

## TERMS AND CONDITIONS FOR THE USE OF SOFTWARE LICENSES – UPGRADES AND PATCHES

### 1. GENERAL PROVISIONS

In this document, ORDINAL designates the company whose corporate name is ORDINAL Software.

The CUSTOMER declares to have read and accepted without reservation, the Terms and Conditions of sales for the use of software licenses, upgrades and patches, solely by his purchase order or the signature of the offer, the conclusion of any contract or its renewal, as well as the installation and use of the software package.

ORDINAL Software reserves the right to update its Terms and Conditions of sales and agrees to inform the Customer by all means. Continued use of the Software Packages and / or the use of the ORDINAL Software support services subsequently to the notification by ORDINAL Software of the modification of these presumes the unconditional acceptance by the Customer of the new Terms and conditions of sales thus notified. All these Terms and Conditions of sales are automatically transferred to the transferee as soon as the ORDINAL products are put into service. The most recent version of the Terms and Conditions of Sales may be consulted freely by the Customer at any time on [www.ordinal.fr](http://www.ordinal.fr), section "General Conditions". In this document the sale of products, will mean the sale of licenses and / or the sale of provision of upgrades and / or patches

### 2. FORMATION OF CONTRACT

The sales contract between the customer and ORDINAL is complete only through acceptance by ORDINAL of the customer's order.

No order can be cancelled without the agreement of ORDINAL

In case of cancellation acceptance ORDINAL reserves the right to charge the customer fees and disbursements incurred.

### 3. VALIDITY OF OFFERS

Unless otherwise specified, offers issued by ORDINAL are valid for a maximum of one month after they were established.

### 4. PRICE

Prices shown in any price list or quotation are in Euros and exclude taxes.

The prices invoiced are calculated by ORDINAL ExWorks based on current economic conditions, customs and tax regulations.

### 5. DEFINITION OF DELIVERABLES

#### 5.1. Software delivery

Our software is delivered electronically. Optionally, backup media can be obtained by order.

#### 5.2. Update of the software package

The sale entails the automatic provision, as soon as all the invoices are paid, of the update of the software package that the CUSTOMER is committed to accept and to implement upon ORDINAL's request. It includes for the entire duration below (Article 9) - the automatic provision of the latest version of the software package corresponding to the correction of defects, the improvement of existing functions or the addition of functions that are not subject to a supplementary fee - the verification of the good operation in the new version of the standard functions.

#### 5.3. Provision of software package patches

If, during its use, the standard software package is not functioning in accordance with the documentation, ORDINAL is committed to implement all the necessary means to carry out the corrective that will make it possible to overcome the problems encountered. This provision does not cover situations outside the normal use of the software package or non-reproducible issues.

### 6. DELIVERY TIME

A delivery date can be specified in the sales order, this delivery date cannot exceed 3 months from the date of the order. ORDINAL will do its utmost to deliver as soon as possible the orders it has accepted.

Any delivery or shipment date mentioned in the order acknowledgment will only be indicative. Exceedances of delivery times may not give rise to damages, withholding or cancellation of orders in progress.

Delivery charges are the responsibility of the customer.

### 7. PROPERTY RETENTION

ORDINAL remains ownership of the licenses until the full payment of the total price is made,

It is expressly forbidden for the customer to give products under guarantee or to use it in particular for resale or further processing before full payment.

### 8. COMPLEMENTARY SERVICE

Description of the service:

This service covers the incidents encountered during the use of the software package. The CUSTOMER is supposed to have the necessary skills for the use of the software package through the appropriate trainings offered by ORDINAL on its software. Incident correction is part of ORDINAL's quality process.

Interventions on telephone calls:

CLIENT's telephone calls are received by ORDINAL from 9 am to noon and from 2 pm to 6 pm, Monday to Friday excluding public holidays or non-working days. In view of the information provided, ORDINAL will endeavour to resolve by telephone the difficulties identified by the CLIENT by providing him with information and procedures to follow. The use of this service is reserved to two persons of the CLIENT designated by their name. These persons may be modified by simple prior written request within one month before the desired modification.

Diagnosis –

In case of failure of the software identified by the CLIENT, and taking into account the information provided by him, ORDINAL will carry out an analysis of the difficulties noted. - The CUSTOMER will endeavour to provide a precise and documented description of the identified failure. - The remote diagnosis procedure implements an Internet connection. The CUSTOMER makes available to ORDINAL under the maintenance contract a restricted access to the servers of the application ensuring a minimum guaranteed speed of 128 kb / s. The communication devices located at the CLIENT and made necessary by this remote diagnostic procedure are the responsibility of the CLIENT.

d) On-site interventions: In the case of remote intervention remained unsuccessful, i.e. without the CLIENT can implement the solutions prescribed by ORDINAL, or without it can appreciate the nature and origin of the problem, ORDINAL undertakes to intervene on the site to ensure the maintenance of the software within 48 hours if the customer has made available to ORDINAL the remote diagnostic capability and 72 hours otherwise. This period is counted in working days. The time, travel and living expenses of ORDINAL personnel relating to interventions on the contract site will not be subject to any additional fees if the malfunction is attributable to the ORDINAL supply packages maintained in their latest version. Otherwise, the days of intervention will be invoiced on the basis of the tariff in force on the day of this intervention. As part of the on-site intervention, the CUSTOMER agrees to provide a suitable environment for the products maintained and complying with the prescriptions of ORDINAL, allows free access to its equipment under satisfactory safety conditions, during the time required for intervention. The CLIENT also undertakes to collaborate, and to transmit all the information necessary for the smooth running of the intervention.

9. DURATION The provision of upgrades and patches is included in the sale of any license for a period of one. year minimum. The provision of upgrades and patches is effective upon order. For the sake of simplification, the anniversary date will be the last day of the month of the initial order. The provision of upgrade and patch is tacitly renewable on the anniversary date subject to the payment of a fee for the same period as the initial sale. Any party who wishes to waive the renewal will have to notify such a will by registered letter with acknowledgement of receipt, with a notice of 1 month before the anniversary date. On the anniversary date, a calculation of the amount of the fee will include all the licenses owned by the customer, (In case of additions, the periods already covered will be deducted from the fee).

### 10. EXCLUSIONS

1. ORDINAL cannot ensure upgrades in the following cases:

- Modification of the software by the CUSTOMER or at their own initiative, unless exempted by ORDINAL,
  - Use of software that is not in accordance with the associated documentation,
  - Non-implementation of software updated versions at the express request of ORDINAL,
  - Failure to meet basic hardware and software requirements.
  - A change to all or part of the equipment, basic software (including versions of the operating system, databases) by products that are incompatible with the software (unless with prior approval of ORDINAL).
  - A change of site or reinstalling the software on another configuration without the written consent of ORDINAL.
  - A case of force majeure and accidents such as fire, lightning, floods, epidemics, riots, vandalism, war...
  - A repair of software following the intervention of non-ORDINAL staff, performing maintenance or repair of equipment or software on which the ORDINAL software is installed.
2. Not included in service:
- Correction of problems related to software configuration.
  - Engineering time for the implementation of new versions.
  - Requests or solicitations that would not be submitted by the CUSTOMER's own employees.
  - Changes necessitated by a software modification that is not supplied by ORDINAL.
  - Changes necessitated by a hardware installation change by the CUSTOMER.
  - The configuration of new features introduced in later versions of the standard ORDINAL Software made available.
  - The provision of either equipment or software supplies other than those mentioned in this contract. These supplies will be subject to separate sale contracts
  - Any transportation or movement of equipment determined by the CUSTOMER.
  - Work on sites requiring special clearances.

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## TERMS AND CONDITIONS FOR THE USE OF SOFTWARE LICENSES – UPGRADES AND PATCHES

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- Interventions that are made unsafe for ORDINAL staff through modifications or additions to the equipment.

### 11. TERMS OF PAYMENT - LATENESS OR DEFAULT

Unless otherwise specified, invoices are due upon receipt, in default of payment as agreed, lateness compensation will be payable in accordance with legal provisions.

Without prejudice to the termination clause, any unpaid amount by the customer when due shall by right of law be for the benefit of ORDINAL and at its sole discretion:

- The accrual of late-payment interest calculated by applying to the unpaid amount, to the current bank base rate, plus ten points and this during the late payment period.

- The immediate and advance payment of any outstanding customer payments.

- The suspension of current orders delivery and of any technical assistance.

- The amendment, by ORDINAL, of special payment terms may be granted.

The renewal of licenses, the provision of upgrades and correctives give rise to the payment of a fee.1. The pre-tax amount of the periodic fee is defined in Article 122. The periodic fee will be revised on the anniversary date of the contract.3. Billing will be established for the period of the contract, term to expire. The sale is effective upon payment of the invoiced amount.4. The services performed under the "Non-Contract Service" are billed at the performance of the services.5. In the case of addition of new modules and / or standard options, the financial terms of the royalty supplement will be those of the previous contract.6. The royalty remains wholly acquired to ORDINAL in the event of termination of the contract.

### 12. PRICE REVISION

The maintenance fee will be revised at each period (1 or 3 years) using the following formula:

$$P = P_o * (S/S_o)$$

In which:

P is the revised periodic fee (year n)

P<sub>o</sub> represents the periodic fee of the previous deadline (year n-p),

S represents the SYNTEC wage index of the January preceding the year of revision (year n-1)

S<sub>o</sub> represents the same index for the month of January preceding the year of previous deadline or year of start of contract (year n-p-1).

### 13. SPECIAL CONDITIONS

This license is issued for the exclusive use of its owner. It is associated to a unique application and is not transferable. The latter shall refrain from any form of loan which may or may not pay for the said license, which may only be transferred in full with the agreement of ORDINAL. In case of non-compliance with this particular condition, the customer will have to pay a penalty equal to the amount of the builder license of the highest level.

### 14. LIABILITY -LIMITATION OF LIABILITY

It is expressly agreed that ORDINAL's overall liability will be limited regardless of the nature and legal basis of any legal action taken against ORDINAL. Damage other than direct and foreseeable damage to property shall in no case be invoked against ORDINAL nor enter into the calculation of ORDINAL's liability limit as provided herein. ORDINAL will in no case be liable for damages due to the performance by the customer of its obligations or consequential damages, even if ORDINAL is aware of the possibility of the occurrence of these damages. It is specified in this regard that any financial or commercial loss suffered by the customer, any loss of time, data, information, contracts or business and any action, of any nature whatsoever, directed against the customer constitute indirect damage and therefore do not give rise to compensation. ORDINAL cannot be held responsible for any loss of time or inconvenience to production caused by or resulting from the defective operation of the products or services. 1. ORDINAL is committed to taking all reasonable care possible to carry out the maintenance service.

2. As part of the maintenance service, ORDINAL is subject to an obligation of means.

3. The CUSTOMER waives ORDINAL's liability in cases of damage to files, computer memory or any other document, equipment or programme that they could entrust to ORDINAL in the work that they must perform.

4. The same applies when starting activity again after an ORDINAL intervention either by phone or on site.

5. The CUSTOMER will guard, if necessary, against such risks by creating a duplicate of all documents, files and media and by providing the necessary procedures when starting operational activity again.

6. The maximum amount of damages that ORDINAL may be required to pay if their liability was to be recognised in any capacity whatsoever and for the duration of the contract, may not exceed the annual value of the maintenance fee.

It is understood that excluded from ORDINAL liability are indirect damages such as loss of profits, loss of opportunities, and damages to image.

### 15 REFERENCES

ORDINAL reserves the right to include the CUSTOMER name on a list of references and to use it for its communication requirements, unless otherwise specified by the latter.

### 16. FORCE MAJEURE

ORDINAL reserves the right to cancel all or part of an order whose execution has been rendered impossible or difficult by a fortuitous event, a third party or in cases of force majeure.

### 17. RESOLUTORY CLAUSE

In case of breach by one of the parties of the obligations hereby stated, without remedy within thirty days starting from the notification by registered letter with acknowledgement of receipt, notifying the breaches addressed by the other party, the latter may claim the termination of the contract without prejudice to any damages the party may claim.

This resolatory clause does not preclude the implementation of the other rights of the seller.

### 18 CONTRACT COMPLETENESS

1. These terms and conditions represent the entirety of obligations of the parties.

2. No other general or specific terms or condition set out in documents sent or delivered by the parties can replace them unless the parties agree.

3. The failure of either party not to claim a breach by the other party to any of the obligations set forth herein, shall be construed in the future as a waiver of the obligation in question.

4. If one or more of the provisions in this contract are held to be invalid or declared as such in application of a Law, regulation or following a definitive decision by a competent jurisdiction, the remaining provisions shall remain in full force and scope.

### 19. GENERAL DATA PROTECTION REGULATION - GDPR

As part of the execution of the sales contract, ORDINAL collects personal data from the Customer, the customer then acts as the person in charge of the transmitted data. This data is collected for the following purposes: performing technical support, customer management operations, developing business statistics, updating its prospecting files, managing requests for access rights, rectification and opposition, the management of unpaid and litigation. The information thus collected and processed by ORDINAL is not transferred to third parties, unless required by law. The Parties undertake to respect the provisions of the regulations in force relating to the protection of personal data. ORDINAL undertakes to implement appropriate technical and organizational security measures to protect the data and processing to which it has access. However, it should be noted that the Internet is not a completely secure environment and ORDINAL cannot guarantee the security of the transmission or storage of information on the Internet.

### 20. JURISDICTION CLAUSE

1. These conditions are governed by French law.

2. In case of dispute, the Tribunal de Grande Instance de Nanterre has exclusive jurisdiction notwithstanding concurrent defenders or third party complaint and this even for emergency or precautionary procedures.

3. The parties elect domicile at the addresses stated in this document.

## GENERAL CONDITIONS OF SALES OF PROFESSIONAL SERVICES 1/2

### 1. GENERAL PROVISIONS

In this document, ORDINAL designates the company whose corporate name is ORDINAL Software.

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ORDINAL Software reserves the right to update its Terms and Conditions of sales and agrees to inform the Customer by all means. Continued use of the Software Packages and / or the use of the ORDINAL Software support services subsequently to the notification by ORDINAL Software of the modification of these presumes the unconditional acceptance by the Customer of the new Terms and conditions of sales thus notified. All these Terms and Conditions of sales are automatically transferred to the transferee as soon as the ORDINAL products are put into service. The most recent version of the Terms and Conditions of Sales may be consulted freely by the Customer at any time on [www.ordinal.fr](http://www.ordinal.fr), section "General Conditions".

In this document the sale of services will mean any form of services such as training, assistance, advice, technical support, auditing.

### 2. FORMATION OF CONTRACT

The sales contract between the customer and ORDINAL is complete only through acceptance by ORDINAL of the customer's order.

No order can be cancelled without the agreement of ORDINAL

In case of cancellation acceptance ORDINAL reserves the right to charge the customer fees and disbursements incurred.

### 3. VALIDITY OF OFFERS

Unless otherwise specified, offers issued by ORDINAL are valid for a maximum of one month after they were established.

### 4. PRICE

Prices shown in any price list or quotation are in Euros and exclude taxes.

The prices invoiced are calculated by ORDINAL ExWorks based on current economic conditions, customs and tax regulations.

### 5. TERMS OF PAYMENT - LATENESS OR DEFAULT

Unless otherwise specified, invoices are due upon receipt, in default of payment as agreed, lateness compensation will be payable in accordance with legal provisions.

Without prejudice to the termination clause, any unpaid amount by the customer when due shall by right of law be for the benefit of ORDINAL and at its sole discretion:

- The accrual of late-payment interest calculated by applying to the unpaid amount, to the current bank base rate, plus ten points and this during the late payment period.
- The immediate and advance payment of any outstanding customer payments.
- The suspension of current orders delivery and of any technical assistance.
- The amendment, by ORDINAL, of special payment terms may be granted.

### 6. SUPPORT

Days of technical support shall be planned as agreed by the two parties : the Customer and ORDINAL.

The days shall be invoiced monthly as they are used.

All the days not used within 6 months after the order date, shall be invoiced and payable immediately by the Customer. The Customer will be given the possibility to plan the credit of days in agreement with ORDINAL within a new period of 3 months after the billing.

After this 2nd period, the remaining credit of days shall be considered as used.

### 7. TRAINING

#### 7.1 Planning

Training sessions shall be planned as agreed by the two parties : the Customer and ORDINAL.

Training sessions shall be ordered at least 10 days before the date of the first training day which shall be specified in the order.

If no advance payment is made ORDINAL cannot guarantee maintaining a training session even after receiving the Customer's order.

In case the minimum number of participants in a training session is not met ORDINAL reserves the right to cancel the session. In such case, ORDINAL commits to propose to the customer a new training session date within a month following the cancelled session. This training session shall be maintained by ORDINAL even if the number of participants is not sufficient.

Training sessions shall be invoiced upon execution of each delivered training module.

#### 7.2 Cancelling conditions

In the event the Customer cancels a training session the advance payment shall remain to ORDINAL;

If cancellation occurs less than 5 working days before its start, then 50% of the total cost of participation shall be immediately payable as lump-

sum compensation.

In case the Customer cancels a training session the day it is held or if a participant or participants are absent, the total amount of the participation fee shall be due.

### 8. APPLICATION CONVERSION

ORDINAL proposes conversion of the format of applications to their current version.

The application shall be converted based on the same scope.

Specific developments (equipment models, views, functions) shall not benefit from the new elements (new image...) but shall be converted identically.

Migration of specific developments shall be subject to specific coding and shall be payable by the integrator or by the Customer.

Conversion shall be implemented within 4 weeks upon receipt of all the technical input. Should ORDINAL not receive the technical elements within 2 month after the date of order, then ORDINAL shall invoice the service to the customer. The customer shall have another period of 2 months to send the technical elements. Passed this second period, the Customer will no longer be in a position to request the conversion of his application.

### 9. PARTNER CONTRACT :

In addition to regular provision of updated licenses for development tools, a partner contract gives access to information related to functionalities and capabilities of our software products as well as to support for the partner's internal uses. For applications under maintenance the contract also covers diagnosis and correction of problems encountered at development and/or testing stages as well as intervention and, if needed, corrective actions on implemented applications.

#### 9.1 Membership conditions

The customer may become a Certified Partner at various levels after agreement by ORDINAL and according to the eligibility conditions specify in the ORDINAL Partner Charter. Membership is granted to the Customer upon :

- reception of the order corresponding to the first membership year and payment of the annual fee.
- reception of the order for the training of Base training module at the current price and its follow-up.
- reception of the order for specific training module(s) at the current price and their follow-up by at least 2 technical beneficiaries.

#### Only technical beneficiaries have access to our technical services.

Technical beneficiarie of the Contract may be modified after simple written request addressed to ORDINAL to the condition of attending at least the Base module training at the current price.

#### 9.2 Effective date and renewal

The contract is effective on the first day on the following month of invoice and is renewed every year by tacit agreement unless termination by one of the parties by register letter at least 1 month before the expiration date.

The contract fee is revised annually based on ORDINAL's general price list.

#### 9.3 Deliverables

The Customer member of the "Certified Partner Program" receives the development tools of the related products in their most extensive version as well as the operational version for limited duration.

The products delivered in the framework of the program and their update remain property of the editor and shall be usable only for development and demonstration purposes. They cannot be transferred to a third party totally or partially , free of charge or for a fee, or installed on production sites. The transfer or use in production would cause the partner's deregistration from the program and the invoicing of the delivered products.

The VAD1 contract gives access to the SCADA and MES development tools for one year.

The VAD2 contract gives access to the SCADA development tool only, for one year.

For products sold with additional component libraries or modules, thoses libraries or modules will be activated free of charge after the attendents by the technical beneficiaries of the corresponding training sessions.

The "OEM" status also offers the possibility to obtain replacement keys according to the following characteristics:

- Initialization in the released version up to 10 years after the release date of said version
- Key at the current rate
- Key without technical support.

#### 9.4 Update

The "Certified partner" status benefits, free of charge, from updates and development of builder(s)

#### 9.5 Granted services

The Certified partner's technical beneficiaries have access to the following services

- Priority hot-line service
- Advanced technical support on our website, on receipt of name, surname and email address of the technical beneficiaries.

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#### **GENERAL CONDITIONS OF SALES OF PROFESSIONAL SERVICES (2/2)**

- The issues of customers holding a Chamelon club contract classified as "blocking" or "major" are put on the top of the processing list by the technical department. A specific email is sent upon correction.
- Partner's promotion on our commercial website as Certified partner for the corresponding products range during the all membership period.
- Free participation in the information seminars regularly organised upon the issuing of new version.
- Use of the Ordinal Certified partner logos on commercial documents.

#### **9.6 End-user access**

For all orders, the partner commits to communicate to ORDINAL, the contact information of his end-user (Company name, address, Contact name, phone number and email address).

#### **10. LIABILITY – LIMITATION OF LIABILITY**

It is expressly agreed that the ORDINAL's overall liability shall be limited irrespective of the legal nature or basis of any action taken against ORDINAL.

The amount of liability of ORDINAL shall in no event exceed the lower of the following two amounts:

- The amount of direct and foreseeable material damages incurred by the Customer
- 20,000.00 Euros.

Damages other than direct and foreseeable direct damages shall in no event be invoked against ORDINAL nor taken into account when calculating liability limits of ORDINAL except as provided herein. ORDINAL shall in no event be liable for damages due to performance of obligations by the Customer or indirect damages even if ORDINAL was aware of the possible occurrence of such damages. It is stated in this regard that financial or commercial prejudice incurred by the Customer, any loss of time, data, information, contract or business and any action of any nature against the Customer constitute indirect damages and shall not create entitlement to compensation.

ORDINAL shall in no event be liable for loss of time or production disruptions due to or resulting from faulty operation of products or services.

#### **11. FORCE MAJEURE**

ORDINAL reserves the right to cancel all or a part of the orders, execution of which has been made impossible or difficult by unforeseeable circumstances, actions of third parties or force majeure.

#### **12. TERMINATION CLAUSE**

Whole or partial failure to perform obligations by the Customer shall give entitlement to immediate and automatic termination of the orders or the effective contract, at the initiative of ORDINAL 8 days after sending a formal notice requesting to remedy the non-performance by means of a registered letter, if it has remained ineffective.

This termination clause shall not exclude implementation of the other rights of the seller.

#### **13 CONTRACT COMPLETENESS**

1. These terms and conditions represent the entirety of obligations of the parties.
2. No other general or specific terms or condition set out in documents sent or delivered by the parties can replace them unless the parties agree.
3. The failure of either party not to claim a breach by the other party to any of the obligations set forth herein, shall be construed in the future as a waiver of the obligation in question.
4. If one or more of the provisions in this contract are held to be invalid or declared as such in application of a Law, regulation or following a definitive decision by a competent jurisdiction, the remaining provisions shall remain in full force and scope.

#### **14. GENERAL DATA PROTECTION REGULATION - GDPR**

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#### **15. JURISDICTION CLAUSE**

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2. In case of dispute, the Tribunal de Grande Instance de Nanterre has exclusive jurisdiction notwithstanding concurrent defenders or third party complaint and this even for emergency or precautionary procedures.

3. The parties elect domicile at the addresses stated in this document. THE CUSTOMER ACKNOWLEDGES TO HAVE READ AND ACCEPTED THESE GENERAL CONDITIONS OF SALES OF PROFESSIONAL SERVICES.