

Country Specific Terms

Ireland

If the contracting TD SYNEX Entity is

TD SYNEX Ireland Limited

Riverside One, Sir John Rogerson’s Quay; Dublin 2, Ireland

Company No: 129471

VAT: IE4851552A

the following Country Specific Terms shall apply:

Clause of Terms and Conditions	Modification/Supplement
1.1	<p>Clause 1.1 shall be deleted and replaced by the following clause:</p> <p>“These terms and conditions (“Terms and Conditions”) govern any and each contract between the contracting TD SYNEX Entity (“TD SYNEX”) and a customer (“Buyer”) for the sale or licence, as applicable, of TD Services as well as Vendor Products (each an “Agreement”). A list of all current TD SYNEX Entities which contract under these Terms and Conditions may be found here.”</p>
1.2	<p>Clause 1.2 shall be deleted and replaced by the following clause:</p> <p>“In these Terms and Conditions,</p> <p>“Business Day” means a day other than a Saturday, Sunday or public holiday in Ireland, when banks in Dublin are open for business;</p> <p>“Electronically” means electronic signatures, email or TD SYNEX portals;</p> <p>“Products” means TD Services and Vendor Products collectively;</p> <p>“TD Services” means services performed by TD SYNEX or another TD SYNEX Entity;</p> <p>“TD SYNEX Entities” shall mean any entity of the TD SYNEX group of companies (TD SYNEX Corporation and its affiliates and subsidiaries);</p> <p>“Vendor” means third party vendors that are not a TD SYNEX Entity; and</p> <p>“Vendor Products” means hardware, software and services of a Vendor.”</p>
1.3	<p>Clause 1.3 shall be deleted and replaced by the following clause:</p> <p>“These Terms and Conditions apply to, and shall be incorporated into, each Agreement. In case of any inconsistencies between the Agreement and these Terms and Conditions, the Terms and Conditions shall prevail in accordance with Clause 2.2. Even if no reference is made to them in particular cases, these Terms and Conditions shall apply exclusively to the entire business relation between TD SYNEX and the Buyer, particularly to all Agreements, unless different conditions have expressly been confirmed by a suitably authorised representative of TD SYNEX in writing. Conditions of the Buyer diverging from these Terms and Conditions or any of the documents listed in Clause 2.2 shall not be valid even if the Buyer refers to its own terms and conditions in its offer, acceptance or otherwise and TD SYNEX effected delivery or rendered services without reservation.”</p>
1.4	<p>A new Clause 1.4 shall be added as follows:</p> <p>“Any reference in the Terms and Conditions to “this Agreement” shall be replaced by “the Agreement”.”</p>
2.2	<p>A new Clause 2.2 shall be added as follows:</p> <p>“If there is any conflict, ambiguity or inconsistency between: (a) Vendor Pass-Through Terms; (b) Country Specific Terms; (c) the Returns Policy; and (d) these Terms and Conditions, the document earlier in the list shall prevail to the extent of the inconsistency.”</p>

4.1	Clause 4.1 shall be deleted and replaced by the following clause:
	“Any offerings on TD SYNEX’s website, in materials, quotes or otherwise, are non-binding invitations to tender only and shall not constitute an offer.”
4.2	Clause 4.2 shall be deleted and replaced by the following clause:
	“4.2 Buyer’s orders are offers from the Buyer to contract in accordance with these Terms and Conditions and, once received by TD SYNEX, cannot be cancelled without TD SYNEX’s explicit agreement in written form or Electronically.
	4.2.1 By placing an order with TD SYNEX, Buyer warrants that they have obtained and will comply with any consent required from a manufacturer/Vendor including, if appropriate any programme or agreement under which the manufacturer/Vendor consents to the Buyer purchasing the Products (“Authorised Reseller Programme”). In the event that the consent or membership of the Authorised Reseller Programme is terminated, Buyer will immediately notify TD SYNEX in written form.
	4.2.2 If any manufacturer/Vendor terminates any Authorised Reseller Programme with Buyer, TD SYNEX may terminate or temporarily suspend the provision of affected Products and TD SYNEX will have no further obligation or liability (including liability for any loss, additional payments, damage or inconvenience) to Buyer or its customers in respect of those Products or the Agreement. TD SYNEX shall use reasonable endeavours to engage a new manufacturer/Vendor on materially similar terms in a reasonable period. If Buyer agrees, Buyer will pay an additional charge to TD SYNEX in respect of the new manufacturer’s/Vendor’s provision of the Products. Any delay by TD SYNEX in suspending or terminating the provision of the Products shall not constitute a waiver under this provision.”
4.3	Clause 4.3 shall be deleted and replaced by the following clause:
	“The Agreement comes into effect only upon TD SYNEX’s acceptance in written form or Electronically of Buyer’s order, or by TD SYNEX commencing the performance or fulfilment of the order.”
4.5	A new Clause 4.5 shall be added as follows:
	“The Buyer waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Buyer that is inconsistent with these Terms and Conditions or any of the documents listed in Clause 2.2.”
5.2	Clause 5.2 shall be deleted and replaced by the following clause:
	“TD SYNEX will arrange the transport to the named destination agreed between the parties. The risk of damage or loss of the Products shall transfer to Buyer upon handing over the Products to the carrier at the agreed point of origin (which may include the manufacturer’s/Vendor’s premises in the case of a Drop Ship Delivery). In case of an agreed pickup of the Products by Buyer, the risk of damage or loss shall transfer when the Products are made available for pickup and Buyer has been informed thereof, however, at the latest upon collection of the Products by Buyer.”
9.1	Clause 9.1 shall be deleted and replaced by the following clause:
	“Title to the Products shall not pass to the Buyer until all payment obligations of Buyer towards TD SYNEX based on or in connection with the Agreement or other agreements between the parties are settled in full (until the transfer of title: “ Retained Products ”). Buyer shall store the Retained Products safely, separate from other products and adequately insured and shall not dispose of them other than as permitted hereunder.”

10.2	<p>Clause 10.2 shall be deleted and replaced by the following clause:</p> <p>“Buyer shall inspect any Products promptly upon delivery for quantity deviations, damaged packaging, labelling errors, visible defects in quality and other visible defects and notify TD SYNEX Electronically of any such visible defects promptly, however, not later than 7 days from the delivery.</p> <p>10.2.1 At the time of delivery Buyer must check that the quantity of the Products matches the quantity set out on the proof of delivery (“POD”) and that the exterior of the Product is in good condition. Buyer must sign the POD accordingly. If the exterior of the Product is damaged Buyer must indicate this on the POD. Buyer must inform TD SYNEX of any difference to quantity or of damage as soon as possible and in any event within 5 Business Days of the delivery. A signed POD by or on behalf of Buyer, or signing the POD unchecked or unexamined or any such similar wording, shall be conclusive evidence of delivery and (except to the extent that any damage or discrepancy is noted on the POD) that it was received in good order and condition and accordingly no claims shall be brought in respect of the delivery claiming the contrary.</p> <p>10.2.2 The Buyer must inspect the Products immediately after delivery is complete. If any Products are damaged, incorrect or not delivered, the Buyer must notify TD SYNEX within 5 Business Days of the delivery or expected delivery. For the avoidance of doubt, the Buyer is still required to notify TD SYNEX as set out in this Clause 10.2.2 notwithstanding anything noted by the Buyer on the POD.</p> <p>10.2.3 If a copy of the POD is required by Buyer, this must be requested within 14 days of the date of the invoice. In the event of any Drop Ship delivery, Buyer shall ensure that its customers comply with the Buyer’s obligations set out herein. “Drop Ship” shall mean deliveries to the Buyer’s customers by TD SYNEX or to the Buyer or its customers by the manufacturer/Vendor (in each case, as requested by the Buyer).”</p>
10.3	<p>Clause 10.3 shall be deleted and replaced by the following clause:</p> <p>“Any rights of Buyer in respect of any defects not notified to TD SYNEX in accordance with Clause 10.2 shall be excluded.”</p>
10.4 and 10.5	<p>Clauses 10.4 to 10.5 shall be deleted and replaced by the following clauses 10.4 to 10.6:</p> <p>“10.4 If the Buyer fails to accept delivery of the Products, then (except where such failure is caused by a Force Majeure Event or by TD SYNEX’s failure to comply with its obligations under the Agreement in respect of the Products):</p> <p>(i) delivery of such Products shall be deemed to have been completed at 9.00 am on the Business Day following the day on which TD SYNEX attempted delivery of the Products; and</p> <p>(ii) TD SYNEX shall store the Products until delivery takes place and charge the Buyer for all related costs and expenses (including insurance).</p> <p>10.5 If 10 Business Days after TD SYNEX notified the Buyer that the Products which are nonstandard specification were ready for delivery and the Buyer has not taken delivery of them, TD SYNEX may resell or otherwise dispose of part or all of the Products and, after deducting reasonable storage and selling costs, account to the Buyer for any excess over the price of the Products or charge the Buyer for any shortfall below the price of such Products.</p> <p>10.6 The defect notification process shall be subject to TD SYNEX’s Return Policy which may be found here. In case of any conflicts between these Terms and Conditions and the Return Policy, the latter shall prevail.”</p>
11.3	<p>Clause 11.3 shall be deleted and replaced by the following clause:</p> <p>“Subject to Clause 11.1 and to the extent permitted by applicable law, Buyer’s sole remedy for TD SYNEX’s breach of its warranty under Clause 11.2 are, at TD SYNEX’s choice: (i) repair of the Products; (ii) replacement of the Products; or (iii) the return of the Product and refund of the purchase price paid. For Products purchased in Ireland the terms implied by sections 13 to 15 of the Sale of Goods and Supply of Services Act 1980 and sections 74, 75, 76 and 77 of the Consumer Credit Act 1995 are, to the fullest extent permitted by law, excluded from these Terms and Conditions and each Agreement.”</p>

11.4	<p>Clause 11.4 shall be deleted and replaced by the following clause:</p> <p>“Unless otherwise agreed in written form or Electronically, returned Products shall be delivered by Buyer under DDP TD SYNEX supplying warehouse Incoterms 2020. Risk in any returned Products shall remain with Buyer until the Products are delivered to TD SYNEX’s premises or made available for collection by TD SYNEX’s carrier, as determined by TD SYNEX”.</p>
14	<p>Clause 14 shall be deleted and replaced by the following clause:</p> <p>“14.1 Subject to Clauses 14.3 and 14.4, TD SYNEX’s total liability under or in connection with these Terms and Conditions and any and all Agreements whether arising from contract, tort (including negligence) or otherwise in any calendar year shall in no event exceed EUR one million (the “General Liability Cap”).</p> <p>14.2 Subject always to Clauses 14.3 and 14.4 and the General Liability Cap, TD SYNEX’s total liability under or in connection with an Agreement whether arising from contract, tort (including negligence) or otherwise arising in any calendar year shall in no event exceed the lower of (a) the aggregate amounts paid by Buyer for Products purchased or licensed, as applicable, from TD SYNEX under that Agreement in that calendar year; OR (b) EUR one million.</p> <p>14.3 Subject to Clause 14.4, TD SYNEX shall not be liable for: (a) any indirect, special, incidental, punitive or consequential damages; (b) loss of profits; (c) loss of revenue, business or business opportunity; (d) loss of agreements or contracts; (e) loss of anticipated savings; (f) loss of use or corruption of software, data or information; (g) loss of or damage to goodwill; (h) loss, additional payments, damage or inconvenience in connection with rework, repair, manufacturing expense, or costs of product recall; AND (i) loss, additional payments, damage or inconvenience Buyer or any customer may suffer arising from the suspension or termination of any manufacturer/Vendor authorization or program; suffered by Buyer that arises under or in connection with the Agreement whether any of the aforementioned losses at (b) to (i) are direct or indirect.</p> <p>14.4 Notwithstanding any other provisions of these Terms and Conditions or an Agreement, neither party excludes or limits its liability to the other party for: (i) death or personal injury caused by its negligence; (ii) fraud, fraudulent misrepresentation or fraudulent concealment of defects; (iii) anything under applicable mandatory product liability law; and (iv) anything else which cannot be excluded or limited at law.</p> <p>14.5 The exclusions and limitations of liability under this Clause 14 shall apply mutatis mutandis in favor of any statutory representative, officer, employee, subcontractor, agent or assistant of TD SYNEX, should it be directly liable to Buyer for damages in connection with the Agreement.</p> <p>14.6 Buyer shall – on first request – defend, indemnify and hold harmless TD SYNEX from and against any thirdparty claim arising out of or in connection with a breach by Buyer of the Agreement and compensate TD SYNEX for any cost, damage or expense incurred based on or in connection with such claim, including but not limited to, the costs of defense against the allegation of such a claim.”</p>
20	<p>Clause 20 shall be deleted and replaced by the following clause:</p> <p>“Unless explicitly provided for otherwise in the Agreement, no person that is not a party to the Agreement shall have any rights based on or in connection with it.”</p>
23	<p>Clause 23 shall be deleted and replaced by the following clause:</p> <p>“Any amendment, supplement or termination of the Agreement as well as any notices or other communication under or in connection with it must be in written form or Electronically and executed by an authorized representative of the respective party in order to be legally effective. The form requirement in the preceding sentence applies accordingly in respect of any waiver of such form requirement. TD SYNEX may vary the Terms and Conditions by issuing a new version on the website Terms and Conditions (tdsynnex.com) within InTouch or as communicated to the Buyer from time to time. Any order placed after any variation to these Terms and Conditions have been so communicated and subsequently accepted by TD SYNEX pursuant to Clause 4.3 will be deemed to incorporate the varied Terms and Conditions into the Agreement.”</p>

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Clause 29 shall be deleted and replaced by the following clause:

29.1 Each party undertakes that it shall not at any time during the Agreement and for a period of two years after completion, termination, or expiry (as applicable) of the Agreement disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party save that it may disclose such confidential information:

(a) to its employees, officers, representatives, subcontractors, and advisers (which may in the case of TD SYNEX include the employees, officers, representatives, subcontractors, and advisers of other TD SYNEX Entities) (“Representatives”) provided that it shall ensure that any Representatives to whom it discloses the confidential information comply with this Clause 29; and

(b) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

29.2 Buyer shall not use TD SYNEX’s confidential information for any purpose other than to exercise Buyer’s rights and perform its obligations under or in connection with the Agreement.