

Terms and Conditions of Sale (Microsoft products)

These Terms and Conditions of Sale ("Terms and Conditions") apply to the sale of Products by Teleplan (the trading name of Teleplan Prague S.r.o., Na Dlouhém 82, 251 01 Říčany – Jazlovice, Czech Republic) to the Customer (the person or company purchasing the Products from Teleplan, as specified on the Order and/or in the Customer account).

These Terms and Conditions are the only terms and conditions by which Teleplan and its subsidiary and affiliated companies shall be bound, and they supersede all other agreements between the parties (including the terms contained in Customer's purchase order(s) if any). Accordingly, these Terms and Conditions supersede and neither party places any reliance upon all and any prior representations (not limited to but including all descriptive materials, sales literature, price lists and all other documents issued by Teleplan) and the Customer acknowledges that save as expressly stated hereunder, the Customer has not been induced to enter into these Terms and Conditions by any representation whether oral or in writing by Teleplan, Teleplan's employees, servants or agents and the Customer unconditionally waives its rights to claim damages against Teleplan or seek to rescind these Terms and Conditions in reliance on any statement made that is not set out or referred to in these Terms and Conditions. This acknowledgement and waiver shall not apply to fraudulent misrepresentations. All conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

1. PURPOSE

These Terms and Conditions apply to sale of refurbished Microsoft products by Teleplan to the Customer, as part of the out of warranty program provided by Teleplan for authorized Microsoft products. Teleplan will offer to replace a non-functional product received from the Customer with a Product that has been refurbished to the specification of the original equipment manufacturer. Only after Teleplan has received a non-functional product from the Customer and subsequently Teleplan has received a refurbished Product from Microsoft, Teleplan will be able to replace the non-functional product with a refurbished Product.

2. DEFINITIONS

The following expressions are defined as:

1) "Affiliate" means any subsidiary, holding company, or company with a holding company in common, within

the country that the Order originates, however, any such subsidiary or company or other entity shall only be deemed to be an Affiliate for the purposes of the relevant Order so long as such ownership exists.

2) "Products" means the refurbished Microsoft products which Teleplan wishes to sell to the Customer in accordance with these Terms and Conditions.

3) "Order" shall mean the purchase order for the Products, addressed to the Customer.

3. PURCHASE ORDERS

Price lists submitted by Teleplan shall be valid for the period therein stated, or where no period is stated then for a period of thirty (30) days from the date that such price list is issued by Teleplan. Each Order is subject to these Terms and Conditions which may not be modified or varied without Teleplan's prior written agreement. The Order shall be deemed to be accepted by the written acceptance of the offer by the Customer or by the dispatch of any part of the Products specified on the face of the Order.

The Customer agrees that based on the assessment of the defective product sent in by the Customer, Teleplan will charge a price (category 1, 2, or 3 as specified in the relating price list) and Teleplan shall not be required to obtain further approval or acknowledgement from the Customer before charging the price based on the assessment.

Reference to Customer's bids or proposals or any additional or modified terms contained in any acceptance in the Order shall not, unless otherwise provided for on the face of the Order, modify the terms and conditions of the Order, and no other agreement or quotation modifying any such terms and conditions will be binding upon Teleplan unless made in writing and signed by Teleplan's authorized representative.

4. PRICES AND PAYMENT

All prices listed are exclusive of VAT, sales taxes, all other taxes, carriage, insurance, freight fees, export fees, custom duties, installation and commissioning, unless specified otherwise in the price list. Invoices by Teleplan shall be paid by the Customer within thirty (30) days of the issue of such invoice by Teleplan.

Time shall be of the essence and interest shall accrue on the outstanding amount from the original invoice due date until the date of receipt of payment at a rate equivalent to 8.0% over the offered local interbank rate. All payments to Teleplan shall be first allocated to collection costs, then to interest and finally to the oldest unpaid invoice(s).

If the Customer defaults on payment of any sums owing to Teleplan, then Teleplan shall be entitled to withhold delivery of the Products and to recover damages accordingly from the Customer.

The prices for Products shall each be set forth in a pricing table that is referenced on the face of the Order. While Teleplan will endeavour to maintain any price quoted, Teleplan reserves the right to vary the price. Such variation will be notified in writing 30 days prior to implementation of such price change. Prices quoted and/or agreed with the Customer are based on the quantities of Products intended to be ordered by the Customer over a specific period. Teleplan reserves the right to vary the price if the Customer fails to order such quantities. Any amounts shall be paid by bank transfer on the collection day, or as otherwise stated on the Order, or otherwise agreed by the parties. Unless otherwise agreed, all payments must be stated and payments made in EURO.

In the event that legal action is taken by Teleplan against the Customer for breach of any payment obligations hereunder or otherwise, the Customer shall be responsible for all costs and disbursements incurred by Teleplan (including, but not limited to, legal and/or attorney's fees) on an indemnity basis.

5. TITLE AND RISK

Title to the non-functional product shall pass to Teleplan at the time of receipt by Teleplan. Title to the refurbished Product specified in the Order shall pass to the Customer at time of delivery. Passing of title of the refurbished Product does not prejudice the Customer's right to reject for non-conformity by submitting a written notice twenty-four (24) hours of delivery. Passing of the title also does not prejudice Teleplan's right to payment in accordance with the Order and these Terms and Conditions.

If advance payments from the Customer to Teleplan pursuant to the Order are made, then title to the functional Product, but not risk, is passed to the Customer when payments are completed.

6. CARRIAGE AND PACKING

Teleplan shall do its best to pack the Products securely prior to dispatch in order to minimize the risk of damage. In the case of in-country shipments, all Products are to be delivered carriage and insurance paid (Incoterms 2010 CIP) to the address specified on the Order, and all costs and expenses incurred or suffered for the transport and delivery shall be payable by Teleplan unless otherwise agreed. In the case of cross border shipments, all Products are to be delivered duty paid (Incoterms 2010 DDP) to the address specified on the Order, and all costs and expenses incurred or suffered for the transport and

delivery shall be payable by Teleplan unless otherwise agreed.

All packages must be clearly marked with the country of origin of Products, name and address of sender and Teleplan Order number as detailed on the Order, part number (if applicable), and show gross tare and net weight and/or quantity. All related shipping documentation required for the fulfillment of the Order shall be provided by Teleplan.

7. DELIVERY

Any delivery date quoted in respect of the Customer's Order is Teleplan's best estimate and is subject to the Customer providing Teleplan in due time with all necessary order and shipping information and subject to delivery of the relating Products from the original equipment manufacturer to Teleplan. However, Teleplan will have no liability to the Customer due to lack of Product availability, any Product shortages, or any delay in fulfilling an order. Fulfillment/delivery times are estimates only.

Teleplan has the right to deliver to the Customer any Products before the agreed delivery date.

Under no circumstances shall any carrier be deemed to be an agent of Teleplan.

8. ACCEPTANCE

The Customer is under the obligation to inspect the Products upon delivery (or collection, as the case may be). Any claims for non-delivery (including but not limited to short shipment, transit damage) or any non-conformity of any Products shall be notified in writing to Teleplan within twenty-four (24) hours from the time of delivery (or collection).

If delivery was not refused, and the Customer did not notify Teleplan of any claims in accordance with this section, the Customer's claim in respect of any damages, errors, defects, shortages or discrepancies to the Products will be deemed to have been waived and will be barred. The Customer shall be bound to pay the price as if the Products have been delivered in accordance with the Order.

9. CUSTOMER'S OBLIGATIONS

The Customer is required:

(a) not to represent or warrant (directly or indirectly) to any third party that any warranty or technical support or other support of any kind will be provided by Teleplan or the original equipment manufacturer in connection with the Products, other than as specified under section 10 (Product and warranties) below;

(b) to notify end users of the Products that Products are refurbished;

(c) not to use or sell the Products, maintain its equipment and facilities, and/or conduct its operations in a way it would breach any applicable statutory requirements and not to handle and/or sell the Products contrary to the directions given by Teleplan or any competent governmental or regulatory authority;

(d) not to act contrary to the reasonable directions and instructions given to it by Teleplan in relation to the promotion and advertisement of the Products and not to make any written statement as to the quality or manufacture of the Products without the prior written approval of Teleplan;

(e) not to resell nor make available any data bearing media/hardware to any third party before ensuring any and all data contained on such media/hardware is deleted, destroyed or otherwise rendered unrecoverable/unreadable in accordance with the data security laws applicable to these Terms and Conditions.

(f) If the Customer at any time becomes aware of any adverse history on any Products, the Customer shall notify Teleplan thereof and agrees to co-operate with Teleplan and any authorities should Teleplan so request.

10. PRODUCT AND WARRANTIES

Teleplan shall, established on a valid claim notified to it under Section 8, at its sole discretion, replace the Products (or the part in question) free of charge within a reasonable period or refund to the Customer the price of the Products (or a proportionate part of the price) but Teleplan shall have no further liability to the Customer.

Teleplan provides a sixty (60) day warranty coverage for parts, labor and workmanship on the refurbished Product.

WITHOUT PREJUDICE TO THE ABOVE AND TO THE EXTENT PERMITTED BY LAW, NO REPRESENTATIONS OR WARRANTIES OF ANY KIND ARE MADE BY TELEPLAN WITH RESPECT TO THE PRODUCTS. OTHER THAN AS SPECIFICALLY DESCRIBED IN THIS SECTION 10, ALL REFURBISHED PRODUCTS FURNISHED HEREUNDER ARE PROVIDED ON AN "AS IS" BASIS WITHOUT ANY WARRANTIES OR SUPPORT OF ANY KIND, EITHER EXPRESS OR IMPLIED.

11. LIMITATION OF LIABILITY

NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY TYPE INCLUDING, WITHOUT LIMITATION, LOST PROFITS AND LOST SALES, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS AND CONDITIONS, EVEN IF ADVISED OR AWARE OF THE POSSIBILITY OF SUCH DAMAGES

AND EVEN IF A PARTY ASSERTS OR ESTABLISHES A FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THESE TERMS AND CONDITIONS.

The Customer agrees that in no event shall the maximum liability of Teleplan exceed the total amount paid by the Customer to Teleplan under these Terms and Conditions during the one (1) year period prior to the date on which the claim first giving rise to liability arose, up to a maximum amount of EUR 1.000.000 (one million).

12. INDEMNIFICATION.

Each party ("Indemnifying Party") will defend, indemnify, and hold the other party, its Affiliates and each of their respective directors, officers, employees, representatives and agents (collectively, the "Indemnified Party") harmless from and against any and all claims, actions, demands, and legal proceedings (collectively, "Claims") and all liabilities, damages, losses, judgments, authorized settlements, penalties, costs and expenses including, without limitation, those imposed under applicable laws and reasonable attorneys' fees (collectively, "Damages") arising out of, or in connection with or caused in whole or in part by:

(a) any Claim that the Indemnifying Party has caused loss, damage, theft or destruction to property and/or illness, injury or death to any person;

(b) any Claim by or on behalf of any employee, officer, director, agent, contractor and/or representative of the Indemnifying Party including, but not limited to, assertions for salary, wages, benefits or other compensation or similar acts, made by persons employed or furnished by the Indemnifying Party; or

(e) any breach of any covenant, warranty or representation of the Indemnifying Party under these Terms and Conditions and/or any applicable law, rule, ordinance or regulation or any alleged or actual acts or omissions of the Indemnifying Party.

In the event of any Claim against the Indemnified Party subject to indemnification pursuant to these Terms and Conditions, the Indemnified Party will: (i) promptly notify the Indemnifying Party; (ii) at the Indemnifying Party's expense, reasonably cooperate with the Indemnifying Party in the defense thereof; and (iii) not settle any such Claim without the Indemnifying Party's consent, which the Indemnifying Party agrees not to unreasonably withhold. The Indemnifying Party will keep the Indemnified Party informed at all times as to the status of the Indemnifying Party's efforts, defense and any settlement and consult with one of the Indemnified Parties.

13. DATA SECURITY

The data stored on Products will be securely removed or deleted by the original equipment manufacturer in line with their guidelines or acceptable international standards before delivery of the Products to the Customer.

The original equipment manufacturer will also ensure that SIM cards, memory cards or any other data on storage devices ("Storage Devices") are removed from the Products before the Products are sent to the Customer. In the unlikely event that Products are sold to the Customer with Storage Devices, such Storage Devices shall not be returned to Teleplan and shall be wiped by the Customer in accordance with manufacturer's guidelines or acceptable international standards; or will be destroyed where data wiping has not been technically possible.

14. CONFIDENTIALITY

A party (the "Disclosing Party") may from time to time disclose to the other party (the "Receiving Party") information ("Confidential Information"). Confidential Information shall mean (a) all information or know-how disclosed to the Receiving Party under the Order, (b) all information or know-how received or learned by the Receiving Party that relates in any manner to the Disclosing Party's operations, future business plans or customer base, (c) any and all information/data contained on or in any Products and (d) all other information that the Disclosing Party reasonably deems proprietary or confidential.

The Receiving Party agrees (a) to protect the Disclosing Party's Confidential Information as it would protect its own confidential information, provided that in doing so, the Receiving Party will exert at least a reasonable degree of care in protecting the Disclosing Party's Confidential Information; (b) to use the Confidential Information only for the purposes stated above; and (c) to not disclose or allow the Confidential Information to be disclosed to any third party. The Receiving Party agrees to protect the Disclosing Party's Confidential Information for a period of three (3) years from the date of disclosure.

Confidential Information is disclosed for and to be used for the purposes of the Order or these Terms and Conditions only. Confidential Information may be disclosed only to such of the employees, consultants or independent sub-contractors of the Receiving Party who reasonably require access to such information for the purpose for which it was disclosed and who have entered into confidentiality agreement with the Receiving Party which are no less onerous than the terms of these Terms and Conditions.

The Receiving Party is not obligated by the Order or these Terms and Conditions to protect information which: (a) is in or enters the public domain through no

wrongful act of the Receiving Party; (b) is rightfully received from a third party without breach of these Terms and Conditions; (c) is known or has been received prior to disclosure; (d) is developed independently without breaching these Terms and Conditions; or (e) is provided by the Disclosing Party to a third party without a similar restriction. Confidential Information may be disclosed or used pursuant to a judicial or other lawful government order or as required by law or regulation, but only to the extent of such order, law or regulation, and provided that the Receiving Party gives the Disclosing Party sufficient notice to enable it to seek an order limiting or precluding such disclosure or use.

15. INTELLECTUAL PROPERTY RIGHTS

Teleplan makes no representations or warranties, and shall have no obligations, with respect to any claim that the Products infringe a patent, copyright or any other intellectual property right in any country where the Products are sold.

The Customer may not use in any way Teleplan's registered names, trademarks, service marks or other proprietary designations (collectively, "Marks") without the prior written consent of Teleplan. The Customer acknowledges Teleplan's exclusive right, title and interest in Teleplan's Marks. The Customer shall not be deemed by anything contained in these Terms and Conditions or done pursuant to them to acquire any right, title or interest in or to any Marks or any portion thereof of the Customer.

The Customer acknowledges the importance to Teleplan of the Marks and of their right to control the nature and content of any and all advertising or marketing bearing or using the name or Marks. The Customer hereby agrees that Teleplan shall be entitled to entry of a preliminary injunction, or other reasonable or appropriate equitable relief, in the event that Teleplan deems the Customer's use of Teleplan's name or Marks to be in violation of this section.

16. TERM AND TERMINATION

These Terms and Conditions take effect on the date of signature by both parties and will continue for an indefinite term. Either party may terminate these Terms and Conditions at any time for convenience upon sixty (60) days prior written notice to the other party.

The occurrence of any of the following shall constitute an "Event of Default" on the part of a party: 1) Failure to have demonstrated due consideration and actions to fulfil the obligations of the Order, so as to endanger its ability to perform the Order; 2) The filing of any voluntary petition in bankruptcy by a party, or the filing of an involuntary petition by a party's creditors; 3) The

appointment of a receiver to take possession of substantially all of a party's assets; 4) The execution or other judicial seizure of all or substantially all of a party's assets; 5) Failure to perform any other obligation, agreement or covenant of the Order.

In an Event of Default as defined herein, the other (non-defaulting) party shall have the option to terminate the Order in part or in full, under these Terms and Conditions.

17. CANCELLATION

No cancellation of any Order shall be accepted unless; (a) the cancellation is received in writing, and (b)

Teleplan accepts the Customer's cancellation conditional upon the Customer agreeing within a reasonable time to pay Teleplan: (i) the sales value of that part of the Products completed in connection with the Order; and (ii) any other costs and liabilities which Teleplan incurs by reason of the Customer's cancellation.

Any extra cost or liability incurred by Teleplan due to rescheduling of deliveries of Products arising out of or resulting from the Customer's instructions or lack of or mistaken instructions or to any interruptions or delays attributable to the Customer shall be added to the price of the Products and paid for accordingly.

18. SUCCESSORS AND ASSIGNMENT

These Terms and Conditions and the Order shall be binding upon and inure to the benefit of Teleplan, its successors and assigns, and shall be binding upon and inure to the benefit of the Customer, its successors, and to the extent assignment is approved by Teleplan as provided in the Order, the Customer's successors and assigns.

All rights and benefits in the Order are or may be assigned by Teleplan to its Affiliate.

19. SUBCONTRACTING

The Customer shall not subcontract, delegate or assign its obligations under these Terms and Conditions or the Order without the prior written consent of Teleplan. The Customer shall, in any event, remain responsible for the performance of the Order and have sole responsibility for the management of all subcontractors in executing the Order. The Customer shall accept full responsibility for all risk, loss and damage howsoever arising from the use of any such subcontractor.

20. PUBLICITY

The Customer shall not, without the written consent of Teleplan, advertise, or otherwise disclose the existence of these Terms and Conditions or the Order, or the fact that Teleplan has furnished, or agreed to furnish, the Products to the Customer.

21. INDEPENDENT CONTRACTOR

Teleplan and the Customer are independent contractors. Neither party is and shall not represent itself as being an agent or representative of the other party in any manner. These Terms and Conditions shall not be construed as an agreement of fiduciary relationship, of partnership, of joint venture or of any other form of business arrangement other than as an agreement between independent contractors. Teleplan and the Customer will not make any representations or commitments on behalf of the other without prior written consent.

22. COMPLIANCE

The Customer shall at all times comply and act so as to enable Teleplan to comply with all applicable laws, statutory regulations and enactments including, but not limited to, those relating to health and safety at work and the control of hazardous substances, and indemnify Teleplan against any damage arising from breach of this clause.

23. EXPORT CONTROL

Both parties undertake to comply with and not to do anything that would render the other party in contravention of any applicable export regulations.

24. NOTICES

Any notice permitted or required hereunder will be sent by electronic mail and confirmed as electronically received (read receipt confirming the recipient viewed the message), or by registered or certified mail with a return receipt requested, to the below addresses:

Teleplan; To the address specified on page 1 of these Terms and Conditions, and with a copy by email to the Legal Department (legaldept@teleplan.com).

Customer: To the address(es) and contact person(s) as specified on the Order.

25. FORCE MAJEURE

Neither party shall be in default of, or liable for any delay or failure of compliance with, an Order or these Terms and Conditions due to acts of nature and/or acts of God (including but not limited to fire or flood, epidemics, wars or riots), public enemy, acts of civil or military authority (including but not limited to any government action), freight embargo, strike, acts or omissions of the other party or the other party's nominated suppliers, shortage of supplies or materials, or any other cause which is beyond a party's control, during such happening or event.

Teleplan shall not be liable for any delay or non-compliance with these Terms and Conditions or an Order in case such delay or non-compliance is caused

by the fact that Teleplan received a notice from the original equipment manufacturer to cease distribution of a certain Product.

26. LANGUAGE

English shall be the language for all means of communication between the Customer and Teleplan in any matter concerning these Terms and Conditions or an Order.

27. AMENDMENTS

Teleplan may from time to time change any of the terms and conditions herein and shall notify the Customer in writing or by electronic mail. The Customer agrees that the notice regarding the revised terms and conditions shall constitute sufficient notice of the changes and the Customer's continued acceptance of the Products shall constitute acceptance of these terms and conditions and any changes thereto.

28. SEVERABILITY

Any provision of these Terms and Conditions which is or may be void or enforceable shall to the extent of such invalidity be deemed severable and shall not affect any other provision of these Terms and Conditions.

29. WAIVER

Failure of either party to enforce, at any time, any provision of these Terms and Conditions shall not be construed as a waiver of such provision or of any other provisions, or of the right of such party thereafter to enforce such provision.

30. APPLICABLE LAW

Any controversy or claim of whatever nature arising out of or relating to these Terms and Conditions, its formation or breach thereof shall be governed by the laws The Netherlands whose Courts shall be the exclusive Courts of competent jurisdiction.

By clicking the acceptance button and/or by completing the order process for Products, the Customer acknowledges to have read and agree to these Terms and Conditions.