

## TERMS AND CONDITIONS OF SALE OF HARDWARE AND SOFTWARE

These Terms and Conditions apply to hardware and software ordered and purchased from Vector, regardless of the customer's terms and conditions of purchase.

The sale contract is comprised of these Terms and Conditions, the offer made by Vector, the customer's order and Vector's order confirmation.

By placing an order, the customer fully accepts these Terms and Conditions.

No departure from or reservation made with respect to these Terms and Conditions by the customer in an order shall be agreed to without Vector's express agreement provided in the order confirmation.

### §1. Delivery of hardware and the corresponding software

#### Clause 1 Definitions

In these Terms and Conditions:

- 'Software' or 'Software Tool(s)' means the set of programs developed by Vector for which the customer is granted a licence;
- 'Program' means all instructions prepared by Vector in a computer language that are provided in a compiled and executable format and that form part of the Software.

#### Clause 2 Delivery

- 2.1 The features of hardware and the corresponding Software are set out in the product description accessible from Vector's website, at the URL address mentioned in Vector's offer and additionally in their user documentation. The user documentation may describe functions not ordered by the customer.

Vector does not assume any warranties or liabilities, neither express nor implied, for any information in the product descriptions of the respective manufacturers, and cannot guarantee that the products will not malfunction. With respect to system software (or operating systems), Vector cannot guarantee that programs developed by a third party do not contain defects.

- 2.2 In the event Vector's Programs have interfaces for interoperability with other programs that Vector does not deliver, Vector can provide information for the use of the interfaces, if so requested by the customer, subject to reimbursement of Vector's expenses. The customer may

pass such information on to other contractors to the extent necessary.

- 2.3 Vector shall provide the user documentation (written in English) on a CD or DVD and on paper, either as a printed copy or in electronic format.

Said documentation is also available on Vector's website at [www.vector.com](http://www.vector.com) for customers who have a currently valid maintenance contract with Vector.

If the manufacturer does not issue an user documentation for the hardware and system software provided by it, said documentation shall be sent to the customer on request, subject to payment. The format in which said documentation is provided (electronic or printed format) shall depend on each manufacturer.

#### Clause 3 License to use the Software

- 3.1 Vector grants the customer a non-exclusive right to use the Software in accordance with the licence terms set out in the 'Terms of use of the Software' which can be accessed via the Software and in accordance with a clearly defined scope of use defined in Vector offer.

The customer may use the Software for the customer's own purposes and for the purposes of the customer's group of companies in accordance with article L.233-3 of the Commercial Code.

This licence is granted to the customer on a personal basis, unless Vector signs a sub-licence agreement.

- 3.2 The customer may only use the Software on a hardware platform that has been approved by Vector for that purpose. The customer must inform Vector of any change of address.

The customer agrees to use the Software only on a hardware configuration Vector has declared to be compatible with the Software. The customer shall inform Vector of any modifications of the customer's configuration.

- 3.3 The customer may grant a sub-licence for other users to use each Program in executable format (that is, when the Program is an object Program, not a source Program) subject to the three-fold condition that (i) the customer has itself agreed not to use anymore the Program, (ii) the beneficiary of the sub-licence has made a written commitment to Vector to protect the Program and use it in accordance with the terms and conditions defined by Vector and (iii) the customer, the beneficiary of the licence and Vector have duly signed a Sub-Licence

Agreement (which can be obtained from Vector at the customer's request).

- 3.4 A fee shall be charged to deliver and install the Software in accordance with the conditions set out in the offer and Vector's order confirmation.

#### **Clause 4 Performance of services**

- 4.1 If the customer installs hardware and Software, the customer must comply at each stage with the installation guides provided by each manufacturer. Vector shall assist the customer upon request in understanding said guides.

No acceptance procedure shall take place if the Software and/or hardware is/are installed by the customer.

- 4.2 At the customer's request, Vector may install the hardware and Software on the customer's premises, in return for an additional fee. In such event, the customer must prepare the installation environment in a timely manner and, in particular, put the necessary local network in place if required. The customer shall be solely responsible for any problems that may arise at the level of the local installation network and must solely bear any operational and financial consequences arising in that respect.

The customer shall ensure that informed staff are available at the latest at the time of installation. Prior to installation, Vector shall check that the network is functioning correctly. The customer shall provide written confirmation that the hardware and Software have been correctly installed.

Vector and the customer may check the conformity of hardware and Programs on the date of delivery, in which case a final acceptance report shall be signed by the customer.

- 4.3 When Software is installed, the customer must (before using the Software) put it into operation and test it in its environment. Vector is willing to help the customer carry out these tests if necessary, in which case said service shall be invoiced separately.

#### **Clause 5 Obligations of the customer**

- 5.1 The Software, Programs and source codes for the Software and any Software component is and shall remain the property of Vector along with developments, updates and new versions thereof. The customer acknowledges that the Software, user documentation and all other documents relating to the Programs, including future versions thereof, are protected by intellectual property law and constitute confidential information that belongs to Vector or each individual designer. The customer shall refrain from disclosing confidential information concerning the Software and, generally, it

shall protect the Programs against misuse for an unlimited period of time.

The customer undertakes not to disclose or give a third party access to the Software source codes without Vector's prior express approval.

- 5.2 The customer may make backup copies of the Software pursuant to Article L.122-6-1 of the French Intellectual Property Code. Information appearing on the electronic media delivered in respect of the Programs, the owner of the intellectual property rights and the supplier must be referred to on any copies made.

The customer undertakes not to translate, adapt, arrange or modify the Programs and not to export them or merge them with other software.

The customer may make copies of the user documentation for its own personal use provided that it does so in accordance with the regulations in force.

## **§2 General terms and conditions**

### **Clause 6 Charge and payment**

- 6.1 Unless specifically stated to the contrary in the offer issued by Vector, offers shall be valid for thirty (30) days from their issue date.

- 6.2 Vector's prices are set in accordance with its price list applicable on the date of the order, which may be provided to the customer upon request.

Unit prices and information contained in catalogues, brochures and price lists are provided solely by way of a guide and shall only be binding on Vector after written confirmation.

The retail prices stated exclusive of VAT are stated ex works and exclude the price of delivery to the customer, which will be specified in the offer. Prices do not include installation or the supply of the required system or software.

The price of hardware and/or Software is set out in the offer. In any event, prices will be provided to the customer upon request.

- 6.3 Orders placed by the customer shall be firm and irrevocable unless Vector agrees to a change in writing. The sale shall only be definitively entered into once Vector has expressly confirmed the customer's order in writing. Generally, orders, order confirmations and all other agreements such as endorsements, etc., must be in writing and duly signed in order to be valid.

- 6.4 Prices shall apply to each order and not necessarily to other orders.

6.5 Any assistance (including in particular pre-installation support, installation and demonstrations of operational readiness, conversion of old data, instruction, training or consulting) provided by Vector at the customer's request shall be invoiced separately on a time-spent basis. Under such circumstances and unless otherwise agreed, the hourly rates, travel expenses and ancillary costs shall be remunerated in accordance with Vector's price list, unless otherwise agreed. Vector shall invoice its services on a monthly basis.

6.6 Unless agreed otherwise, invoices shall be payable in euros thirty (30) clear days after their issue date.

Any sum not paid by Customer at the date payment is due shall, automatically and without notification, bear interest until paid at a rate of three (3) times the legal interest rate in force on the date payment is due.

The aforementioned penalties shall by no means release the customer from liability for other payments and are without prejudice to the damages that may be sought by Vector to compensate for any loss sustained.

Bills of exchange and cheques shall (subject to these methods of payment being accepted by Vector) be credited subject to due payment and only their collection shall constitute payment. Until such time, clause 7.4 below on the retention of title shall remain in effect.

6.7 If payments are staggered, any late payment shall automatically render all other instalments due and payable immediately, even if bills of exchange have been issued in respect of other payments. Vector shall definitively retain any advance payments already made by the customer.

6.8 The customer may only rely on the system of setoffs in order to release itself from its payment obligation provided that its receivable is not disputed and that it is acknowledged by Vector and that Vector expressly agrees for setoffs to be applied.

6.9 The customer has no right to retention on the hardware and Programs. The customer undertakes not to modify or remove the brands affixed by the supplier to the hardware and Programs until such time as the price thereof has been paid in full.

#### **Clause 7 Delivery**

7.1 Unless otherwise agreed in the offer and order confirmation, prices shall include the costs of carriage within mainland France. If goods are exported outside the EEC, the customer undertakes to pay all import taxes, customs duties, VAT and all other taxes due pursuant to the laws of the receiving country. Vector shall not be liable should the said taxes not be paid by the customer.

7.2 If a period of more than six (6) weeks elapses between the date on which Vector confirms an order and the delivery date for a reason not attributable to Vector, Vector may review the price in order to take into account any additional expenses.

7.3 Any complaint made due to a product defect or shortage upon delivery must be sent to Vector by registered letter, along with a copy of the reservations made on acceptance of the goods, within forty-eight (48) hours of signature of the final acceptance report.

7.4 All hardware, Software, Programs and, generally, all Software components, as well as the corresponding media on which they are recorded, including the related documentation, shall remain the full property of Vector and may not be pledged or given as a guarantee until such time as the price thereof has been paid in full.

This reservation of title shall not preclude the transfer of risks, which shall pass ex works (Incoterms 2000: EXW) unless otherwise specified in the offer and order confirmation.

#### **Clause 8 Disruptions in the Performance, delay**

8.1 Deadlines referred to in the order confirmation are given by way of a guide and no delay shall entitle the customer to cancel the order or grant the customer any other right whatsoever unless the parties have agreed in writing that a specified deadline must be met.

8.2 No delay attributable to Vector shall constitute sufficient grounds to terminate this contract and no penalty may be claimed from Vector due to a late delivery.

8.3 In the event of late payment by the customer, Vector may suspend any order in progress and/or require the customer to provide security or a cash payment 'subject to reimbursement' for future orders, without prejudice to other remedies available to it.

#### **Clause 9 Warranty**

9.1 Complaints

Complaints made in respect of obvious defects or the non-conformity of hardware or Software installed must be made by registered letter within forty-eight (48) hours of delivery of the hardware and/or Software. If Vector installed the hardware and/or Software, the customer must raise the complaint within forty-eight (48) hours of signing the final acceptance report.

9.2 Contractual warranty

In order to make a call under the warranty, the customer must notify Vector within forty-eight (48) hours of the malfunction that has occurred by registered letter and provide Vector with information it can use to recognise the malfunction. The customer undertakes to help Vector

eliminate malfunctions. In particular, the customer undertakes to keep a program logbook in which it shall log any problems of whatever kind that affect the Software and which it shall make available to Vector.

In particular, the customer undertakes to provide Vector upon request with an accurate description of how its hardware and software were configured when the malfunction first occurred. The customer shall allocate the time required to record the corrections made by Vector or install the replacement Programs provided by Vector.

If the hardware provided by Vector malfunctions, the customer must within forty-eight (48) hours notify Vector of the problem by registered letter. The hardware shall then be returned to Vector in its original packaging, at the customer's expense.

In order for Vector to take action under the warranty, Vector must be able to reproduce the malfunction on its own equipment.

No call made under the contractual warranty shall release the customer from its obligation to pay the full amount owed.

9.3 Vector may choose to repair a malfunction or to deliver a replacement Program and/or the corresponding hardware.

9.4 In the event of malfunctions which seriously impair use of the Software, Vector shall implement an interim solution, if necessary, in order to eliminate the malfunction. If a malfunction is considered minor, Vector shall remove it as part of the day-to-day maintenance service provided for the current version of the Software.

9.5 Vector may repair any minor malfunctions concerning software published by a third party when the software is updated. However, if a serious problem arises, Vector undertakes to use its best efforts to offer a workaround solution that is technically feasible and acceptable in terms of the costs it will incur.

With respect to system software, Vector undertakes to use its best efforts to implement the corrective measures of its supplier or workaround solutions provided that such measures and solutions are appropriate, technically feasible and acceptable in terms of the costs they will incur.

Moreover, Vector may propose the corrective measures offered and implemented by its supplier.

9.6 The warranty period shall begin on the date of delivery of the products, Software and/or hardware or the date of signature of the final acceptance report where the products, Software and/or hardware is/are installed by Vector. Unless otherwise expressly agreed by the parties,

the hardware and/or Software shall remain under warranty for a period of twenty-four (24) months.

The contractual warranty also covers Software updates.

9.7 The warranty shall not apply in the following circumstances:

- improper use of the hardware or Software; any services provided in relation to the hardware or Software by a third party following the occurrence of a malfunction,
- normal wear and tear,
- any damage or accident caused or arising due to negligence, improper surveillance or maintenance, poor storage conditions, improper use of the products or use for a purpose other than their contractually intended purpose,
- a defect that arises due to a design imposed by the customer or modification made by the customer to the product without Vector's written consent,
- incidents that arise due to an unforeseen accident, force majeure or event attributable to natural causes such as a flood or the excessive accumulation of dust,
- use of the hardware and/or Software made other than in accordance with its intended use, the terms and conditions set out herein or the technical specifications of Vector and/or the supplier,
- if additional devices are added,
- if the hardware and/or Programs is/are changed or transformed.

Vector shall be entitled to request the reimbursement of its expenses if it takes any action following the report of an unjustified malfunction.

9.8 The parties expressly agree that the customer may only rely on the contractual warranty once it has satisfied the payment terms provided for herein.

9.9 No warranty is given in respect of spare parts. Faulty parts shall remain the property of Vector.

9.10 This contractual warranty shall apply without prejudice to the mandatory statutory provisions governing statutory warranties.

#### **Clause 10 Vector's liability**

10.1 Vector's liability shall be restricted to direct damages only and Vector's liability shall be limited for the duration of the contract to (i) EUR 100,000.00 (one hundred thousand euros) or (ii) the contract value, whichever amount is higher.

The customer may claim for a higher maximum. Any such request shall be considered by Vector, but Vector may then require a surcharge for the aggravated risk.

- 10.2 Under no circumstances will Vector be liable for any indirect or unforeseeable damage or loss arising from this contract.

The parties expressly agree that an indirect loss shall include (but not be limited to) any financial or commercial loss, loss of profit, production loss, loss of data, orders or customers, harm to image and/or reputation, as well as any action brought against the customer by a third party.

- 10.3 Vector shall not be held liable under any circumstances for any damage or loss sustained on account of the customer's failure to perform one of its obligations or the improper use of the hardware and/or corresponding Software as compared to its intended use or the related documentation, or if the damage or loss is attributable to a breach by the customer of the user, maintenance or construction guides, inappropriate or unlawful use, improper or negligent handling, normal wear and tear or improper repairs.

- 10.4 The customer shall be solely responsible for the collection and processing of personal data directly or indirectly concerning it. Moreover, the customer shall be solely responsible for protecting the integrity of its data.

- 10.5 The customer shall be barred from bringing an action for damages under this contract twelve (12) months after the damage or loss first occurs.

The buyer waives the right to take any action against Vector seeking compensation for the pecuniary consequences of any damage or loss caused to third parties and it shall hold Vector harmless against any claims made by third parties relating directly or indirectly to the performance of the contract that arises on account of a breach by the customer of its contractual or statutory obligations.

#### **Clause 11 Force majeure**

- 11.1 Vector shall not be deemed to have breached its contractual obligations if a breach occurs due to the occurrence of a force majeure event. 'Force majeure' means an unforeseeable and unavoidable event of whatever kind that is beyond the control of Vector or one of its suppliers such as a natural disaster, bad weather, act of sabotage, embargo, strike, the suspension or delay of transport services, means of communication or supply of raw materials, energy or components, or a tooling accident that temporarily or definitively renders the performance of the contract impossible.
- 11.2 The above list of force majeure events is not exhaustive.

#### **Clause 12 Suspension – Termination**

- 12.1 Vector shall be entitled to suspend or terminate the contract if the customer fails to make a payment owing to Vector, until the outstanding invoice or instalment has been paid in full.
- 12.2 If either party seriously breaches its obligations, the other party may terminate the contract after sending notice of the breach observed by registered letter. The contract shall end automatically if the aforementioned registered letter remains without effect for fifteen (15) days.
- 12.3 If the contract is terminated by Vector, no compensation shall be payable to the customer and no sums paid under the sale contract shall be reimbursed.

#### **Clause 13 Miscellaneous**

- 13.1 These Terms and Conditions have been drawn up in French and English. The English version of the Terms and Conditions has been prepared for information purposes only and solely the French version shall apply.
- 13.2 If a maintenance contract is entered into, the Terms and Conditions of Maintenance shall apply without prejudice to these Terms and Conditions.
- 13.3 If only a maintenance contract is entered into without any Vector products being purchased, solely the Terms and Conditions of Maintenance shall apply.
- 13.4 In the event of a contradiction between these Terms and Conditions and the Terms and Conditions of Maintenance, the parties expressly agree that these Terms and Conditions shall take precedence.

#### **Clause 14 Customer's reference**

Unless special disapproval in writing from the customer, Vector may enter the customer's name into its list of clients together with a short description of the rendered performance.

All other advertising references that the customer is Vector's client are subject to customer's prior approval. In case of customer's refusal, Vector shall remove any reference to the customer from its list of clients within ten (10) days.

#### **Clause 15 Severability**

In the event that a provision of these Terms and Conditions is cancelled, in whole or in part, this shall not affect the remaining provisions of the Terms and Conditions. In such event, the parties shall endeavour to replace the provision that has been cancelled with a valid provision that is in keeping with the spirit and purpose of the sale contract.

No forbearance by Vector in relying on the application of a clause of these Terms and Conditions shall be construed as a waiver of that clause.

**Clause 16 Dispute settlement**

- 16.1. The parties expressly agree that any dispute that may arise in connection with the interpretation, performance or termination of this contract that cannot be settled out of court shall be referred to the courts within the jurisdiction of the Paris Court of Appeal.
- 16.2. These Terms and Conditions shall be governed by French law.