherwise expressly agreed to in writing by TELEMAC. TELEMAC shall not be bound by the terms of any order forms or other communications between the parties which are inconsistent with or additive to these Terms and Conditions.

1. ORDERING AND SHIPPING

- (a) **Placement of Orders.** Orders for Products shall be placed in writing by mail, fax or PDF format e-mail to TELEMAC. Each order shall specify: (i) the quantity, model, and price of each Product ordered; (ii) the date requested for, and the address of the place of, delivery; (iii) the name, address, telephone/fax number and e-mail address of any carrier or freight forwarder specifically requested by Purchaser; (iv) the name, address telephone/fax number and e-mail address of Purchaser; as well as (v) the name, address telephone/fax number and e-mail address of the end-user, if different from the Purchaser.
- (b) **Confirmation of Orders.** Upon receipt of an order, TELEMAC shall respond in writing by stating: (i) any proposed changes in the Products or quantities of the Products; and (ii) the date on or before which TELEMAC expects to be able to make delivery to the carrier or freight forwarder. An order shall be binding on TELEMAC only upon the issuance by TELEMAC of written confirmation of such order.
- (c) **Cancellation of Orders.** Cancellation of any order between seven (7) and thirty (30) days prior to confirmed ship date shall be subject to a cancellation charge of forty percent (40%) of the cancelled portion of the order. Orders may not be cancelled within seven (7) days prior to, on, or after the confirmed ship date. Orders of non-standard Products or Product configurations may not be cancelled. The cancellation charge is not imposed as a penalty, but as liquidated damages.
- (d) **Changes in Delivery Schedule.** Change in delivery date by Purchaser, without charge, must be made in writing and received at least fifteen (15) days prior to scheduled delivery date. Any requested delay or series of delays totalling ninety (90) days or more shall be treated as a cancellation and shall be subject to the 40% cancellation charge on the portion of the order which is so delayed.
- (e) **Shipping and Delivery.** Delivery is EX WORKS TELEMAC's Gretz-Armainvilliers facility (the "Delivery Point"). All risk of loss or damage with respect to the Products shall pass to Purchaser upon delivery at the Delivery Point to the carrier or freight forwarder. All freight, insurance and other shipping charges and expenses from the Delivery Point, as well as any special packing expenses requested by Purchaser, shall be borne by Purchaser. TELEMAC shall use good faith efforts to comply with Purchaser's instructions regarding shipping and choice of carrier. Purchaser must notify TELEMAC within ten (10) days of receipt of Products of any discrepancies in the shipment of such Products or of any reason for rejection of such Products, failing which Purchaser shall be deemed to have accepted the Products.

2. PRICING

- (a) **Quotations and Prices.** Prices quoted by TELEMAC are firm for thirty (30) days from quotation date, and are quoted and invoiced in EURO currency.
- (b) **Taxes and Other Charges.** Prices do not include sales taxes, value-added taxes, excise or similar taxes, custom duties, shipping, handling, insurance, brokerage, and other related charges levied by any jurisdiction pertaining to the Products, other than taxes computed on the basis of the net income of TELEMAC, which shall be paid by Purchaser. Orders exempt from sales or other taxes must be so marked and Purchaser must supply satisfactory proof of such tax exemption.
- (c) **Payment.** All Products sold by TELEMAC shall be invoiced upon shipment. Payment must be made to TELEMAC at its principal place of business or pursuant to TELEMAC's written instructions. Until initial credit terms have been established with Purchaser, orders shall require an advance deposit with the balance due prior to shipment, or irrevocable letters of credit or other payment security acceptable to TELEMAC.

All wire payments, wire transfer of moneys and letters of credit must be made payable at sight or sent to:

in EURO –

TELEMAC SAS
C/O H.S.B.C.
10, rue de la Fontaine Rouge
77700 CHESSY, France
IBAN Code: FR76 3005 6000 1700 1720 4556 147
Int'l Swift: CCF RFR PP
Account: 00172045561

in USD –

TELEMAC SAS
C/O H.S.B.C.
10, rue de la Fontaine Rouge
77700 CHESSY, France
IBAN Code: FR76 3005 6000 1700 1720 0226 746
Int'l Swift: CCF RFR PP
Account: 00172002267

- (d) **Late Charge.** Except as otherwise set forth above, all payments due hereunder must be paid within thirty (30) days of the date of issuance of TELEMAC's invoice, with no discount for early payment. Invoices unpaid in full when due shall bear a late payment interest charge of the higher of 18% per year (one and one half percent (1½ %) per month) or of three (3) times the legal rate of interest. In addition, TELEMAC may cancel or delay shipment of the Products at its sole discretion.
- (e) **Retained Rights.** UNTIL PAYMENT OF AN INVOICE HAS BEEN RECEIVED IN FULL BY TELEMAC, TELEMAC SHALL RETAIN OWNERSHIP OF THE PRODUCTS AND SHALL RETAIN, AND PURCHASER HEREBY GRANTS TO TELEMAC, A FIRST PRIORITY SECURITY INTEREST IN THE PRODUCTS SHIPPED OR DELIVERED TO PURCHASER. PURCHASER SHALL PROMPTLY EXECUTE ANY DOCUMENTS OR CARRY OUT ANY FORMALITIES NECESSARY TO PERFECT AND PROTECT SUCH SECURITY INTEREST ON TELEMAC'S BEHALF.



3. WARRANTY

(a) General Warranty. TELEMAC generally warrants that its Products shall be free from material defects in material and workmanship under conditions of normal use for a period of one (1) year from the date of invoice. Purchaser may specifically purchase an extended Product warranty from TELEMAC. Except for the duration of such extended warranty, the other provisions of this section and of this Agreement shall apply to any extended warranty purchased by Purchaser from TELEMAC. TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY IS IN LIEU OF, AND PURCHASER WAIVES, ALL OTHER WARRANTIES, WHETHER LEGAL, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR PURPOSE. IF ANY PRODUCT DOES NOT CONFORM TO THE FOREGOING WARRANTY, IT MAY BE RETURNED TO TELEMAC AND TELEMAC SHALL, AT ITS OPTION, REPAIR OR REPLACE THE PRODUCT AT NO CHARGE, OR PROVIDED THE PRODUCT CANNOT BE REPAIRED OR REPLACED WITHIN A REASONABLE TIME, REFUND THE PURCHASE PRICE. ALL REPLACED PARTS SHALL BECOME THE PROPERTY OF TELEMAC. THIS WARRANTY DOES NOT INCLUDE AND TELEMAC SHALL NOT BE RESPONSIBLE FOR DAMAGE TO THE PART OR PRODUCTS RESULTING FROM IMPROPER INSTALLATION, ABUSE, NEGLIGENCE, ACCIDENT, IMPROPER USE, OR SERVICING OR MODIFICATION OF THE PART OR PRODUCT BY ANYONE OTHER THAN TELEMAC OR AN ORGANIZATION CERTIFIED BY TELEMAC.

(b) Warranty Service. Warranty service may be obtained by: i) providing the TELEMAC Customer Service Department with written notification of a defect prior to the expiration of the warranty period; ii) obtaining a Return Material Authorization ("RMA") number; iii) returning the defective Product to TELEMAC'sn Gretz-Armainvilliers facility within thirty (30) days of issuance of an RMA number; and, iv) providing proof of purchase date and written description of the problem or failure. Purchaser shall pay all shipping charges and assume the risk of loss or damage in transit. Upon return of such repaired Product, the warranty with respect to such Product shall continue for the remaining unexpired warranty term. Services not covered by this warranty shall be provided at the then prevailing TELEMAC service rates.

4. LIMITATIONS OF LIABILITY

PRODUCTS SOLD BY TELEMAC, OR ITS AUTHORIZED DISTRIBUTORS, AGENTS OR RESELLERS, HAVE NOT BEEN AND ARE NOT REPRESENTED AS BEING, APPROVED OR CERTIFIED BY ANY REGULATORY BODY. PRODUCTS PURCHASED SHALL BE INSTALLED AND USED AT PURCHASER'S OR USER'S OWN RISK. TO THE EXTENT PERMITTED BY LAW, TELEMAC DISCLAIMS ALL LIABILITY WITH RESPECT TO ANY AND ALL USE OF ITS PRODUCTS WITHOUT LIMITATION. IN NO EVENT SHALL TELEMAC, ITS SHAREHOLDERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES OR RELATED CORPORATIONS OR ENTITIES, BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR RELATED TO THE PURCHASE, TRANSPORTATION, INSTALLATION OR USE OF TELEMAC PRODUCTS (INCLUDING LOSS OF PROFITS, USE, OR OTHER ECONOMIC ADVANTAGE), HOWEVER ARISING, WHETHER FOR BREACH OF WARRANTY OR IN TORT, EVEN IF TELEMAC HAS BEEN PREVIOUSLY ADVISED OF THE INTENDED USE OF ITS PRODUCTS OR OF THE POSSIBILITY OF SUCH DAMAGE. IF TELEMAC CANNOT LAWFULLY DISCLAIM ALL LIABILITY, TELEMAC'S LIABILITY, TO THE EXTENT PERMITTED BY LAW, SHALL NOT EXCEED THE TOTAL FEES PAID BY PURCHASER WITH RESPECT TO THE PRODUCT(S) GIVING RISE TO THE LIABILITY.

5. INTELLECTUAL PROPERTY RIGHTS

Nothing in these Terms and Conditions shall be construed as conferring upon Purchaser any right whatsoever in and to TELEMAC's intellectual property, patents, trademarks, trade names, designs, know how or trade secrets, title to which shall remain with TELEMAC. Purchaser shall not reverse engineer the Products or any part thereof.

6. EXPORT CONTROLS

Purchaser shall comply with all applicable regulations and laws in effect now and hereinafter, including compliance with all export controls on the distribution or dissemination of Products, technology, and information related to and/or exchanged under this Agreement.

7. NOTICES

All notices to TELEMAC shall be deemed given when sent by fax with subsequent confirmation, or mailed by certified mail, return receipt or courier service or equivalent to:

TELEMAC SAS
CUSTOMER SERVICE
10 AVENUE EIFFEL
77220 GRETZ-ARMAINVILLIERS, FRANCE
FAX +33 1 64 06 40 26

8. GENERAL PROVISIONS

TELEMAC shall not be responsible for delays or failures in performance resulting from acts beyond its reasonable control. Purchaser shall indemnify, defend and hold harmless TELEMAC and its related subsidiaries and affiliates and their respective employees, officers and directors, from and against all liabilities, costs, expenses (including reasonable attorneys' fees), damages and losses including any direct, indirect or consequential losses or loss of profits suffered or incurred by any of them arising out of or in connection with any claim made against TELEMAC arising out of Purchaser's use of any Products. If any part or provision of these Terms and Conditions shall be found to be illegal or unenforceable therein, these Terms and Conditions shall remain in full force and effect and such part or provision shall be deemed stricken. TELEMAC shall be entitled, in addition to its other rights hereunder, to recover reasonable fees of attorneys, accountants and other professionals including costs and fees on appeal. These Terms and Conditions represent the entire agreement between TELEMAC and Purchaser relating to the purchase and sale of Products and supersede all prior representations including any quotation, memorandum of understanding, discussions, negotiations and agreements, whether written or verbal. No amendment to these Terms and Conditions shall be effective unless it is in writing, dated and signed by a TELEMAC authorized representative. No waiver shall be implied from TELEMAC's conduct or failure to enforce its rights hereunder. No waiver shall be effective unless in writing signed on behalf of the party against whom the waiver is asserted. Purchaser may not assign any of its obligations, rights or remedies under these Terms and Conditions without the prior written consent of TELEMAC, and any attempt at such assignments shall be null and void. Nothing contained herein shall be deemed to create any association, partnership, joint venture or relationship of principal, agent, master or servant between Purchaser and TELEMAC, or to provide TELEMAC or Purchaser with the right, power or authority to incur any obligation or make any representations, warranties or guarantees on behalf of the other party. These Terms and Conditions shall be governed by and construed in accordance with the laws of FRANCE, applied without giving effect to any conflicts of law principles. All disputes relating to, or arising out of, this Agreement shall be subject to the exclusive jurisdiction and venue of the Commercial Court of Paris (*Tribunal de Commerce de Paris*) (France) and the parties consent to the personal and exclusive jurisdiction and venue of this court. The parties hereby agree to be bound by any judgment rendered thereby.