

## Standard Terms and Conditions

### Clause 1 Scope of Application and Priority

1. These standard terms and conditions (hereinafter: "T&Cs") apply to the delivery of goods and services by the companies of TechniData IT Gruppe (hereinafter: "TechniData"). The T&Cs of TechniData apply exclusively in relation to enterprises, legal persons governed by public law and special funds governed by public law (hereinafter: "Customers").
2. The current version of the T&Cs at any time also applies to all future agreements for the delivery of goods and services between TechniData and Customer, even in the absence of an explicit reference to such T&Cs.
3. Separate terms of use and/or Service Level Agreements (SLA) can apply in addition to the T&Cs to selected services of TechniData, and the former shall take precedence over the present T&Cs in case of conflict. Standard terms of Customer diverging from these T&Cs shall not become an integral part of the agreement even where TechniData delivers goods or services without expressly objecting to such standard terms.
4. The nature and scope of goods and services provided as well as deadlines and the amount of remuneration shall be specified in further detail in the offer issued by TechniData or in an individual contract. Verbal promises made by TechniData prior to conclusion of an individual contract are not binding legally; oral agreements between the parties shall be replaced by the individual contract unless the individual contract expressly states that they are to continue to apply with binding force. In case of conflict the individual contract and provisions in other contractual documents accepted by Customer (especially in the offer issued by TechniData) shall take precedence over the T&Cs and over terms of use and SLA that might apply.
5. For third-party products (hardware, software and/ or services), which TechniData supplies to the Customer, either as standalone product or as a bundle with deliveries or services of TechniData itself, or which TechniData uses to fulfil its contractual obligations, the contract and license conditions of the respective manufacturer or supplier of the third-party product valid at the time of conclusion of the contract shall apply and take precedence over the GTC and other contract conditions of TechniData that shall only apply as subsidiary and additional conditions. Insofar TechniData exceptionally acts as a representative for third-party products the contract is concluded directly between the Customer and the manufacturer or supplier of the third-party product; TechniData will point out this fact to the Customers, if applicable.

### Clause 2 Offer, Conclusion of Contract and Agreed Characteristics

1. Offers issued by TechniData are subject to change and non-binding unless they are expressly designated as being binding or contain a specific period for acceptance. Orders or commissions placed by Customer may be accepted by TechniData within 14 days after their receipt. For contracts concluded via the internet, the provisions of Clause 3 of these T&Cs shall apply with priority.
2. Conclusion of contract is subject to correct and timely deliveries to TechniData by its suppliers. TechniData shall not be in default in the event of failure to deliver or any delays of its suppliers, unless TechniData is responsible for such failure to deliver or the delay. If it is certain that delivery by the supplier to TechniData will not take place for reasons for which TechniData is not responsible, TechniData shall be entitled to withdraw from the contract. TechniData shall inform Customer promptly where the relevant contractual products are not available and shall promptly reimburse Customer for considerations already received.
3. Information about the contractual products provided by TechniData (e.g. measurements, use value, reliability, tolerances and other technical data) as well as presentations of such products (e.g. drawings and depictions) shall only be approximately authoritative unless the fitness of such contractual products for the agreed use requires exactly matching specifications. Such information does not constitute guaranteed characteristics. Customary divergences and adjustments made on the basis of legal regulations or constituting technical improvements as well as the replacement of component parts through equivalent parts are permissible provided they do not impair the fitness for use of the contractual products for the contractually agreed or intended purpose.
4. The features and functions of the contractual products as well as the type and scope of the licenses for standard software purchased by Customer are set forth in the offer or in an individual contract. Unless otherwise agreed, Customer shall receive standard software in the version currently published by the

manufacturer at the time of delivery in object code. Customer shall have no right to be provided with the source code of the standard software. Together with the standard software, Customer shall receive the documentation provided by the respective manufacturer of the software. TechniData shall not be obliged to provide Customer with documentation in a format or language other than that provided by the manufacturer.

### Clause 3 Conclusion of Contract via the Internet

1. These T&Cs also apply to agreements concluded online via the internet. In this case, the presentation of products and services on the website does not constitute a legally binding offer of TechniData, but, rather, merely a non-binding invitation to the Customer to make an offer. Upon completion of the order by activating the order button, Customer issues a binding offer for conclusion of a contract for the products and services placed in the shopping basket. Prior to completion of the order, Customer may verify its order data on a separate page, may make any corrections necessary, remove products from the shopping basket or replace them with other products.
2. TechniData shall confirm receipt of the electronic order placed by Customer by sending automatic confirmation of receipt by e-mail. Such confirmation of receipt does not constitute a binding acceptance of the offer made by Customer. It merely serves to inform Customer that its order has been received. The contract is brought about by a separate confirmation issued by TechniData or at the latest upon delivery of products, provision of services or activation of the customer account. TechniData is free not to accept orders placed by Customer; this decision is made at the discretion of TechniData.
3. After an electronic order is placed by Customer via the internet, Customer's individual order data shall be stored by TechniData. Insofar as Customer is registered and therefore has a customer account, it may also obtain its order data within its customer account after having completed the order process. Apart from this, all customers are able to print their order data while placing an order and shall receive such data again together with the confirmation of receipt (together with the T&Cs incorporated into the contract). The current version of the T&Cs at any time may also be obtained and printed from the TechniData website. Contracts concluded via the internet are concluded in the German language.
4. Divergences from the above-mentioned processes can arise for orders placed for certain products and services, which will be pointed out separately to Customer should the case arise.

### Clause 4 Delivery Terms; Periods and Deadlines

1. Deliveries by TechniData shall be made ex works. The risk of accidental loss or accidental deterioration shall pass to Customer no later than handing over of the items for delivery to the haulage company or other person appointed to carry out the shipment. If the shipment or handing over is delayed owing to circumstances for which Customer is responsible, the risk shall pass to Customer on the date on which the contractual products are ready for shipment and TechniData has notified Customer accordingly. Where TechniData has assumed an obligation towards Customer to install and/or put the delivered products into operation, the risk shall pass to Customer upon such installation and/or putting into operation.
2. Periods and deadlines for deliveries and the provision of services mentioned by TechniData are only approximate unless a binding period or a specific deadline was expressly promised or agreed.
3. Agreed periods and deadlines for deliveries and the provision of services shall be postponed and/or extended by the period during which TechniData is prevented from performing owing to circumstances for which it is not responsible, and by a reasonable ramp-up period following rectification of the obstacle to performance. Such circumstances include, in addition to events of force majeure and other unforeseeable events (e.g. disruptions of operations, problems in procuring materials, shipment delays, industrial action, lockouts, lack of employees, power supply or raw materials, problems in obtaining official permits required), failure to or delayed cooperation by Customer (e.g. failure to provide items, or restricted access to Customer's IT infrastructure for TechniData) as well as times during which TechniData waits for Customer to provide necessary information, documents or decisions.
4. TechniData is entitled to provide partial deliveries or partial services if such deliveries or services can be independently used by Customer, if the complete delivery and/or provision of services is ensured and provided the partial delivery or

partial services do not cause Customer to incur significant additional effort or additional expenses.

#### **Clause 5 Performance of Services**

1. If TechniData provides services and unless otherwise agreed, Customer shall be responsible for the organization, planning and scheduling of the provision of services (including the coordination with services of other providers). Customer shall bear the overall responsibility for the professional realization of its project on time and within budget. Technical requirements of Customer have to be confirmed in writing by TechniData in order to be binding.
2. TechniData shall provide the agreed services in accordance with the state of the art. TechniData shall provide all services with care through professionally qualified employees. Employees of TechniData are not subject to the supervision or directives of Customer irrespective of the place of performance, and are not in an employment relationship with Customer. If (e.g. in an individual contract) employees of TechniData are identified by name, this shall take place on the basis of the status of knowledge and planning at the time of conclusion of the contract. Should it be necessary to replace employees, TechniData shall ensure comparable qualifications. Customer may require employees to be replaced if there is a good cause. In that case Customer shall bear the costs of initial training of a new employee.
3. TechniData may deploy affiliated companies or independent sub-contractors in order to provide services, in which respect TechniData always remains under a direct obligation towards Customer. Customer may only object to the deployment of sub-contractors on the basis of good cause.
4. TechniData may draw up protocols about discussions for the specification or adjustment of contractual matters, in particular the contractual services, the time schedule and the remuneration. Such protocols shall become binding on both parties if TechniData provides them to Customer, who fails to raise written objections stating the grounds within one week of receipt. TechniData shall point out this effect to Customer when providing the protocol.
5. Insofar as formal acceptance has to take place owing to statutory provisions or insofar as an acceptance procedure is expressly agreed by the parties, goods and services delivered shall be deemed accepted if and when
  - a. the contractual products have been handed over and, insofar as TechniData also owes the installation of the contractual products, the installation has been completed,
  - b. TechniData has notified Customer of readiness for acceptance while pointing out assumed acceptance pursuant to this paragraph and has called on Customer to accept, and
  - c. (i) ten (10) working days have passed since Customer was called on to accept the performance without Customer having complained of defects preventing acceptance, or (ii) Customer has commenced productive use of the contractual products (i.e. has put them into operation not purely for testing purposes).

Only significant defects preventing the contractual products from being fit for the agreed or required purpose or considerably restricting such fitness for use shall prevent acceptance. The above provisions apply accordingly to partial acceptance.

#### **Clause 6 Modifications to Performance**

1. If Customer intends to modify its requirements and/or the scope of performance, TechniData shall examine the request for modification and make a corresponding offer to Customer. TechniData may refuse to perform a modification requested by Customer if the modification is unfeasible or if TechniData cannot be reasonably expected to perform the modification within the context of its operational performance capacity, its resource planning or for other reasons.
2. Any change in performance shall require a corresponding change agreement to be concluded by the parties in writing or in text form. In the absence of other agreements TechniData may require remuneration based on time and materials according to the current TechniData pricelist for the examination of modifications requested and for preparation of a corresponding offer. Agreed periods and deadlines shall be deemed extended at least by the number of calendar days on which the contractual work has to be interrupted owing to the requested modification, and by a reasonable ramp-up period.

#### **Clause 7 Customer's Cooperation Obligations**

1. Constituting a material contractual obligation Customer shall provide the cooperation specified in the following paragraphs and in the other contractual documents (e.g. the individual contract or the SLA) as well as other cooperation required for performance of services, in due time, properly, fully and free of charge. Customer shall ensure that its employees have the qualification and experience required in order to cooperate, and shall release its employees from other responsibilities to the extent necessary.
2. Insofar as necessary in order to provide the agreed services, Customer shall make available complete and consistent information and documents, the necessary IT infrastructure and system environment, telecommunications facilities, test cases, test data and a test environment, and shall participate in specifications, tests and acceptance. Customer shall make a workplace with a PC with internet access and a telephone available for TechniData employees who provide services on site at Customer's premises.
3. If TechniData provides services on site at Customer's premises, Customer shall inform TechniData automatically prior to commencement of the activity of the applicable health and safety regulations for employees and of any risks for health and safety at the place of deployment. In addition to a general introduction to the operational situation on site (e.g. house rules), this includes an introduction to specific work and safety regulations (e.g. alarm and emergency plans) as well as safety requirements for specific buildings. Should additional expenses or costs be incurred by TechniData due to compliance with or implementation of customer-specific requirements in relation to work and safety regulation, such expenses shall be borne or reimbursed by Customer.
4. Unless otherwise agreed, technical verification of Customer's system environment shall not take place until performance commences. If such technical verification reveals that the services ordered are technically unfeasible or if performance would entail considerable additional expenses, either party may terminate the contract. Performance provided up to the date on which termination takes effect shall be invoiced to Customer by TechniData on the basis of time and materials unless otherwise agreed; this shall not apply where TechniData could have recognized the lack of technical feasibility based on the information available to it at the time the contract was concluded.
5. Customer shall create all requirements for the proper provision of performance within its operational sphere. In particular, Customer shall grant TechniData access to its hardware and software to the extent required. Customer shall ensure that the third-party products required for the provision of performance (hardware, software, databases etc.) are made available. Customer shall ensure the availability of third-party products if necessary by means of licensing and maintenance agreements with the manufacturers or suppliers of such products. If the installation of devices at Customer is the subject matter of contractual performance, Customer shall ensure that the electrical and other facilities required for the installation and connection of devices are available in accordance with the manufacturer's specifications and the current state of the art. Insofar as the cooperation of third parties (e.g. manufacturers or suppliers of equipment to be connected to the devices) is necessary when devices are installed, Customer shall be responsible for the provision of such cooperation by the third party.
6. Customer shall coordinate performance by other service providers that relate to performance by TechniData such that there are no delays, waiting periods and/or additional expenditure on the part of TechniData. If the contractual service is a system migration, Customer shall also ensure that rights of third parties (e.g. to the software to be migrated) are not infringed by the migration.
7. Within the context of its obligation to prevent damage, Customer shall take reasonable emergency precautions (e.g. by means of regular data backups, regular checks of its IT systems) and shall at least ensure uninterrupted emergency operations at any time based on a corresponding emergency concept in case of the complete failure of its IT systems. In the absence of an express written reference in an individual case, TechniData employees and sub-contractors may always assume that all data with which they come into contact is sufficiently safeguarded against loss.
8. If Customer is in default with the provision of its cooperation, the performance obligations of TechniData shall be suspended for the duration of the delay unless it is possible to provide performance without the requisite cooperation of Customer and without significant additional effort. Additional expenditure incurred by TechniData as well as the waiting periods and interruptions resulting from delayed or inferior fulfilment of cooperation obligations or from failure to

cooperate shall be invoiced to Customer on the basis of time and materials. Where cooperation owed by Customer is provided by TechniData as a replacement after a reasonable grace period has expired without results, in case of imminent danger also without a grace period being necessary, the resulting additional expenditure shall be payable on the basis of time and materials. Other legal claims of TechniData shall remain unaffected.

#### **Clause 8 Retention of Title**

1. The products provided to Customer (Reserved Goods) shall remain the property of TechniData until Customer has paid in full all payment obligations arising from the respective contract. Customer shall hold the Reserved Goods for TechniData free of charge. If third parties obtain access to the Reserved Goods, especially by way of seizure, Customer shall promptly point out the ownership of TechniData and shall inform TechniData accordingly to enable it to enforce its ownership rights.
2. Customer shall be entitled to resell the Reserved Goods in the ordinary course of business if he has ordered the Reserved Goods while acting as a system integrator or as another form of intermediary and as long as (i) he is not in default of payment or (ii) there is no reason for filing for insolvency. Customer hereby assigns to TechniData the claims against Customer's purchasers arising from the resale of the Reserved Goods up to the amount of the invoice being secured (incl. VAT); TechniData accepts the assignment. The assignment applies irrespective of whether the Reserved Goods have been resold without processing or after processing. Customer shall remain empowered to recover the claim even after the assignment. TechniData's power to recover the claim shall remain unaffected by this. However, TechniData shall not recover Customer's claim from Customer's purchaser as long as Customer is not in default of payment or there is no reason for filing for insolvency.
3. In the event of breach of contract by Customer, in particular in the event of default in payment, TechniData shall be entitled to repossess the Retained Goods following withdrawal from the contract and Customer shall be obliged to return them. In this case, setting a prior deadline shall be dispensed with.

#### **Clause 9 Prices and Terms of Payment**

1. All prices and the amount of the applicable daily and hourly rates are set out in the individual contract and/or in the offer issued by TechniData as well as in the TechniData pricelist in force at any time that might additionally apply. The purchase prices for products delivered are subject to shipment and packaging costs and, if appropriate, to customs duties levied, fees and other public charges. Unless otherwise agreed, services provided shall be paid by Customer on the basis of actual time and materials. Statements of expenses by TechniData, e.g. in the offer, are non-binding estimates based on the information and documents known to TechniData at that time. In the absence of deviating agreement, ancillary costs incurred by Customer during the provision of services, in particular overnight and travel expenses, and time actually spent travelling shall be invoiced separately. All amounts are net Euro amounts.
2. For services billed on a time and material basis, the smallest billable unit shall be 15 minutes; time spent in excess of this shall be billed on a quarter-hourly basis.
3. Purchase prices for products delivered shall be invoiced to Customer when they are handed over. Services provided shall be invoiced by TechniData to Customer at the start of the calendar month following the month of performance, together with the customary records of work at TechniData. Unless otherwise agreed, all invoices are due for payment immediately upon being received by Customer.
4. If Customer is in default of payment, TechniData shall be entitled to its statutory rights without restriction. Upon the occurrence of default all outstanding claims of TechniData against Customer become immediately due for payment.
5. TechniData is entitled to provide outstanding deliveries or services solely against advance payment or furnishing of a security if Customer is in default of payment or if TechniData, after conclusion of the contract, becomes aware of circumstances that could severely diminish Customer's creditworthiness and jeopardize payment of the outstanding amounts owed to TechniData by Customer under the relevant contractual relationship.

#### **Clause 10 Claims Based on Defects**

1. All contractual products shall be promptly examined for defects by Customer after delivery. Defects detected shall be promptly notified in writing by Customer and shall be reasonably described and documented so that TechniData can verify

and reproduce the existence of the alleged defects. The applicability of Sec. 377 German Commercial Code (HGB) remains unaffected.

2. TechniData warrants that the products delivered and services provided correspond at the time of the passing of risk to the contractually agreed specification of products and services. TechniData shall rectify defects in its products and services that are duly notified to it by Customer free of charge, in accordance with the following provisions.
3. Claims based on defects may only be made where defects are reproducible or can be described plausibly by Customer. Functional impairments of the contractual products resulting from the hardware or software environment of Customer, from incorrect data, improper use or other circumstances within Customer's sphere of responsibility do not constitute defects. A further prerequisite for the warranty for defects is that Customer has not modified the contractual products itself or has caused them to be modified by third parties without authorization, and that Customer has not used them contrary to the contractual requirements (e.g. in a different system environment, disregarding the minimum technical requirements or system requirements defined by the manufacturer) or contrary to the specifications of the user documentation, unless Customer proves that these circumstances do not affect the defect.
4. Insofar as the contractual products are defective at the time of the passing of risk, TechniData is entitled and obliged to rectify such defects - at TechniData's discretion by means of repair or provision of a replacement - within a reasonable period of time. The rectification of defects can initially consist of notifying Customer about reasonable options for avoiding or circumventing the effects of the defect. TechniData can only rectify defects in the standard software supplied to Customer by TechniData if the manufacturer provides a corresponding update of its Software..
5. If the rectification of defects fails (at least 2 rectification attempts per defect), Customer may choose to demand a reduction of the remuneration (price reduction) or may withdraw from the contract. Depending on the complexity of the contractual products and their technical interaction with Customer's IT infrastructure, more than 2 attempts of rectification can be appropriate and reasonably acceptable for Customer. Withdrawal from the contract is excluded in case of insignificant defects. Where a contract for a continuing obligation exists, instead of withdrawing Customer is entitled to terminate the contract with immediate effect subject to the same requirements if it cannot be reasonably expected to continue the contract owing to the defect. Clause 12 of these T&Cs applies to claims for damages and compensation for futile expenditure caused by defects.
6. If TechniData provides performance during the analysis or rectification of alleged defects without being obliged to do so, it may require remuneration based on time and materials in accordance with its price lists in force at any time. This applies especially where a defect notified by Customer cannot be detected or attributed to TechniData. The claim for remuneration does not arise where Customer proves that it did not realize that there was no defect without being at fault in this respect.
7. Where defects arise in third-party products, TechniData may choose to raise its warranty claims against the manufacturer and/or its upstream supplier in Customer's name, or to assign such claims to Customer. Customer undertakes to comply with the return processes prescribed by the manufacturer or upstream supplier (e.g. the request for an RMA number). TechniData will inform Customer about these return processes (e.g. on its website). Warranty claims of Customer against TechniData arise under the present T&Cs with regard to defects of third-party products only where enforcement of the above mentioned claims in court against the manufacturer or upstream supplier is unsuccessful or has no prospects of success, e.g. due to insolvency on the part of the manufacturer and/or upstream supplier. While recourse is being exercised by Customer against the manufacturer and/or the upstream supplier, the statute of limitations for warranty claims of Customer against TechniData shall be suspended. Independent guarantees voluntarily granted by the manufacturer of a third-party product do not constitute any claims against TechniData. It shall be the sole responsibility of Customer to check the existence of such guarantee claims and, if necessary, to assert and enforce them directly against the manufacturer.

#### **Clause 11 Infringement of Third-Party Intellectual Property Rights**

1. TechniData warrants that the contractual products provided to Customer are free from third-party intellectual property rights that prevent or restrict use in

accordance with the agreement, and shall indemnify Customer against corresponding claims of third parties in accordance with the following provisions.

2. Should third parties make claims against Customer based on an infringement of their intellectual property rights, Customer shall provide a comprehensive, written notification to TechniData without undue delay. TechniData is entitled but not obliged to conduct the dispute with the third party on its own, both in an out of court. If TechniData avails itself of this right, Customer shall assist TechniData to a reasonable extent and free of charge in defending its rights. Customer shall not voluntarily recognize claims made by the third party.
3. If the contractual products have defects in title at the time of the passing of risk, TechniData shall obtain for Customer a legally correct possibility of using the contractual products. TechniData may alternatively replace the relevant contractual products wholly or partly with equivalent products if Customer can be reasonably expected to accept such an exchange. If the infringement of third-party intellectual property rights and/or a legal dispute concerning corresponding claims of third parties can be avoided or ended in the way that Customer uses a new software version made available by TechniData, then Customer shall accept and use such new software version within the context of its duty to minimize damage, unless such an exchange is unacceptable for it.
4. TechniData shall indemnify Customer within the limits of liability set forth in Clause 12 against all damage caused by the infringement of intellectual property rights insofar as such infringements were caused by a defect in title existing at the time of the passing of risk and for which TechniData is responsible. In all other respects, the provisions on material defects in Clause 10 of these T&Cs apply to claims of Customer based on defects in title.

#### **Clause 12 Liability**

1. Where contractual products are provided to Customer for the use within a limited period of time, i.e. within the context of a rental contract, TechniData is liable for defects of the contractual products which already existed at the time the contract was concluded contrary to Sec. 536a German Civil Code (*Bürgerliches Gesetzbuch*) only if TechniData is at fault.
2. If TechniData provides products or services to Customer without remuneration being payable, e.g. during a test phase conducted free of charge, TechniData shall be liable in this respect solely for intentional or grossly negligent breaches of duty.
3. Apart from this TechniData shall be liable for damage caused and for compensation for futile expenditure, no matter on what legal ground, including for impossibility or default on an obligation to perform, for defects and in tort, solely to the following extent:
  - in the full amount in case of intent or gross negligence, and in the full amount of the protective purpose covered by the guarantee where a guarantee is assumed;
  - in case of ordinary negligence, only for a breach of a material obligation jeopardizing fulfilment of the purpose of the contract and on fulfilment of which Customer may therefore usually rely (so-called cardinal obligation), but only for compensation of the typical and foreseeable damage.
4. TechniData is liable for the loss of data within the confines of the above paragraph solely for damage, which would have arisen even if Customer had duly backed-up data, i.e. in accordance with the state of the art and consistent with the risks.
5. The above restrictions of liability also apply in favour of the directors and officers, representatives, employees and vicarious agents of TechniData.
6. Liability for damage caused by injury to life, limb or health and liability under the German Product Liability Act (*Produkthaftungsgesetz*) shall remain unaffected by the above provisions.

#### **Clause 13 Limitation Period**

1. The limitation period for all claims of Customer based on defects in products and services provided and all claims for damages and compensation for futile expenditure amounts to one (1) year. This does not apply where a defect lies in a right in rem held by a third party, entitling it to demand the surrender of the relevant contractual products. The limitation period shall commence in accordance with the relevant applicable statutory provisions and, in case of a maximum statutory period, shall end no later than five (5) years after the claim accrues.

2. The statutory limitation period shall remain unaffected for claims against TechniData based on intentional or grossly negligent breaches of duty, in case of fraudulent failure to disclose a defect, assumption of a guarantee, in case of personal injury and for claims based on the German Product Liability Act (*Produkthaftungsgesetz*).

#### **Clause 14 Grant of Licence**

1. Unless otherwise agreed the licensing terms of the relevant manufacturer and/or the applicable Open Source licensing terms shall apply with priority to standard software and to Open Source Software provided and/or licensed to Customer by TechniData; alternatively and additionally the licensing terms of this Clause 14 shall apply. TechniData shall provide the licensing terms for the third-party software and the Open Source licensing terms to Customer upon a corresponding request made.
2. Ownership of and the copyrights and other intellectual property rights to all offer and project documents, including the drawings, depictions and models they contain, and to all products and services delivered, including the software developed by TechniData or adjusted for Customer, as well as other customized work results (planning, draft and concept documents, documentation etc.), shall remain exclusively with TechniData or its licensors in relations with Customer.
3. Unless otherwise agreed Customer shall receive the non-exclusive, irrevocable right that is unlimited in time, to use the protectable contractual products for the agreed or required business purposes of Customer, and to make the reproductions necessary for such use, subject to the condition precedent of full payment of the agreed remuneration for such use. All other rights, in particular the right of distribution including rental, the adaptation right and the right to make the contractual products available to the public, shall remain at TechniData. Where software is provided to Customer, the use rights relate exclusively to use of the software in object code. The use of software by or on behalf of third parties (e.g. within the context of data centre operations or a software-as-a-service model) is subject to the prior written consent of TechniData.
4. Customer may make necessary back-up copies of the contractual products. A back-up copy on a movable data carrier shall be designated accordingly and the copyright notice of the original data carrier affixed to it. Customer may not modify or remove copyright notices of TechniData and/or its licensors.
5. Where TechniData provides its own software to Customer for permanent use by way of a contract of sale, Customer may provide such software to a third party only if it completely and finally discontinues any own use of that software. Temporary or partial provision to third parties or provision to several third parties is not permitted. Transfer of the software to third parties is subject to the prior written consent of TechniData. TechniData shall grant its consent if Customer presents a written declaration from the third party in which the latter undertakes directly in relation to TechniData to comply with the licensing terms applicable to the software, and if Customer issues a written assurance to TechniData that it will provide all software originals to the third party and has irrevocably deleted all copies it made itself.

#### **Clause 15 Confidentiality**

1. The parties undertake to keep confidential any and all business and trade secrets of the other party respectively that were entrusted, made available or otherwise became known to them, as well as all operational matters that are evidently confidential, and shall use such confidential information solely for the contractually intended purpose and shall not disclose it to third parties. The parties shall only permit those employees and sub-contractors to obtain access to the confidential information who have a need to know such information in order to perform the contract. The confidentiality obligation applies for a period of three (3) years beyond the date on which the contract terminates.
2. The confidentiality obligation does not apply to confidential information already known to the recipient beforehand without a confidentiality obligation applying, or which is or becomes generally known without the recipient being responsible, or which is lawfully communicated to the recipient by a third party without a confidentiality obligation applying, or which was demonstrably developed independently by the recipient.
3. All business items and documents made available to the parties shall be properly stored and returned to the other party at any time on request. In particular, the parties shall ensure that, to the extent possible, unauthorized third parties cannot access such business items and documents.

4. Further statutory obligations to treat business secrets confidential under the German Act on the Protection of Business Secrets (*Geschäftsgeheimnisgesetz*) shall remain unaffected by the above terms and conditions.
5. Before personal data is processed TechniData shall impose a written confidentiality obligation to handle the personal data confidential and to comply with the General Data Protection Regulation (GDPR) on its employees entrusted with that task. TechniData is entitled to communicate personal data to sub-contractors deployed in accordance with the agreement where this is necessary for the provision of performance. TechniData shall impose an obligation to comply with GDPR regulations on such sub-contractors. Where Customer permits TechniData to access personal data, it shall ensure that the relevant statutory requirements for the communication and processing of such data by TechniData are observed.
6. Where Customer agrees to be identified as a reference customer, TechniData may use and display the Customer's name and corporate designation, trademarks and logos for its own advertising purposes in printed publications and on the TechniData website.

#### **Clause 16 Termination of Contracts for Continuing Obligations**

Unless otherwise agreed contracts for continuing obligations without a fixed term may be terminated by either party subject to notice of one (1) month to the end of the (calendar) quarter. The right of either party to terminate the contract with immediate effect for good cause shall remain unaffected. There is a good cause for TechniData especially where Customer defaults on a significant part of the agreed remuneration for longer than two (2) weeks. A notice of termination has to be in writing in order to be valid.

#### **Clause 17 Final Provisions**

1. The assignment or transfer of contractual rights and obligations by Customer to third parties - including affiliates of Customer - is subject to the prior written consent of TechniData. Sec. 354a of the German Commercial Code (*Handelsgesetzbuch*) remains unaffected.
2. Any amendments and supplements to the agreement and these T&Cs have to be in writing in order to be valid. A signed and scanned document sent by e-mail complies with the requirement of written form. The requirement of written form may only be waived in writing.
3. German law applies to the exclusion of the rules on conflict of laws under private international law and the UN CISG. The venue for all disputes arising under or in connection with this Agreement is the court with jurisdiction for the registered office of TechniData. TechniData is also entitled to file suit at every other national or international court having jurisdiction.
4. Should individual provisions of these T&Cs or of the individual contract be or become invalid, or should there be gaps in the provisions of the contract, this shall not affect the validity of the remaining provisions hereof. The parties agree to replace the invalid or missing provision by a valid provision which comes closest to their economic intentions at the time the contract was concluded.