

TERMS OF SERVICE

# THE DATA PROTECTION AGREEMENT

Version 005 – 2010-09-02

## Preamble

PLEASE READ THE FOLLOWING TERMS OF SERVICE CAREFULLY BEFORE USING ANY TIOLIVE SERVICE. THE USE OF ANY TIOLIVE SERVICES WILL SIGNIFY YOUR AGREEMENT TO BE BOUND BY THE FOLLOWING TERMS OF SERVICE.

These General Terms of Service (hereafter, the "Terms") detail all provisions applicable to the services proposed on the website [www.tiolive.com](http://www.tiolive.com) and to the "TioLive" Offer.

All these services and offers are briefly described in Article 1 hereof.

The Terms are available online on the website [www.tiolive.com/tiolive-tos](http://www.tiolive.com/tiolive-tos). The customer declares to have read the Terms and to accept them. The subscription to services and/or to offers provided by TIOLIVE LLC means that the customer agrees with the Terms and completely accepts them and, whenever applicable, accepts the existing contractual documents which complete or amend those Terms.

TioLive ([www.tiolive.com](http://www.tiolive.com)) is a Total Information Outsourcing solution based entirely on Open Source / Free Software according to the principles of customer independence, free competition and absolute respect for the secrecy of private corporate data as defined by the "Tio Libre" initiative ([www.tiolibre.com](http://www.tiolibre.com)).

TioLive is a service provided by the company TioLive LLC, available in the form of three subscriptions: **Free** (free of charge), **Premium** (\$49 / month in the USA, 49€ / month elsewhere) and **Dedicate** (price according to demand).

TioLive covers and integrates the following functional domains: Accounting, Enterprise Resource Planning (ERP), Customer Relationship Management (CRM), Knowledge Management (KM), Enterprise Content Management (ECM), Document Management System (DMS), websites, Intranet, Extranet, e-commerce, e-business, company e-mail, instant messaging and IP telephony. TioLive meets practically most if not all information system requirements of a company.

TioLive is based on Cloud Computing and Software as a Service (SaaS) technologies which are implemented either directly by TIOLIVE LLC for its own customers or under certified partners' responsibility. By these "**Data Protection Agreement**", TIOLIVE LLC guarantees its customers and its partners a maximum level of security and confidentiality of corporate data, associated with a complete control of the softwares used for the implementation of information system.

The "**Data Protection Agreement**" guarantees to TioLive users that they can obtain all the data they have entered on the TioLive platform and that they can download all the source code of the Free Software necessary to use these data on a different platform from TIOLIVE LLC. In this way, the "**Protection Data Agreement**" ensures TioLive users the absence of any form of technical or contractual dependency. It allows users to encourage competition if they wish and change supplier at a reasonable cost.

The "**Data Protection Agreement**" also guarantees that the users' data will never be transmitted to other organisations or other people, except in the exceptional case of an injunction resulting from a court decision. In order to never be forced to become an informer to the police or to tax authorities, TIOLIVE LLC does not keep any archive of data hosted on its servers, while enabling its customers to achieve their own encrypted backups on the secure system of their choice. This way, the "**Data Protection Agreement**", following the example of banking secrecy, enables to protect free enterprise, trade secret and individual freedom.

The "**Data Protection Agreement**" finally guarantees to TIOLIVE LLC users, that they can host their data in any country so that they are not depend on exceptional law, such as the Patriot Act, which may be contrary to the principles of trade secret and privacy.

## ARTICLE 1 : Definitions

**Contract.** These Terms and all the contractual documents which complement and/or amend these ones (special conditions of sales, purchase order, etc.).

**Data Protection Agreement.** These are formal commitments of guarantees taken by TIO LIVE LLC. The security and confidentiality of data for companies using TioLive software being the most important concern of TIO LIVE LLC, the Data Protection Agreement, is an integral part of these Terms of Use and also one communication tools used by TIO LIVE LLC.

**TioLive Instance.** An instance is a set of data files, source code and set-up files which provide an independent ERP implementation environment to a customer. The TioLive instance of a given customer is entirely separate from the instance of another customer to ensure that it is impossible for data to leak from one customer to another. Customers can download and migrate their TioLive instance to another environment, independent of TIO LIVE LLC.

**Customer.** Person or entity having full legal capacity when subscribing to one or more services and/or to the "TioLive" offer provided by the company TIO LIVE LLC and/or physical person(s) user of these services under the customer's responsibility.

**TIO.** TIO is a management approach meaning Total Information Outsourcing. A company that adopts the "TIO" approach accepts for its information to be stored on servers or hosting platforms managed by third parties. The servers or hosting platforms on which the "TIO" approach is based are most often shared with other companies. The servers are generally located in carrier hotels but can also, though this is less common, be connected to the local network of the company that adopts the "TIO" approach.

**FLOSS.** Free, Libre and Open Source Software. is software which source code is freely accessible and reproducible by its user, in particular without paying royalties. As with any copyrighted works, the terms for the representation and reproduction of the software are governed by a license agreement specific to each piece of software. Free software is therefore not public domain software. Free software guarantees each of its users a greater level of control and freedom than proprietary software. Free access to the source code guarantees that customers can switch at any time and without excessive hidden costs from one provider to another.

Free Software users are better protected from misbehaviors of their supplier and from the refusal of their supplier to fix bugs in a timely manner. The advantages of Free Software are well known amongst the many companies with experience of proprietary software for which maintenance stopped being available following a decision by the publisher or a merger between publishers.

**TIO Libre.** TIO Libre is a method of implementing the TIO approach that guarantees corporate customers the same level of control and freedom as with the roll-out of Free / Open Source Software. TIO Libre is based on 3 principles: free access to source code, full access to data and unrestricted free competition. A company adopting "TIO Libre" approach can therefore change service providers at any time by recovering all its data in native format, including the logs, from its first service provider then entrusting this data and the software source codes to another service provider. A company that adopts the "TIO Libre" approach can also abandon the "TIO" approach by re-insourcing all or part of its previously outsource information system. A precise definition of "TIO Libre" is available on [www.tiolibre.com](http://www.tiolibre.com).

**TIO Libre Initiative.** TIO Libre Initiative is a non-profit organization and community of TIO solution providers which adhere to the "TIO Libre" approach.

**TIO Loyal.** TIO Loyal is a method of implementing the TIO approach that guarantees customer companies the same level of secrecy and transparency as with internal information system management. It is based on respecting the secrecy of corporate data and informing customers of any operating incidents. It is based also on staff recruitment and management procedures intended to guarantee secrecy and transparency. A precise definition of "TIO Loyal" is available on [www.tiolibre.com](http://www.tiolibre.com).

**Monitoring.** Monitoring is a technique enabling the remote verification of the correct operation of a server or of a hosted application as part of a total quality approach. The use of automated monitoring tools makes it possible to improve information system service quality with lower costs and less staff.

**Right to Data Erasure.** The right to data erasure allows a company using a web service to obtain the deletion of all the data on it, both online and on any existing backup media. For example, the right to data erasure allows a company to protect itself against potential legal or contractual modifications that could result in

the disclosure of confidential data to third parties.

**Services.** It stands for individual or collective services such as, for example but not exclusively, the creation or help for creation of a business management solution using TioLive software, hosting, training, audit, consulting, development and/or provision of dedicated solutions as described in article 5 of these Terms of service. The services are marketed to the customer as options. An offer can be made of one (1) or more Service(s).

**The "TioLive" Offer.** A total information outsourcing system for corporates, integrating the domains of an ERP, a CRM, a CMS, a Website, emailing, chat and VoIP. The "TioLive" offer provides configuration and assistance services for the solution. The "TioLive" offer is hosted on TIOLIVE LLC' servers, on partners' servers or on the customers' servers. "TioLive" offer is described in detail in Article 6.

**Customer Service.** All technical or commercial services provided by TioLive to answer to the customers' claim available at the following address:

TIOLIVE LLC  
3500 South Dupont Highway  
Dover  
DE 19901  
USA

## ARTICLE 2 : Data Protection Agreement

### 2.1 - DATA SECURITY

#### The Freedom to Leave

TioLive users can download all their data in its **native format**. This includes application data and log data. Unlike most of online solutions, nothing prevents TioLive customers from leaving us. Moreover, each data entered in our platform can be then recovered, including connexion logs.

#### Data Compartments

TioLive technology is based on strict compartments between each customer. Data from one customer are physically separated and thus can not be mixed with data from another customer.

#### No Data Retention

Whenever you leave TioLive, TIOLIVE LLC guarantees that no data of your TioLive

instance will be kept by us, either online or offline.

#### Your Data is Yours

TioLive will not transmit your data to tax authorities, to the police or to mass marketing companies. Unless an injunction from a court would force us to unveil it, we will keep your information secret.

TIOLIVE LLC servers are hosted outside the USA in countries which fully respect trade secret. The Patriot Act, which may go in certain occasions against Freedom of Enterprise and Trade Secret, thus does not apply to TioLive.

### 2.2 - BACKUP SECURITY

#### Your Backup is Yours

TioLive provides a backup feature so that you can retrieve, at any time, all the data which you have entered in the TioLive platform, including connexion logs. TioLive Premium et Dedicate offers also incorporate automated and encrypted backup features so that you can specify one or more FTP or S3 servers on which you can file a copy of your data every day.

### 2.3 - PRICING SECURITY

#### No User Licenses

TioLive Free, Premium and Dedicate price does not depend on the number of users. You can create as many users as you want for your employees or for your partners who need to access your TioLive instance.

### 2.4 - FEATURES SECURITY

#### Everything Online for Your Company

TioLive offers within a seamlessly integrated online environment all the information system tools a company needs in to be operated.

### 2.5 - TECHNOLOGY SECURITY

#### Reliable Technology

TioLive is based on reliable technologies which were implemented and tested in environments such as aerospace, central banks, governments, automotive, etc.

### 2.6 - SUPPORT SECURITY

TioLive includes free technical support to help customers resolve technical issues related to the TioLive platform. TioLive also provides at extra charge user support and configuration support for the most demanding customers.

## 2.7 - CONSULTING SECURITY

TioLive is provided by a global network of certified partners who can help companies to implement a solution and provide assistance to set up and use efficiently the application in the context of their business.

## 2.8 - SCALABILITY SECURITY

### ERP5 Proven Scalability

A small office/home office (SoHo) or a small company can be operated thanks to TioLive Free version at first. Once its data grows, it can subscribe to TioLive Premium. Whenever the number of users grows or there is a need for customization of the environment, TioLive Dedicate becomes the ideal solution since it leverages all the power of ERP5 open source ERP.

## 2.9 - FREE / OPEN SOURCE SOFTWARE SECURITY

### Freedom Means Independence

All TioLive applications are Free / Open Source Software. This means that our customers can download the application source code and set it up on their own servers. They can do it either by themselves or thanks to one of the thousands companies in the world dedicated to Open Source support services.

## 2.10 - TRANSPARENCY SECURITY

### Loyalty Principle

Any incident which happens in our platform, whether caused by us or by an intruder will not be hidden and will be reported to you as soon as we become aware of it.

Any court order requiring TIOLIVE LLC to reveal the Customer data will not be hidden and will be reported to you as soon as we become aware of it.

## 2.11 - INTEROPERABILITY SECURITY

### TioLive is Standard

All TioLive applications are based on IETF (Internet Engineering Task Force) standards which are compatible with many client applications.

### TioLive is Compatible

TioLive has been designed and tested with Windows, MacOS and Linux, as well as for mobile respecting W3C standards such as the Nokia E series.

## 2.12 - TRADE SECRET SECURITY

### Right to Erasure

TIOLIVE LLC retains no customer data archive offline in order to ensure that Tax Services or the police will never be able to access it after the customer has left. Moreover, under the principle of "Right to Erasure", TIOLIVE LLC ensures to erase all traces of customers' use of TioLive on TioLive' servers upon customer request.

## 2.13 - COMMUNITY SECURITY

TIOLIVE LLC is a founding member of TIO Libre,, an open community of companies which provide Total Information Outsourcing services and aim at offering Freedom and Loyalty to their customers. Members of the TIO Libre community will never use the Law or technical means to prevent you from leaving a service provider.

With TioLive, you will always remain free to download the source code of all our applications and to retrieve your data freely.

More information about TIO Libre initiative is available on the website: [www.tiolibre.com](http://www.tiolibre.com)

## ARTICLE 3 : Aim

The Terms of Services aim at defining the terms and conditions of service of the 'TioLive' offer proposed by TIOLIVE LLC to the customer.

## ARTICLE 4 : Subscription

Subscription must be understood as the acceptance of the contract (hereafter the "subscription"). Acceptance is achieved via an electronic communication media by checking the box labeled "**I have read and accept the Terms**". The contract is concluded on the date of acceptance of the Terms.

It is agreed between the two parties that for a subscription to services and/or offers exceeding an amount of one thousand (1,000) euros, the customer must either pay the cash price or pay a deposit equal to forty percent (40%) of the total price of the Services and/or offers he has subscribed to.

The contract is subscribed for benefits and expenses of a the given customer. Any modification of beneficiary or signing person shall lead to a new contract. The customer declares he/she/it has received, read and accepted on his/her/its own commitment, the

Terms communicated priorly to his/her/its subscription contract.

## **ARTICLE 5 : Service Introduction**

### **5.1 - INTEGRATED ENTERPRISE MANAGEMENT SERVICE**

TIOLIVE LLC offers a Total Information Outsourcing solution for companies, designed around an ERP software and enterprise communication software. This solution named "TioLive Offer" is described at article 6.

Software provided to the customer to implement this solution were placed under the GPL license or under a Free Software license compatible with GPL license. Legal Aspects of this license are available at:

<http://www.gnu.org/licenses/license-list.html>

The customer can freely access the software which provides online integrated enterprise management. A non exclusive, worldwide license is provided to the Customer in order to access the software source code and to eventually modify it.

### **5.2 - HOSTING SERVICE**

#### **5.2.a. TioLive LLC Commitments**

TIOLIVE LLC commits to use all the technical and human resources at its disposal to ensure optimal conditions for the services provided to its customers.

TIOLIVE LLC commits in particular to make every effort in its means to ensure maximum availability of the customer's site, minimizing service interruptions and commits for that to an obligation of means. TIOLIVE LLC commits to ensure, within the limits defined previously, a continuous connection of its servers to the Internet, 7 days a week and 24 hours a day.

However, TIOLIVE LLC may interrupt the hosting services for the maintenance on its equipment or of its software. In any case, TIOLIVE LLC can not be held responsible for damages suffered by the customer which are due to the unavailability of servers and no duty of reparation or compensation linked to a problem of accessibility of the service would be due to the customer.

#### **5.2.b. Customer Commitments**

Customer must take all appropriate measures under its sole responsibility, or with a service provider of his choice, to ensure the protection of his/her/its data against the risks of loss, leak, intrusion, disclosure, attack modification

or corruption by a third party or by a computer virus.

Customer must take all appropriate measures to manage backup by himself thanks to the tools provided by TIOLIVE LLC.

### **5.2.c. Responsibilities**

The Customer is aware that under its hosting activities, TIOLIVE LLC civil or criminal responsibility cannot be taken for the transmission or storage of content on electronic communication networks according to the Law on confidence in the Digital Economy published in the French official journal n°143 and published on the 22<sup>nd</sup> of June 2004: (i) if TIOLIVE LLC was unaware of manifestly illegal data or if (ii) TIOLIVE LLC acted promptly to remove such data or make access impossible, according to a court injunction that has been appropriately made.

Apart from the cases taken into account by the previously mentioned Law, the customer warrants TIOLIVE LLC against any action or claim which would be introduced by third party against TIOLIVE LLC due to the content of data received or transmitted by the customer through its TioLive instance.

TIOLIVE LLC allows itself, if necessary, to control its network and its bandwidth which are used by the customer, but will not use a priori supervision of content, for the purpose stated after. Indeed, if the customer prevents other users to access to the hosting Service, TIOLIVE LLC will allow himself, as the result of an unsuccessful warning procedure, to restrict the customer's right of access to the platform or to terminate it after a period of eight (8) days following the final warning, if the customer persisted to use the Service at the expense of access to the service by other users.

## **ARTICLE 6 : The "TioLive" Offer**

### **6.1 - INTRODUCTION TO "TioLive" OFFER**

TIOLIVE LLC provides its customers with a platform which can be used to operate a company online.

The "TioLive" offer integrates services introduced here: <http://www.tiolive.com/service>

### **6.2 - FREE, PREMIUM, DEDICATE**

The "TioLive" offer is provided in three different subscription levels: Free, Premium and Dedicate. The Free subscription is free. The Premium subscription is provided at a fixed price. The Dedicate subscription depends on

each customer's needs and customization requirements.

	Free	Premium	Dedicated
Users	No Limit	No Limit	No Limit
Storage	100 Mo	10 Go	No Limit
Retention Time	10 days	No Limit	No Limit
Online Backup		✓	✓
Mobile Skin		✓	✓
Mobile Sync			✓
LDAP Directory			✓
Dedicated Cloud			✓
Technical Support	Free	Free	Free
Service Level	Best Effort	8 labor h	4h 24/7
Documentation	Free	Free	Free

### 6.3 - FEATURES

The "TioLive" offer covers nearly all needs of a company in terms of enterprise information systems. Some "TioLive" features are only available with Premium or Dedicated subscription plans.

	Free	Premium	Dedicated
Accounting	✓	✓	✓
CRM	✓	✓	✓
PDM	✓	✓	✓
Trading	✓	✓	✓
Document Management	✓	✓	✓
Production Management			✓
Payroll			✓
Project Management			✓
Business Email	✓	✓	✓
Business Chat	✓	✓	✓
Business Phone	✓	✓	✓
Web Conferencing			✓
Web Meeting			✓

### 6.4 - CUSTOM CONFIGURATION

The "TioLive" Offer can be custom configured according to meet specific requirements. The scope and level of customization depends on the type of subscription plan.

	Free	Premium	Dedicated
Knowledge Pad		✓	✓
Categories		✓	✓
Forms			✓
Widgets			✓
Web Themes			✓
Workflows			✓
Reports			✓

### 6.5 - SUPPORT

The "TioLive" offer includes optional services for user and configuration support. These services are proposed at extra charge for a price defined in article 12.1

### 6.6 - RETENTION TIME

In case that TioLive instance would not be used by the customer beyond the duration of retention time, TIOLIVE LLC is entitled to erase the customer instance in order to free up system resources.

## ARTICLE 7 : "TioLive" Services and/or Offer modifications

The customer may, during the Contract terms and according to the conditions defined here, subscribe to Services and/or Offer provided by TIOLIVE LLC and to which he had not initially subscribed, and to any Service that TIOLIVE LLC would propose later due to market demand or to technical innovation.

Assuming this change of "TioLive" services and/or offer would be subject to a new Terms of service contract, those will be communicated in advance to the customers in accordance with the provisions of the French Consumer Law.

## ARTICLE 8 : Hosting

The "TioLive" offer includes the hosting of software application servers, databases, Web servers, mail servers on a redundant architecture for Cloud Computing connected to Internet.



To reduce the hosting cost and to reduce carbone dioxide emissions, the "TioLive" offer is based on a high performances mutualized hosting technology. Therefore, many companies share the same hosting infrastructure. Each company has a dedicated data compartment to ensure data security which is described in article 2.1.

As part of "Dedicate" subscription, TIOLIVE LLC customers can benefit from a dedicated system environment called "Dedicated Cloud" or a dedicated hardware infrastructure called "Private Cloud".

## ARTICLE 9 : Support

The customer undertakes to read and understand the documentation available at <http://www.tiolive.com/documentation> and ensures he has the skills to build and manage a business via TioLive.

However, in case of a problem in provisioning (the) service(s) and/or (the) offers to the customers, Customers can contact the Client Service or any other provider specified by TIOLIVE LLC.

TIOLIVE LLC provides each of its customers with an online support web form and an email address. Support is charged at the current prices through the purchase of codes available on TIOLIVE LLC website, [www.tiolive.com](http://www.tiolive.com), or through any other website published by TIOLIVE LLC.

## ARTICLE 10 : Intellectual Property

The customer acknowledges that data over the Internet can be regulated in terms of use or be protected by intellectual and industrial property rights (especially for reproduction, representation and distribution of a work protected by the copyright of any material protected by trademark law, patent law, design etc.).

The Terms do not give the right for the customer to use, in any purpose, the trademark used by TIOLIVE LLC or any other distinctive sign of the latter.

Generally, the customer warrants, without limitation, TIOLIVE LLC against any action or claim, whatever its nature, for infringement of intellectual property rights and industrial property which could be taken against TioLive and which would involves materials provided by the Customers.

## ARTICLE 11 : Responsibility and Warranty

The customer is the only person responsible for the legality of the content posted through his TioLive Instance.

Therefore, it is the customer duty to ensure that the storage and the dissemination through his TioLive instance of this content is not (i) an infringement of intellectual property rights (particularly, any reproduction of works of the mind whatsoever, that the customer has not made personally or for which he does not have the necessary authorizations from third party holders), (ii) a violation of industrial property (eg, trademarks, designs, etc.), (iii) a serious injury to person (including image rights, defamation, insults, abuse, etc..) and to respect of privacy, (iv) an affront to public order and morality (in particular, advocating crimes against humanity, inciting racial hatred, child pornography, etc..)

Similarly, Customer solely assumes the full and entire responsibility of his service, his content, orders, customers' payments and their consequences, including tax.

The customer is also the only responsible for the consequences of any damage suffered as the result of someone else using his/her/its password, email(s) address or confidential code(s), and of the communication of any information that he would have made available.

Finally, the customer is responsible for all the legal, regulatory or administrative licenses necessary for his business opening or operation, and thus, for his TioLive instance.

In this context, the customer warrants TIOLIVE LLC against any action, remedy or claim in connection with all of the above, and including but not limited to, those who would question the use of "TioLive" Services and/or Offer (software, available reviews, content of the Offer, contractual commitments, etc).

Moreover, TIOLIVE LLC cannot be held for being responsible of any indirect and/or immaterial damage, including benefits, customers, reputation and data losses, or any loss of an intangibles good, likely to occur from the supply or the use of "TioLive" Service and/or Offer and/or from the impossibility to access or to use the latters. Finally, TIOLIVE LLC cannot be held for being responsible of the direct, personal and clear damage suffered by the customer and for which he would have demonstrated that the actions of TIOLIVE LLC have caused this injury.

## ARTICLE 12 : Financial Provisions

### 12.1 - SERVICE PRICING

The customer declares having received notice of the financial conditions before subscribing to them, having read them and accepting them.

Pricing has to be understood as the cost of Services or Offers subscribed by the customer and the costs to initiate the Service, the option(s), consumption, the materials and the coverage deposit(s).

Pricing includes all taxes with rates in application and are expressed in Euros (EUR) within the Euro zone and in US Dollars (USD) within the rest of the world.

	Price (ROW)	Price (EU)
User Support	\$50 / hour	50€ / hour
Configuration Support	\$100 / hour	100€ / hour

In case of price modification, TIOLIVE LLC undertakes to notify it to the Customer by mail, e-mail or other means at least one (1) month before the entry into force of the amendment. If the latter does not terminate the Contract within four months (4) after the entry into force of this amendment, he will be deemed to have accepted the new price. In case of cancellation by Customer, TIOLIVE LLC will reimburse Customer the difference between the old and the new price.

### 12.2 - PRICING OF THE "TioLive" OFFER

"TioLive" offer is free and becomes payable only in the cases introduced on the web page : <http://www.tiolive.com/service>.

	Free	Premium	Dedicated
Price (ROW)	\$0 / month	\$49 / month	Variable
Price (EU)	0€ / month	49€ / month	Variable

The provisions of article 14.1 above shall also apply to « TioLive » Offer, except the last paragraph of article 14.1.

### 12.3 - PAYMENT TERMS

#### 12.3.a. Services

Payment of the Services provided TIOLIVE LLC can be made by wire transfer, direct debit and

credit card for amounts less than ten thousands (10,000) Euros or ten thousands (10,000) US Dollars.

#### 12.3.b. "TioLive" Offer

Payment of the "TioLive" Offer to TIOLIVE LLC can be made by the customer semi-annually or annually, at the end of a payment term or in advance.

Credit card and wire transfers are the two payment modes accepted online when subscribing or renewing a "TioLive" Offer.

Additional Services should be paid when the order is made, or at the acceptance of the offer by credit card or wire transfer, to TIOLIVE LLC.

### 12.4 - FAILURE OR DELAY PAYMENT

Billing for Services begins on the date of availability of the Service or on the Subscription date. The non-payment of an invoice by the customer on the due date would lead, fifteen days (15) days after a reminder letter by email remained unanswered, to the forfeiture of all claims under TIOLIVE LLC on Customer and to the demand to pay immediately.

The non-payment of an invoice for the "TioLive" offer by the customer on the due date would result, three (3) days (72 hours) after a dunning email to the customer remained with no answer, to customer's TioLive instance unavailability. A final electronic reminder will be sent on the same day. In case of no response by the customer during the seven (7) following days, the TioLive instance will be completely erased from TIOLIVE LLC servers.

In case of delay or absence of payment, interests will be added to the due amount. The interest amount will be equivalent to one and a half times the legal interest rate, starting after sending a reminder letter by registered mail with return receipt or e-mail to Customer. This won't prejudice any subsequent application for damages and other actions, including litigation, necessary to preserve TIOLIVE LLC interests. The interest will be calculated and presented on a daily basis. TIOLIVE LLC may also charge the customer for fees related to direct debit payments failure. TIOLIVE LLC keeps the right not to renew a customer's subscription whose account would have remained receivable under a previous contract, unless a justification would exist.

If a customer wants to subscribe to a new service/offer, and in case of problem to pay within the current contract or a previous contract, TIOLIVE LLC may ask to the customer to pay immediately in cash an amount of



money to TIOLIVE LLC called "**security deposit payment**", for one or for all of the new services/offers subscribed. This deposit is refundable, minus any unpaid if applicable, no later than thirteen (30) days after the end of all contractual relationships with TIOLIVE LLC. The security deposit is not an advance payment and does not, in any way, excuse the customer to not pay amounts due.

## **ARTICLE 13 : Protection of Personal Data**

The customer already commits to complete all the procures required by the "Commission nationale de l'informatique et des libertés" (CNIL) related to computers, files and liberties (data privacy) as explained by the French Law n° 78-17 on 6 January 1978, and do this before putting his website online. Customer discharge TIOLIVE LLC of any liability thereof.

In addition, under the provision of this act, the customer is informed that he/she/it has a right to access, modify, amend or delete personal data collected by TIOLIVE LLC under its activity. TIOLIVE LLC will not disclose customer's personal information to third parties for commercial purposes. However, the customer acknowledges that TIOLIVE LLC can be brought, in accordance with its legal obligations, to disclose personal information under legal proceedings (search warrants, subpoenas, etc.). TIOLIVE LLC undertakes in accordance with the provisions of Article 11, to inform the customer about any legal process likely to require TIOLIVE LLC to disclose personal information about the customer and that, as soon as it is aware of it.

## **ARTICLE 14 : Termination**

### **14.1 - TERMINATION OF "TioLive" SERVICE(S) AND/OR OFFER**

For Services, the customer acknowledges and accepts that these Terms hereby commit him until the entire subscribed services have been provided ;

At the expiration of the initial "TioLive" subscription period, the Contract may be terminated on the anniversary date of each renewable period of three (3) months, in whole or part by either Party, by registered mail return receipt requested, subject to prior notice of one (1) month, beginning at the end of the month when the letter is sent.

This termination delay will be automatically modified in the event that a legal provision more favorable to the customer enters into force during the contract fulfillment.

In case of partial termination, the termination letter should specify the service(s) and/or offer(s) which(s) is/are terminated.

It is expressly agreed that any started month has to be paid.

If the customer terminates the contract before the end of the initial subscription period, he remains indebted for the amount of money remaining on this period as well as other costs related to such services and/or offers subscribed.

However, the customer (or its assignee) may terminate this contract during the initial period of subscription to Service(s) and/or offer(s) without having to pay the amount remaining, if termination is due to a contractual change.

### **14.2 - TERMINATION FOR FAULT**

The customer may terminate this Contract in case of serious or persistent failure from TIOLIVE LLC to its obligation to provide the services and/or offers, for which TioLive would not have found a solution Fifteen (15) days after being noticed by any means by customers of the failure. In this case, the termination will be effective at the end of the month when was sent the termination mail. The customer may terminate the contract in case of non compliance with contractual deadlines for the termination(s) Service(s) and/or offer(s).

TIOLIVE LLC may terminate this contract immediately and automatically after notice, without prejudice to any damages, if the customer violates the laws and regulations such as including but not limited to, respect public order and decency, libel, slander, discrimination of any kind, protection of human personality including privacy and personal data and protection of intellectual property rights and industrial.

## **ARTICLE 15 : Force Majeure**

TIOLIVE LLC commits, given the current technology, to maintain under the best conditions the Services offered and/or the Offer by "TioLive". Nevertheless, TIOLIVE LLC is not responsible for interruptions of "TioLive" service and/or Offer due to circumstances of force majeure, due to a third part, due to the

customer or his/her/its own customers, and to hazards arising from technique.

The Parties agree, without considering this list as exhaustive, that can be called either *Force Majeure*, or fortuitous event, or due to a third party, damages finding their origin and their cause in: natural disasters, fires, floods, lightning, electrical surges, strikes, stoppages of electricity supply, failure of telecommunications network, civil and foreign wars, riots or popular movements, attacks, regulatory restrictions related to the provision of telecommunications services, loss of connectivity due to public and private operators on which depends TIOLIVE LLC.

These cases of *Force Majeure* shall suspend TIOLIVE LLC obligations quoted in these Terms, for the duration of their existence. However, if a *Force Majeure* case was longer than three (3) months, either Party would be entitled to terminate the contract, and this after sending a letter by registered mail with return receipt, expressing the decision.

In cases where damage is caused by the exclusive fault of TIOLIVE LLC, TIOLIVE LLC cannot be demanded an amount exceeding the total sum paid by the customer during the Contract execution.

#### **ARTICLE 16 : No Staff Solicitation**

The customer shall not hire, directly or indirectly, any staff member of TIOLIVE LLC even if he did not participate in the negotiation or execution of services provided during the whole contractual relationship, and that, within a year after their termination.

In case of failure to comply with this clause, the customer agrees to pay TIOLIVE LLC flat damages equal to two years of net salary of each staff member debauched.

#### **ARTICLE 17 : Trade Secret**

Each Party undertakes not to disclose in any manner any personal, technical or business information, including the know-how of the other part, including prior knowledge belonging to the other part which she could have learned during the execution of services provided by TIOLIVE LLC.

#### **ARTICLE 18 : Applicable Law – Disputes Resolution**

These Terms of Service are governed by French Law.

The Parties shall endeavor to resolve any dispute concerning TIOLIVE LLC services covered by those Terms by amicable agreement. In case of disagreement, the dispute shall fall within the exclusive jurisdiction of the Courts of Lille (France).

#### **ARTICLE 19 : Proof**

Unless a proof of the contrary is given by the customer, the computer records made by TIOLIVE LLC are proof of consumption of traffic or of connection used by the two parts. (cf. Article 5.2.c. ).

Similarly, records, if any, related to the Terms acceptance by the customer, will be made by TIOLIVE LLC and may constitute an evidence.

#### **ARTICLE 20 : Effect of invalidity of a clause**

If one or more provisions of these Terms are held to be invalid by any law or regulation, or declared as such by final decision of a competent court, they will be deemed not written, the remaining provisions of these Terms remaining in full force and effect, as being not held to affect the validity or the continuation of contractual relations as a whole, unless this is a clause which was decisive for either party on the date of conclusion of contractual relations.

In this case, TIOLIVE LLC and the customer will negotiate in good faith to replace this clause by a valid one, reflecting their initial goal.

#### **ARTICLE 21 : Changing the Terms**

TIOLIVE LLC may amend the Terms if it informs the customer by mail, e-mail or other means at least one month before the entry into force of the new Terms. In case of disagreement on the new Terms, the customer will have, from the date of entry into force of the new Terms, four (4) months to request termination of the contract. Such termination shall become effective on the last day of the month following the receipt of the letter by TIOLIVE LLC. Without contact from the customer, the customer will be deemed to have accepted the new Terms.

