

# GENERAL CONDITIONS OF SALE AND USE

Effective as of January 1<sup>st</sup>, 2023

## I. TRIBOFILM

The Services are provided by TRIBOFILM, a simplified joint-stock company with capital of €30,000, registered with La Rochelle's Trade and Companies Register under number 390 977 684, whose registered office is located at 40 rue Jacques de Vaucanson, 17180 PERIGNY, FRANCE ("TRIBOFILM").

## II. Scope of the General Conditions of Sale and Use

These general terms and conditions of sale and use ("GCSUs") apply to any use of and access to the Services. They are validated electronically by the Customer at the time of Subscription and each time the GCSUs are modified.

In any case, the GCSUs are available at any time on the Website for Users. The GCSUs prevail over all contractual documents issued by the Customer. The Customer, Administrators and Collaborators acknowledge having read and understood the GCSUs and agree to be bound by them. TRIBOFILM reserves the right to modify the GCSUs at any time. However, the GCSUs applicable to the Customer are the last ones signed by the Customer concerning their service Subscription or their maintenance contract.

## III. Definitions

Terms beginning with a capital letter in the GCSUs have the following meaning:

**Administrator(s)** designate(s) the Customer or the natural persons employed by the Customers and authorised to use the Solution for professional purposes: they have access to an Account allowing them to set up the Solution and to configure or carry out actions on Collaborator Accounts;

**Anomaly** means a reproducible defect, malfunction or non-conformity of the Services with respect to its Documentation. Anomalies to be qualified by TRIBOFILM are classified into three categories:

- **Blocking Anomaly:** Anomaly reproducible by TRIBOFILM which makes it impossible to access or use one or more essential functionalities of the Services and for which there cannot be a technical or organisational workaround.

- **Major Anomaly:** Anomaly reproducible by TRIBOFILM which renders access to or use of one or more features of the Services inoperative and for which there may be a technical or organisational workaround.

- **Minor Anomaly:** Anomaly reproducible by TRIBOFILM which does not present the characteristics of an Anomaly of another level of criticality.

**Customer** means the legal or natural person subscribing for professional purposes to the Services, which fall within the scope of its commercial, industrial, public, craft, liberal or agricultural activity, including when acting in the name or on behalf of another professional;

**Collaborator(s)** means the natural person(s) employed by the Customer and authorised to use the Solution for professional purposes. They have access to an Account configured by the Administrator, without administrative rights on the Solution;

**Account** means a valid account giving access to the Solution and, more generally, to the Services subscribed by the Customer;

**Content** means any content that Users may upload and rank from the Solution;

**Request** means any reproducible operational incident encountered by the Customer when using the Services, as well as any Anomaly, that the Customer brings to the attention of TRIBOFILM;

**Quote** designates the written document proposed by TRIBOFILM to the Customer containing its offer of Services and Prices. In the event of a contradiction between the GCSUs and the Quote, the Quote shall prevail;

**Personal Data** means any personal data(s) relating to a natural person who is or could be identified;

**Term** means the fixed number of months during which the Customer is authorised to access and use the Services;

**Licence** means the non-exclusive licence to use the Solution granted by TRIBOFILM to the Customer and the Users;

**Party(ies)** means TRIBOFILM and/or the Customer;

**Privacy Policy** means the document drawn up by TRIBOFILM presenting its processing of the Personal Data of the Customer and Users and defining their corresponding rights; **Portal** means the web services portal that TRIBOFILM makes available to the Customer. The Portal is accessible at the address <https://support.tribofilm.fr> or at any other website address provided by TRIBOFILM; **Price** means the prices of the Services chosen by the Customer;

**Services** means the provision of the Solution, support and additional services that may be provided at the Customer's request by TRIBOFILM, in particular support, configuration, training or data integration;

**Website** means the TRIBOFILM website accessible at the address [www.tribofilm.fr](http://www.tribofilm.fr) and presenting the Services;

**Solution** means the maintenance management application developed by TRIBOFILM and accessible in "Software as a Service" (SaaS);

**Subscription** means the contractual commitment binding the Customer to TRIBOFILM to benefit from the Services;

**Support** means assistance with the use of the Services concerning the use of standard application functionalities;

**Users** means Administrators and Collaborators.

## IV. Description of the Services provided by TRIBOFILM

### 4.1. Description of Services

TRIBOFILM offers an online Solution (including from smartphones and tablets) allowing it to catalogue the Customer's assets (topology) and provide information on a technical database, to manage the curative and preventive maintenance of said assets, to manage stocks and purchases, store Content, establish statistics.

At the Customer's request and for a fee, TRIBOFILM can, through its Support, Training and Integration Department, help the Customer identify its needs with regard to the Solution and train the Administrators and Collaborators to optimise the use of the Solution.

### 4.2. Users

User Accounts have two levels of access: Administrator and Collaborator. By default, the Account configured by TRIBOFILM is an Administrator's Account. When the Customer subscribes to Collaborators Accounts for one or more Collaborators, they have access to the Services under the conditions defined by the Administrators. Administrators have access to all Collaborator Content. Users may share Content.

### 4.3 Support

Administrators and Collaborators benefit from Support, throughout the Term, via access to the Portal and via telephone access.

#### 4.3.1 Access to Support through the Portal

Access by the Customer to the Portal will allow them to benefit from the following services:

- Possibility for the Customer to make a Request in writing in the Portal space reserved for this purpose;
  - Possibility for the Customer to monitor the processing of their Requests. Requests will be recorded in TRIBOFILM tools to ensure traceability and processed according to their degree of criticality.
- In order to facilitate the performance of the Support, the Customer undertakes to accurately describe their Request and the situation they encounter (description of the context, error messages, sequence of menus, etc.) by documenting it, where necessary, by all means at their disposal, in order to allow TRIBOFILM to reproduce and qualify any incidents and/or Anomalies brought to their attention. TRIBOFILM undertakes to comply with the processing time of eight (8) business hours for at least 75% of Requests. Compliance by TRIBOFILM with this percentage will be assessed per period of twelve (12) consecutive months from the start date of the provision of Support, and implies compliance by the Customer with its obligations and with TRIBOFILM's Technical Prerequisites, particularly with regard to remote support.

Support can only be provided by TRIBOFILM insofar as the Users have been previously trained in the use of the Services as well as their Updates and that the Customer has the technical devices allowing remote support.

If it turns out that this is not the case, Support could be automatically suspended, with immediate effect, by TRIBOFILM, without the Customer being able to claim any compensation or any reimbursement of the sums already paid for the Services.

At the end of the period for handling the request (eight (8) business hours), TRIBOFILM will proceed with the qualification and reproduction of the Anomaly.

Following these qualification and reproduction of the Anomaly, TRIBOFILM will have:

- within twelve (12) business hours to provide the Customer with a corrective action plan in the event of a Blocking Anomaly.
- a period of six (6) Business Days to provide the Customer with a correction or a workaround in the event of a Major Anomaly.

With regard to Minor Anomalies, TRIBOFILM shall not be bound by a time limit for correction or provision of a workaround.

#### 4.3.2 Telephone access to Support

Telephone access to Support allows the Customer to submit Requests to TRIBOFILM's technical department.

TRIBOFILM will receive Requests during its opening hours, from Monday to Friday, excluding public holidays. Support is accessible by the Customer from Monday to Thursday (except public holidays) from 8:30 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:30 p.m., and on Friday (except public holidays) from 8:30 a.m. to 4:30 p.m., Paris time.

The cost of telephone calls will be at the Customer's expense.

Requests will be recorded in TRIBOFILM tools to ensure traceability and processed according to their degree of criticality.

In order to facilitate the performance of Support, the Customer undertakes to accurately describe their Request and the situation they encounter (description of the context, error messages, sequence of menus, etc.) by documenting it, where necessary, by all means at their disposal, in order to allow TRIBOFILM to reproduce and qualify any incidents and/or Anomalies brought to the attention of TRIBOFILM. The answers will be provided by TRIBOFILM either in the form of a direct call, or in the form of a reminder to the Customer, or in electronic form.

In the absence of a response and/or immediate handling, the deadline for handling the Request by a TRIBOFILM technician will take place within eight (8) business hours from the recording of the Request performed during the Business Hours of the Support opening period.

Support can only be provided by TRIBOFILM insofar as the Users have been previously trained in the use of the Services as well as their Updates and that the Customer has the technical devices allowing remote support and authorises its use with TRIBOFILM in particular to facilitate the consideration of Anomalies.

If it turns out that this is not the case, the Support could be automatically suspended, with immediate effect, by TRIBOFILM, without the Customer being able to claim any compensation or any reimbursement of the sums already paid for the Services.

#### 4.4 Managing Backups and Restores

TRIBOFILM is responsible for carrying out backups and restores in order to secure the Customer's data.

Back-ups of the Customer's data are made in two copies kept in two different places. They are performed on daily cycles, every night, with a retention period of 7 calendar days.

A restore can be carried out at the Customer's request on the basis of one of these backups, during their retention period.

In the event of a disaster occurring on the infrastructure allowing the Service to be operated, TRIBOFILM undertakes to restore the Service as soon as possible on the basis of the most appropriate backup.

#### 4.5 Updates

Updates are classified into two categories:

- New versions which involve a change in the numbering of the version of the standard application functionalities of the Service;
- Fixes (corrective patches).

Some updates and/or new versions are expressly excluded:

- Specific States. By Specific State is meant any state or dashboard not available in the standard Services that the Customer has, on their own initiative, chosen to create and configure or to have produced and configured with or without the help of TRIBOFILM, and decided to use alone;
- Specific Developments. By Specific Development is meant all the computer programs designed and produced by TRIBOFILM on behalf of and for the sole needs of the Customer and/or those that the Customer has produced on their own for their needs.

TRIBOFILM will carry out Updates without prior authorisation. Any technical documentation associated with the Updates will be made available by TRIBOFILM by email and/or information on the Portal and/or any other appropriate means.

TRIBOFILM undertakes to inform the Customer in advance of the implementation dates of Updates (with the exception of corrective patches) by email and/or information on the Portal and/or any other appropriate means.

The Customer is informed that certain Updates, due to their content (functional or ergonomic developments) or their technical complexity (which may in particular, but not exhaustively, lead to changes in settings), may require the performance of an Implementation (including training). TRIBOFILM undertakes to inform the Customer thereof prior to the provision of said Updates.

The Customer is informed that the performance of Implementation Services is not included in the provision of Updates.

The Customer is also informed that with each new Update, the Specific States may no longer be compatible or no longer be operational. For each Update, each Specific State can only be made operational after express approval by TRIBOFILM and upon billable intervention by TRIBOFILM on the basis of the tariff in force.

### V. Access to Services upon registration

#### 5.1. Registration and creation of the Administrator Account

To access and use the Services, the Customer and the Users must be legally capable of contracting, and submit to any applicable law (French and/or foreign). The Services should be used for business purposes only. At the Customer's request, TRIBOFILM will create the Administrator Account, using the following information that the Customer will have communicated to it:

- The company name;
- Name and first name of the Administrator,
- An e-mail address;
- A phone number;
- The country.

The email address must remain valid as long as the Account remains active.

In the event of a change in the Administrator of the Account, the Customer or the Administrator concerned must notify TRIBOFILM in writing, by email or by request to Support, by communicating it the new information relevant to the modification of the Account and the Account update for the new Administrator.

#### 5.2. User Accounts

Administrators and Collaborators declare that they are authorised to use the Services and have accepted the GCSUs on behalf of the Customer. The Administrator sets the configuration of the Collaborators' Accounts.

#### 5.3. Password

The password associated with the Account is strictly personal and confidential and must not be shared with third parties. Users are responsible for the loss or theft of their password.

TRIBOFILM recommends that Users change their passwords regularly and choose complex passwords including specific letters, numbers and characters.

TRIBOFILM invites Users to consult the CNIL (*Commission Nationale de l'Informatique et des Libertés, French Supervisory Authority for Data Protection*) website which offers a list of tips for managing passwords securely.

#### 5.4. The mobile application published by TRIBOFILM

TRIBOFILM provides a mobile application giving access to the Services with a touchscreen interface accessible from most smartphones and tablets. The Customer acknowledges that the mobile application may not offer all the functionalities of the Services.

The Android mobile application uses Android APIs to perform synchronisation with the Mainti4 service. It is necessary to have internet access during this synchronisation.

### VI. Obligations of TRIBOFILM

#### 6.1. Obligations of TRIBOFILM

TRIBOFILM grants the Customer and Users on behalf of the Customer a non-exclusive right to access and use the Services in accordance with the GCSUs.

TRIBOFILM undertakes to exercise prudence and diligence in the provision of a quality service, in accordance with the practices in the matter and the rules of the art. TRIBOFILM will endeavour to provide permanent access to the Solution, 24 hours a day and every day except in the event of scheduled maintenance as defined in article 10.1.3 of the GCSUs, suspension of access to the Solution for the one of the causes provided for in this same article or force majeure, as defined in article 15.5 of the GCSUs.

#### 6.2. Obligations associated with Customer Content

TRIBOFILM undertakes to:

- take the necessary measures to ensure the security and confidentiality of the Content during the Term;
- not to use the Content for any purpose other than the provision of the Solution (including the associated technical support);
- not modify or change the Content;
- take all reasonable precautions to ensure the physical protection of User Content. Backups are made by TRIBOFILM.

### VII. Obligations of the Customer and Users

#### 7.1. Access to the Solution by Users

Users must use the Solution in accordance with the GCSUs. They agree to be bound by the Licence for the entire Term.

The Customer is responsible for the respect of the GCSUs by the Users.

To access the Solution, Users must have access to a terminal connected to the Internet and use a recent browser configured to accept cookies. All costs necessary for the equipment and connection of Users to the internet and their access and use of the Solution are the sole responsibility of the Customer on whose behalf the Services are used.

TRIBOFILM recommends that the Customer subscribe to the paid Services for the configuration of the Solution provided by its Support, Training and Integration Service. Failing this, Users will configure, under their sole responsibility, the Solution and will check their compatibility with their terminals on their own.

#### 7.2. Use of the Services

To use and access the Services, the Customer, the Users agree to:

- always provide sincere and truthful Personal Data, and update them if necessary so that they remain complete and accurate;
- use the Solution in accordance with their intended purpose and under the terms of the GCSUs and collaborate in good faith with TRIBOFILM;
- respect the rights of third parties and, more generally, all laws and regulations in force relating to the use of the Services;

- not to harm the reputation of TRIBOFILM, denigrate the Services or defame TRIBOFILM, in particular on the Internet, including social networks, and to use moderation and caution with regards to comments about TRIBOFILM, its employees and/or its Services that they would like to put online;
- not to engage in any conduct that could interrupt, destroy, limit or more generally harm TRIBOFILM or allow Customers and Users to access and use the Services without authorisation, including by using viruses, malicious codes, programs or files;
- not to copy or sell all or part of the Solution nor the Website. In the event of violation of the foregoing, TRIBOFILM reserves the right to suspend access to the Customer's Accounts without compensation.

The Customer acknowledges having:

- verified the adequacy of the Services to their needs and having received all the information and advice necessary to subscribe to the Services. In addition to a detailed quote, TRIBOFILM systematically sends, prior to Subscription, documentation containing the precise description of the Solution and the functionalities proposed. The Customer may also benefit from a personalised demonstration by a customer advisor and obtain access to the Services on a trial basis;
- realised that the implementation of a software package can lead to changes in their organisation and has measured the possible impacts and that, if they does not have an IT department, that will need to be put into place;
- support from a professional for the management of this project;
- been fully informed by TRIBOFILM of the extent of its contractual obligations under the GCSUs.

### 7.3. Content belonging to the Customer and accessible via the Solution

The Customer is entirely and solely responsible for the Content downloaded, stored or posted by Users via the Solution. They are informed that the use of the Solution does not exempt them from making such backup copies. The Customer grants TRIBOFILM a non-exclusive right to use User Content in order to operate and feed the Solution and store their Content.

With regard to the Content, the Customer agrees to comply with all legal and regulatory requirements, in particular those related to Personal Data, including making any declaration required by the local data protection authority.

The Customer undertakes to respect and to ensure that Users respect the rights of third parties, including personality rights, intellectual or industrial property rights such as copyrights, patent rights, designs and trademarks.

At the end of the Term, the Customer will notify Users by any means that they must download their Content from the Solution if this has not already been done. They acknowledge that TRIBOFILM does not host their Content indefinitely and that it is their responsibility to ensure, upon termination or end of the Subscription, that they export the last backup of their Content.

### 7.4. Content belonging to the Customer in the case of On Premise Licence (installed on the Customer's premises)

In the event of loss of data or software, whatever the cause, with the exception of the limitations defined in Article X, TRIBOFILM will provide a new copy of the software to the Customer free of charge.

On the other hand, the Customer agrees to carry out regularly (once a day at least), a backup of all the data contained in the software.

### 7.5. Payment

The Customer undertakes to make payments to TRIBOFILM in accordance with Article VIII of the GCSUs.

## VIII. Price

### 8.1. Service Prices

Our prices are in Euros excluding taxes. Shipping and customs fees not included.

The applicable Prices for the Services are communicated by any means chosen by TRIBOFILM to the Customer upon request prior to Subscription.

The Prices may differ in consideration of the number of options and Accounts necessary for the Administrators and by the Collaborators and taking into account the applicable currencies and the possible application of taxes.

The Solution chosen by the Customer at the start of the Subscription will bind them for the entire Term. The description of the Solution chosen by the Customer is provided in the Quote validated by them.

During the Term, the Customer may add additional options and subscribe to a higher number of users, but under no circumstances exchanging one option for another or reduce the number of subscribed options or subscribe to a lower number of users.

The prices of this offer are valid provided that the Customer does not impose the implementation of a contract or specific supply conditions, requiring specific legal validation and/or negotiation on clauses not provided for in our GCSUS (e.g. late penalties). If the Customer wishes the establishment of such a contract or such specific conditions, a flat rate of €2,000 will be added to the amount of this offer, for the costs of legal expertise incurred. This amount would only be invoiced in the event that an agreement is reached on supply clauses agreeing to both parties.

Any specific development or reporting order will automatically result in a revision of the base price of the Services by around 25% of the amount of these new acquisitions, as soon as these services are invoiced.

In the case of an On Premise licence (licences installed on the Customer's premises), any order for additional licence(s), additional option(s) will automatically result in the revision of the base price of the Services of the around 22% of the amount of these new acquisitions.

TRIBOFILM reserves the right to make promotional offers which may differ from the Price policy communicated to the Customer.

### 8.2. Delivery delay

On Premise licence (case of licences installed on the Customer's premises): 1 to 6 weeks after receipt of the order at TRIBOFILM.

Provision of services: According to the schedule defined between the Customer and TRIBOFILM.

Equipment: 1 to 8 weeks after receipt of order at TRIBOFILM.

TRIBOFILM will respect, as far as possible, the agreed delivery time, but its responsibility cannot be engaged if the delay in delivery comes from any event beyond its control such as: machine accident, failure of a hand essential work or of a supplier, fire, etc.

The goods travel at the Customer's risk and peril. In the event of damage, loss of goods or delay, it is up to the Customer to exercise their rights against the carrier.

### 8.3. Payment

The first invoicing of the subscription will take place on the date of communication by TRIBOFILM to the Customer of the access codes to the Services (Effective Commissioning), or failing that on the first day of the following month. Invoicing for the Services will be carried out by TRIBOFILM on the basis of anniversary periods for periods of 12 months.

Regarding orders for Services with different invoicing frequencies, TRIBOFILM reserves the right to apply the same invoicing frequency to all of the Services. It being specified here that this periodicity will be that applied to the Service(s) representing the preeminent part of the total amount of the Services.

All the Prices due under the GCSUs are payable annually in advance. TRIBOFILM may accept, without being obliged to do so, to grant the Customer the benefit of a quarterly payment under the following conditions: compulsory commitment over a minimum of 36 months and SEPA direct debit.

The invoicing and payment terms applied (excluding subscription) are:

Payment upon order of a deposit of 30% of the total amount including tax of the order. Invoices drawn up as deliveries and achievements are made, paid in cash.

The Customer makes payments by bank transfer. Exceptionally, TRIBOFILM may accept, without being obliged to do so, payment by check (only in euros drawn on a French bank) or by direct debit.

In the event of late payment, the Customer will be subject to a lump sum of forty (40) euros.

Any delay in payment gives rise to the payment of interest by the Customer on the amount remaining due on the due date.

The interest rate corresponds to the rate applied by the European Central Bank, at maturity, for its operations in euros, increased by ten (10) percentage points.

The Customer shall reimburse TRIBOFILM for all costs (including any attorneys' fees) associated with the recovery of payments not honoured by the Customer.

TRIBOFILM reserves the right, in the event of non-payment by the Customer of one of its invoices, or in the event of violation of a stipulation contained in the GCSUs, to suspend access to the Services until the payment is received in full.

Moreover, in the event that TRIBOFILM performs services for one or more companies which, directly or indirectly, are controlled by, or under the same control as the customer company, within the meaning of articles L.233-1 and following of the French Commercial Code, all of the said services will be invoiced to the company receiving the quotes/offers from TRIBOFILM.

#### Case of specific services (specific developments, reporting, work on the database or data integration)

Any specific services ordered are deemed to have been received if within 1 month past the delivery date no reservations have been made by the Customer.

#### Case of non-subscription services

Non-subscription services (training, support, integration, development, etc.) are invoiced upon delivery. Project management and e-learning services are invoiced at the start of the project. In any case, the services covered by an accepted quote/offer will be fully invoiced no later than 12 months after the installation of the software or the start of the subscription concerned by the order, regardless of the date on which the Customer requests their completion if they have not yet been completed on this date.

#### Case of on-site services (training, support, installation)

In the event of renunciation by the Customer before the start of the planned dates of the services:

- Within more than 3 weeks before the start of the service: 25% of the cost of the service is due.
- Within a period of between 3 weeks and 2 weeks before the start of the service: 50% of the cost of the service is due.
- Less than 2 weeks before the start of the service: 100% of the cost of the service is due.

Any rescheduling will incur management fees of €150 excluding VAT.

The cost cannot be the subject of a request for reimbursement or reimbursement by the OCPA.

### 8.4. Invoices

Invoices are established only electronically, which the Customer expressly accepts, and sent by e-mail.

The Customer undertakes to inform TRIBOFILM of any change in their postal and bank address, or any other information necessary for payment.

The Customer undertakes to keep active the means of payment (bank account) associated with their TRIBOFILM account, in particular in the case of direct debit, and to inform TRIBOFILM sufficiently early of any change in bank details to allow it to take into account the modifications and to continue sampling.

Any dispute concerning an invoice must be expressed in a letter or email sent with acknowledgment of receipt within fifteen (15) days from the date of the invoice.

In the absence of such letter or email, the Customer will be deemed to have accepted the invoice.

## **8.5. Price-revision**

During the initial term of the Services, TRIBOFILM may, once per calendar year, revise the prices of the Contract within the limit of fifteen (15)%. Beyond the initial term of the Services, during the extension periods, TRIBOFILM may modify, once per calendar year, the prices of the Contract, within the limit of fifteen (15)%. In the event of refusal by the Customer to increase the amounts invoiced, the latter shall be entitled to terminate the Contract by registered letter with acknowledgment of receipt sent within thirty (30) days following the date of issue of the invoice including the new amounts billed. The Contract will then remain in force, under the pricing conditions of the previous invoice, until the end of the sixth (6th) month following that during which the invoice in question was issued.

The prices of the Services remain firm provided that all the deliveries ordered take place within 12 months of the order.

## **IX. Duration & termination**

### **9.1. Duration**

The Subscription is carried out for a Term of thirty-six (36) months from the date of signature of the commercial offer equivalent to a contract. The Services will then be tacitly extended for successive periods of twelve (12) months. The Party which decides not to extend the Service must notify this decision to the other Party by registered letter with acknowledgment of receipt three (3) months before the end of the current period.

The activation of an additional optional service during the execution of the Service will not modify the duration of the Services as specified above.

### **9.2. Termination**

#### **9.2.1 Termination by the Customer**

The Customer may terminate the Subscription by informing TRIBOFILM by any written means providing proof of receipt. Any termination will be effective at the end of the Term: the entire Term will be invoiced despite the termination during the Subscription. No refunds or credits can be made for partial use of the Services.

#### **9.2.2 Termination by TRIBOFILM**

TRIBOFILM reserves the right to terminate a Customer's Subscription at any time in the event of non-compliance with the GCSUs by this same Customer or by the Users for the Account from which the Services are used. In the event of late payment of more than thirty (30) days, TRIBOFILM may consider that the GCSUs have been terminated on the date on which payment is due. TRIBOFILM reserves the right to unilaterally terminate a Customer's Subscription if the Content stored, posted and/or exchanged by Users creates operational problems or problems relating to its servers.

The Customer concerned will be notified by registered letter and Users will have access to the Solution for a period not exceeding one (1) month.

The Prices paid by the Customer corresponding to the Term remaining to run beyond the above notice will be refunded.

#### **9.2.3 Access to data / Return of data / Erasure of data**

After the Terms or Termination of the Subscription, for whatever reason, Customers may, within three (3) months following the end of their subscription, make a request to TRIBOFILM in order to allow Users to access the Solution for a period of 48 hours under the conditions of access to the Services on a trial basis to consult and export the following data, in a structured format, commonly used and readable by any terminal: topologies, personnel, intervention requests, work orders, articles, suppliers, orders.

Under the same conditions and for the same duration, the Customer may request from TRIBOFILM a copy of the last backup of its Content that TRIBOFILM will return to it in a structured format, commonly used and readable by any terminal. This restitution will be carried out in the form of a download or, if the volume is too large, by sending an external medium.

In the latter case, all costs (external support and secure shipment) will be borne by the Customer insofar as the Customer's request relates to elements not provided for in paragraph 1 of this Article, or requiring the implementation for TRIBOFILM of complex recovery processes. All costs for recovering items not provided for in paragraph 1, external support and secure shipping will be subject to a quote and will be borne by the Customer.

TRIBOFILM will delete Customer Content from its servers three (3) months after the end of their subscription.

## **X. Liability & Disclaimer of Warranties**

### **10.1 TRIBOFILM's responsibilities and guarantees**

#### **10.1.1 General**

TRIBOFILM provides the Services under an obligation of means.

The Services can never replace the administrative and management functions and the obligations of the Customers. Subject to Subscription to the Services concerned, the support of TRIBOFILM is given only for the use of the Solution, but not for the organisation or the management of the Customers' activities.

The information provided by TRIBOFILM does not constitute advice, whether commercial, financial, legal, or of any other nature.

TRIBOFILM does not guarantee that the Services and the Solution will enable the Customer to achieve the expected results or achieve the desired objectives. More generally, TRIBOFILM does not guarantee that the Subscription to the Services and the Solution will improve the performance of the Customer's activity.

This clause is essential for TRIBOFILM and forms part of the agreement between the Parties.

Under no circumstances will TRIBOFILM be directly or indirectly liable for any damage caused to Customers, Users or a third party due to their fault. TRIBOFILM reserves the right to stop marketing the Services without compensation after two (2) months' notice and to modify the Services at its sole discretion, including as regards the functionalities of the Solution.

#### **10.1.2 Hosting of Customer Content, archiving and security**

The Solution is hosted on the dedicated TRIBOFILM platform, in a data centre located in France. TRIBOFILM's servers are managed by a web hosting professional: OVH. The Customer's Content, whether stored, uploaded or downloaded by Users, is saved on dedicated external servers belonging to TRIBOFILM. The Customer's Content is stored on TRIBOFILM's servers for archiving for three (3) months after the end of their subscription.

TRIBOFILM only allows access to the Services and the Content to persons specifically authorised by TRIBOFILM and by the Customer. TRIBOFILM implements the technical measures and means necessary to ensure the security of connections, Customer Content and their Personal Data.

#### **10.1.3 Services**

TRIBOFILM does not guarantee that the Services do not contain any anomalies or errors that can be corrected or that the Solution will operate without interruption or malfunction, or that they are compatible with equipment or a configuration other than those expressly approved by TRIBOFILM.

Solution updates may be made at any time and may cause temporary interruption of the Services. TRIBOFILM reserves the right to temporarily interrupt access to the Solution and, more generally, to the Services:

- to carry out technical maintenance or improvement of the Services which will contribute to their proper functioning or to repair a breakdown. TRIBOFILM will make its best efforts to notify the Customer of these interruptions;
- in the event of unavailability of the servers for any reason whatsoever;
- in the event of non-payment, breaches of the GCSUs, breaches by a third party to the security of the Solution and the Content hosted by TRIBOFILM.

No temporary interruption of the Services will give rise to any compensation for the Customer. The Services may be modified according to the improvements and updates made without informing the Customer and the Users. The Services may be modified, amended and/or otherwise modified at any time and at TRIBOFILM's sole discretion.

#### **10.1.4 Equipment**

The equipment is guaranteed for 1 year parts and labour. Damage resulting from incorrect use of the equipment is not covered by the guarantee.

Our products are guaranteed to be of good merchantable quality and conform to any sample provided. The Customer is required to verify, before using it, whether the goods comply with their order. Complaints must be notified to TRIBOFILM within fifteen days of delivery at the latest. TRIBOFILM's guarantee is limited solely to its choice, either to the replacement or to the reimbursement of products recognised as defective, excluding all damages. Given the influence of the conditions of use of the products sold, TRIBOFILM is released from any liability or guarantee as to the choice, use and implementation of the products. For the same reasons, the advice, opinions or studies of TRIBOFILM which, in any case, must be requested from it in writing, are provided with the greatest conscience, but TRIBOFILM cannot be held liable. It is up to the Customer to take the prior precaution of verifying, by careful tests carried out under actual conditions of use, that the products are perfectly suited to the use for which they are intended.

#### **10.2 TRIBOFILM Limitation of Warranty**

TO THE EXTENT PROVIDED BY APPLICABLE LAW, THE TRIBOFILM SERVICES ARE PROVIDED AND LICENCED AS IS WITHOUT ANY WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. TRIBOFILM DOES NOT WARRANT THAT USE OF THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

Whatever the cause, the cumulative global liability of TRIBOFILM can never exceed the amount of the sums actually received from a Customer by TRIBOFILM in remuneration for the Services in the last 12 months. TRIBOFILM may only be held liable for the damage for which TRIBOFILM is directly and exclusively responsible, without any joint or several liability with the third parties having contributed to the damage.

### 10.3 Customer Liability and Warranty

#### 10.3.1 Access to and use of the Services

The Customer acknowledges that the Solution constitutes a particularly complex platform, especially in terms of computer technology. In the current state of knowledge, tests and experiments cannot cover all possible uses. The Customer therefore undertakes to bear the risks of inadequacy or unavailability of the Solution. The Customer acts as an independent entity and therefore assumes all the risks of their activity. They are solely responsible for the Subscription, the information on the content and files transmitted, distributed or collected, as well as their operation and updating. The Customer is responsible for:

- their access to and use of the Services, including by their Users;
- obtaining and maintaining all equipment necessary to access the Solution;
- ensuring that such equipment is compatible with the Solution.

The Customer's insurance must cover these risks. The Customer must make all claims against TRIBOFILM within forty-eight (48) hours of occurrence of the event.

#### 10.3.2 Customer Content

The Customer and the Users agree that TRIBOFILM has no control over their Content. The Customer and the Users guarantee that they are entirely and solely responsible for the Content and that they own all the rights, or have obtained all the authorisations necessary for the use of the Content.

The Customer and the Users are responsible for any publication of Content on their Account.

They must not provide Content that could be deemed illegal, indecent or harmful in any way or form or for which they are not authorised to do so, including, but not limited to, Content that would violate with third party rights.

The Customer is responsible for compliance with legal and regulatory obligations regarding the processing of Personal Data.

The Customer undertakes to comply at all times with the laws and regulations in force and to respond to any request for information from TRIBOFILM to verify the compliance of the processing and the security of the Personal Data that the Customer processes directly or indirectly.

The Customer and the Users must take, during such a period, all the measures to save their Content regularly and more particularly after the Term.

#### 10.3.3 Customer and User Equipment

To use and improve the Services, TRIBOFILM may recommend technical prerequisites or certain configurations. The Customer and the Users are responsible for monitoring these technical prerequisites or recommendations.

The Customer and Users are solely responsible for their connection to the Internet and all related costs.

Access to the Services can be done by means of software downloaded on the terminals of Customers and Users.

The Customer and the Users agree that TRIBOFILM may automatically update this software, and the GCSUs will apply to these updates.

The Customer and the Users declare that they understand that TRIBOFILM cannot be held responsible in the event of interruption of the internet, viruses affecting their data and/or software, the possible misuse of Account passwords and, more generally, of all damages caused by third parties.

The Customer is solely responsible for the use and implementation of means of security, protection and backup of its equipment, Content and software.

As such, it undertakes to take all appropriate measures to protect its Content. The User agrees not to commit any act that could jeopardise the security of the Services.

#### 10.3.4 Customer warranties

The Customer indemnifies TRIBOFILM (and its affiliates and subsidiaries and their officers, directors, employees, agents) against any claim or demand, including reasonable attorneys' fees, made by a third party as a result of the breach of the GCSUs, their misuse of the Services (including by Users) or the violation of any law or the rights of a third party.

The Customer acknowledges using the Services in compliance with the laws and regulations in force.

## XI. Intellectual property

### 11.1 Intellectual property of TRIBOFILM

The Solution, the Website and the Services belong without any limitation to TRIBOFILM.

The Customer and the Users are authorised to use the Services in accordance with the Licence. All rights not expressly granted by the GCSUs are reserved.

The TRIBOFILM websites and the software developed by TRIBOFILM are original works protected by intellectual property rights and international conventions. The Customer and the Users guarantee that they will not modify, rent, borrow, sell or distribute these works, or create derivative works based in whole or in part on them. They undertake not to implement any reverse engineering process (retro-engineering), except under legal conditions.

No use of the name or trademark of TRIBOFILM may take place without its prior written consent.

The Customer and the Users acknowledge that TRIBOFILM is the sole owner of its intellectual property rights, and in particular of the Solution, and must not at any time contest this ownership or the validity of the intellectual property of TRIBOFILM or the rights therein attached.

The elements available via the Services or on the Website such as software, databases, tools, the platform, web pages, texts, photographs, images, icons, sounds, videos and more generally all the information available for Customers and Users are the property, entirely and exclusively, of TRIBOFILM.

Neither Party acquires any intellectual property rights over the other's databases, nor over its trademarks, designs, graphics, screens or software. The Customer and the Users are authorised to use the Solution only under the terms of the Licence.

Customisations made for the Customer (specific developments, settings, reporting, documentation, etc.) remain the intellectual property of TRIBOFILM. Source codes are not provided as part of this service.

TRIBOFILM reserves the right to integrate the customisations made into its standard.

### 11.2 Customer Intellectual Property

The Customer's Data belongs to the Customer who expressly authorises TRIBOFILM to use this data exclusively under the conditions and limits provided for in these GCSUs, and in particular in its Articles 6.2 and XII.

## XII. Protection of personal data

European Regulation 2016/679 of April 27, 2016 (GDPR) which came into force on May 25, 2018 provides for a new system for the protection of personal data. In particular, article 28 of the GDPR specifies that the data controller and the subcontractor must provide by contract a certain number of specific statements relating to the processing of Personal Data which are included in this article.

### 12.1 Description of processing

TRIBOFILM collects and processes the data that Users voluntarily provide in order to access the Solution and use the Solution in accordance with these GCSUs, as well as data relating to User preferences and traffic:

- Name;
- First name;
- Email;
- Postal address;
- Telephone number;
- Photograph;
- Name of their suppliers or customers;
- Identifiers;
- IP address...

If the Customer uses the services to process other Data or categories of Personal Data or for other processing or purposes, the Customer does so at their own risk, and TRIBOFILM cannot be held liable in the event of a breach. to regulations.

The persons concerned by the processing are:

- the Customer;
- the Customer's employees;
- the Customer's suppliers and customers;
- etc.

### 12.2 Obligations of the Parties: General

The Parties acknowledge that TRIBOFILM, in order to perform its obligations under these GCSUs, will have access to and process the Personal Data provided by the Customer as a subcontractor within the meaning of the regulations.

The Customer acknowledges that the resources implemented within the framework of these GCSUs by TRIBOFILM constitute sufficient guarantees of compliance with regard to the regulations.

TRIBOFILM undertakes to process the Personal Data defined in Article 12.1 hereof for the sole purposes and under the conditions agreed in the GCSUs, in order to provide the Services and fulfil its obligations under these GCSUs.

In its capacity as data controller, the Customer is responsible for compliance with their own legal and regulatory obligations with regard to the processing of Personal Data. The Customer undertakes to comply at all times with the laws and regulations in force in this area.

In its capacity as subcontractor, TRIBOFILM limits itself to following the Customer's documented instructions in terms of processing, subject to alerting the Customer in the event of instructions given that do not comply with the regulations.

The Parties acknowledge that the achievement of the purpose of these GCSUs and the use of the Services constitute the documented instructions of the Customer. It is specified that any instruction that is not documented in writing, or that does not comply with the regulations, is not taken into account by TRIBOFILM.

TRIBOFILM shall immediately inform the Customer if, in its opinion, an instruction constitutes a breach of this Regulation or of other provisions of Union law or the law of the Member States relating to the protection of Personal Data.

It is understood that TRIBOFILM cannot be held responsible for the decisions taken by the Customer as data controller and that the purpose of these GCSUs is not the provision of legal advice.

The Customer undertakes to alert the service provider without delay in the event of a change in the services requested by the Customer, leading to or risking to lead to a change in the status of TRIBOFILM with regard to the regulations.

## 12.3 Obligations of the subcontractor

### 12.3.1 Cooperation and assistance

The Customer acknowledges that the following procedures satisfy TRIBOFILM's obligation to cooperate and assist in order to enable it to ensure compliance of the processing with the regulations, in particular as regards:

- notifications of violations, which will be sent to it by TRIBOFILM as soon as possible after becoming aware of the said violation (12.3.2 Security and confidentiality);
- requests to exercise the rights of the Customer's suppliers and customers (access, rectification, opposition, portability). In its capacity as subcontractor, TRIBOFILM limits itself to assisting the Customer to enable it to fulfil its own obligations. Thus, TRIBOFILM never responds to exercise requests that are addressed directly to the Customer: in the event that TRIBOFILM should receive such a request, it will be sent to the Customer as soon as possible so that the latter can manage its follow-up;
- documents and information necessary for the data controller to fulfil their Accountability obligations.

### 12.3.2 Security and Privacy

The Customer acknowledges that the following procedures satisfy the obligation of security and confidentiality necessary for the compliance of the processing with the regulations:

- The Customer's Data and the Services are hosted on TRIBOFILM's own servers, hosted in the OVH infrastructure located in France (PCIDSS certified, ISO/IEC 27001 certified, SOC 1 TYPE II and SOC 2 TYPE II certificates), one of the leading European professional hosts;
- The control of the security of the servers and the updating of the operating software of TRIBOFILM is carried out in real time;
- TRIBOFILM only allows access to the Services and the Customer's Data to persons specifically authorised by TRIBOFILM and by the Customer;
- No TRIBOFILM employee has access to Customer Data, unless access to this information is necessary for the implementation of the Services. At the request of the Customer or Users, TRIBOFILM may connect remotely to their Accounts, after formalising the User's agreement in a support ticket, to assist them in setting up or using the Solution;
- Each TRIBOFILM employee is bound by a commitment relating to the protection of Personal Data;
- TRIBOFILM will notify the Customer of any violation of the Personal Data entrusted to it by the Customer, as soon as possible after becoming aware of it, taking into account the notification period granted to the data controller by Articles 33 and 34 of the GDPR.

TRIBOFILM will promptly investigate any breach of Personal Data in order to remedy such breach.

TRIBOFILM will promptly inform the Customer of the corrective measures and the measures put in place to remedy them.

TRIBOFILM undertakes to provide assistance to the Customer in its approach to setting up a study of the impact on privacy, within the limits of the subcontracting service and the information available to TRIBOFILM, without its liability may be sought as a result.

### 12.3.3 Audits

If the Customer deems it necessary to carry out an audit in accordance with the regulations to verify the conformity of the Services provided with the regulations and the contract, TRIBOFILM agrees to submit to it under the following conditions:

- TRIBOFILM makes available to the Customer at their request and by email the documentation necessary to demonstrate that TRIBOFILM respects its obligations as a subcontractor. If the Customer considers that this documentation does not allow them to demonstrate the compliance of the Services with the regulations, the Customer submits a request for an on-site audit, justified and documented, by registered letter with acknowledgment of receipt.
- The audit must be carried out by an independent auditor with a well-known reputation, who does not compete with the commercial activities of TRIBOFILM. This independent auditor is chosen by the Customer and accepted by TRIBOFILM.

They must have the required professional qualifications, and is subject to a confidentiality agreement.

The Parties acknowledge that all reports and information obtained as part of this audit are confidential information.

The start date of the audit, the duration and the scope of the audit are defined by mutual agreement by the Parties with a minimum notice of 30 working days.

The frequency of audits is limited to one audit per year and must not disrupt the activity of TRIBOFILM.

The audit can only be carried out during TRIBOFILM opening hours. The audit does not include access to information unrelated to the processing carried out in accordance with these GCSUs, nor physical access to the servers on which the Solution is saved.

The Customer bears all the costs and expenses incurred by the audit and reimburses TRIBOFILM for all the costs incurred for this purpose, in particular, the time spent on the audit on the basis of the average hourly rate of the TRIBOFILM personnel having collaborated in auditing.

### 12.3.4 Location - Data transfers

The Personal Data of Users is stored in France on the servers of TRIBOFILM, hosted by the Company OVH.

TRIBOFILM undertakes not to transfer the Personal Data processed under the GCSUs outside the European Union without the prior consent of the Customer. TRIBOFILM ensures that the appropriate guarantees are provided to govern any possible transfer of Personal Data.

### 12.3.5 Return, destruction of personal data

At the end of this Contract, at the Customer's option and within 30 days of the Customer's request to TRIBOFILM for this purpose, TRIBOFILM will securely destroy the Personal Data.

## XIII. Interoperability

In accordance with article L.122-6-1 of the French Intellectual Property Code, the Customer may obtain information from TRIBOFILM on the interoperability of the Services by sending his request by registered mail to: TRIBOFILM, 40 rue Jacques de Vaucanson - 17180 PERIGNY.

TRIBOFILM will have a period of two (2) months to send the requested information to the Customer. The information will be communicated for the sole purpose of fulfilling its legal obligations. Under no circumstances should this information be provided by the Customer to a third party, even free of charge.

## XIV. Subcontracting

TRIBOFILM reserves the right to subcontract all or part of the Services.

## XV. Miscellaneous

### 15.1 Non-Solicitation of Personnel

The Customer agrees not to hire nor solicit the hiring or services (in any form whatsoever), for themselves or for a third party, directly or indirectly, of any employee of TRIBOFILM (i.e. of any employee of TRIBOFILM on the day of the conclusion of the Subscription, or who enters into an employment contract with TRIBOFILM during the Term, regardless of whether they have left TRIBOFILM during this Term) or to encourage one of the employees of TRIBOFILM to cease the functions they exercise or will exercise within TRIBOFILM.

This obligation will end twenty-four (24) months after the termination of the Subscription for any reason whatsoever.

In the event of non-performance of this Article, the Customer agrees to pay TRIBOFILM, as a penalty clause, a sum equal to twenty-four (24) months of the monthly salary (to the exclusion of employer and employee social security contributions) paid by TRIBOFILM to the employee concerned on the date on which the non-performance of the obligation would be noted.

This penalty will be due for each TRIBOFILM employee hired by the Customer or whose services are requested by the Customer in any form whatsoever. In accordance with Article 1228 of the French Civil Code, TRIBOFILM may pursue the forced execution of this obligation instead of claiming payment of this penalty clause.

### 15.2 Confidentiality

The "Confidential Information" is, without this list being exhaustive, all the information and data communicated by a Party to the other Party, within the framework of the execution of the Subscription, in writing and/or orally, in particular in the form graphs, drawings, plans, reports, customer lists, price lists, results, minutes of meetings, instructions and other elements of any form whatsoever.

Each Party undertakes in its own name (and in the name and on behalf of its corporate officers, employees and subcontractors) to keep strictly confidential, using the same means and procedures as those used for its own confidential information, the Information Confidential.

This obligation of confidentiality does not cover Confidential Information which is in the public domain on the date of its communication, nor that which has fallen into the public domain after this date (without this fact resulting from a violation of the GCSUs) which have been communicated to a Party on a non-confidential basis by a source other than the other Party, provided that this is not in violation of a confidentiality agreement or the GCSUs and that a legislative or regulatory provision or a decision of justice or any authority would compel disclosure.

### **15.3 Absence of right of withdrawal**

In accordance with the French Consumer Code, the right of withdrawal does not apply to the Services provided by TRIBOFILM insofar as they are exclusively intended for professional Customers and that they fall within the scope of their commercial, industrial, artisanal, liberal or agricultural, including when they act in the name or on behalf of another professional.

### **15.4 Contact**

For any request, Customers and Users can write to TRIBOFILM, 40 rue Jacques de Vaucanson - 17180 PERIGNY. Customers and Users may report abuse, harassment, inappropriate content, privacy complaints or, more generally, any violation of the law by a third party by sending a notification to TRIBOFILM with the following information:

- Date of notification;
- Last name, first name, occupation, address, nationality, date and place of birth (and for a company: form, name, address and its representative);
- A description of the facts and their location;
- The reason for the notification (with a legal explanation);
- A copy of the letter sent to the author of the content or the justification that this author cannot be contacted.

### **15.5 Force Majeure**

Neither party shall be liable for any defect or delay in performance caused by an element constituting a case of force majeure pursuant to Article 1218 of the French Civil Code, such as but not limited to, fires, floods, disasters natural disasters, earthquakes, termination of Internet connections by the access provider, cyber-attacks, strikes, lockouts ("Force Majeure").

In this case, the obligations of the Parties will be suspended from the notification of this exonerating cause by one of the Parties to the other Party and this, until its termination.

Insofar as such circumstances continue for a period of more than fifteen (15) days, the Parties agree to enter into discussions with a view to modifying the terms of their respective commitments.

If no agreement or no alternative is possible, these commitments may then be terminated without damages, upon simple written notification by registered letter with acknowledgment of receipt, without compensation or notice.

### **15.6 Severability, Waiver, Invalidity**

The GCSUs constitute the entire agreement between the Customers and TRIBOFILM regarding the Services.

No waiver by TRIBOFILM of any of its obligations shall be considered or interpreted as a waiver of its benefit. If one or more stipulations of the GCSUs are declared invalid, the others will retain their full force and scope.

In this case, the Parties must, if possible, replace this cancelled stipulation with a valid stipulation corresponding to the spirit and object of the GCSUs.

### **15.7 Relationship between the Parties**

The GCSUs can in no way be considered as establishing between the Parties a de facto partnership or a partnership or any other situation involving between them any reciprocal representation or solidarity with regard to third parties. The GCSUs will not generate any relationship of subordination between the Parties who retain their full and complete autonomy from one another.

### **15.8 Intuitu personae**

It is strictly forbidden for Customers and Users to assign all or part of their rights and obligations under the terms of the GCSUs.

### **15.9 Communications**

Unless otherwise stipulated in writing, TRIBOFILM is authorised by the Customers to name them on any document, electronic or otherwise, as a reference.

### **15.10 Survival of the clause**

Sections IX, X, XI, XII, XIII and XV shall survive expiration or termination of the Subscription for any reason.

### **15.11 Ethics and sustainable development**

The Parties declare to respect the principles defended by the international labour organisation and their legislation in force in terms of Labour Law, to participate in the prevention of risks based on work safety and, more generally, to be in compliance with the legislation in force in terms of health and safety of workers, to adhere to the principles of environmental protection and to control the consequences of their activity on the environment and participate in the fight against corruption.

### **15.12 Training for people with disabilities**

TRIBOFILM is an approved training centre registered under number 54 17 011 93 17. For any disability situation, please contact us to consider the feasibility.

## **XIV. Applicable law**

The GCSUs are governed by French law. The effective date of the GCSUs is October 1, 2018. In the event that a translated version of the GCSUs conflicts with the French version, the French version will prevail.

WITHIN THE LIMITS PROVIDED BY THE LAW IN FORCE, ANY DISPUTE AS TO THE VALIDITY, INTERPRETATION OR EXECUTION OF THE PRESENT CONTRAT SHALL BE SUBJECT TO THE EXCLUSIVE JURISDICTION OF THE COURTS WITHIN THE JURISDICTION OF THE HEAD OFFICE OF TRIBOFILM, INCLUDING IN THE EVENT OF INTRODUCTION OF THIRD PARTIES OR MULTIPLE DEFENDANTS.