

# END-USER LICENSE TERMS CENTREON IT EDITION 100 On Premise Subscription based license

These general terms and conditions of license (hereinafter the “**General Conditions**”) define the applicable terms to software and services supplied by CENTREON SOFTWARE SYSTEMS FRANCE, a limited liability company with a share capital of 407.100 EUR, registered in France under number 842 894 743 RCS Paris, and having its registered office at 46/52 rue Albert, 75013 Paris, whose SIRET number is 842 894 743 00017 and intra-community VAT number is FR68842894743 (hereinafter “**CENTREON**”) to the client for his professional needs (hereinafter the “**User**”).

CENTREON and the Client are hereinafter referred to jointly as the “**Parties**” and individually as “**Party**”.

## 1. PURPOSE AND CONTRACTUAL DOCUMENTS

These General Conditions define the terms under which CENTREON grants to the User an end-user on premise subscription based license on the Products (as this term is defined hereinafter) ordered by the User, excluding the Open Source and free Centreon Product package released by CENTREON under GPL v2 or Apache.

Products ordered, subject of this end-user license, enable to extend the use of the Centreon product package and offers new functionalities. Their use requires the use of the Centreon product package.

These General Conditions apply only to products ordered as part of CENTREON IT EDITION 100 offer. This offer is not limitative and the User may at any time order other Products and/or extend its level of support by separate agreement.

This General Conditions include all rights and obligations of the Parties with respect to the subject matter hereof. They cancel and replace all document formerly exchanged between the Parties with respect to the subject matter hereof. The Parties expressly agree that the data recorded by CENTREON constitutes the evidence of all commercial operations entered into between them.

## 2. DEFINITIONS

“**Documentation**” refers to guides and instruction manuals and all other document required for their use and relating to the Product, whatever its medium, delivered to the User with the Product describing the functionalities and the operating instructions.

“**Hardware**” refers to the User’s computer system, including the server and the network connections required for the proper functioning of the Products.

“**Product**” refers to the computer program(s) developed by CENTREON, named CENTREON IT EDITION 100, including the adaptations, developments and upgrades, as the case may be, as well as the relating Documentation, on which CENTREON grants to the User an end-user on premise subscription based license for the duration of the subscription. Products include and require the use of Centreon product package, developed and published by CENTREON under GPL v2 or Apache license, which the User acknowledges having read the terms and accepting them.

“**Source code**” refers to the instructions list constituting the Product and the relevant Documentation, that enable to understand how the Product was created, including notably the analysis documents, the algorithms, the flow diagrams, the description of the Product layout and of their elementary procedures, as well as the used language syntax, to the extent that this is not well-known. This term refers to the procedures that enable to re-generate and to install an executable Product version and/or packaged of the Product. Source code of certain Products (to the exception of Centreon product package developed and published by CENTREON under GPL v2 or Apache license, which the User acknowledges having read the terms and accepting them) is not accessible to Users.

« **CEIP** » refers to the « **Customer Experience Improvement Program** » implemented by Centreon to bring continuous improvement on the CENTREON user experience.

For further information refer to [ceip.centreon.com](http://ceip.centreon.com).

## 3. OBLIGATIONS OF THE PARTIES

### 3.1 Obligations of the Parties

The Parties undertake to cooperate in good faith and to facilitate the execution of their respective obligations. The Parties undertake therefore to closely, actively and regularly collaborate under this Agreement and to communicate each other all information necessary.

### 3.2. CENTREON’ obligations

CENTREON undertakes to deliver the Product, in conformity with these General Conditions. The delivery is effective upon the provision by CENTREON to the User of a personal Product activation key (token) on a digital medium for the duration of the subscription.

CENTREON endeavors to ensure the availability of its servers to allow authentication of the User and provision of services, technical support and updates, subject to maintenance periods.

### 3.3. User’s obligations

The User is solely liable for the choices of the Product and the Product compatibility with its needs and its computer system. The User has the liability to define and, if required, to configure the Product in conformity with its needs and its internal processes. CENTREON cannot warrant either the Product capacity to satisfy the User’s objectives, or that they are adapted to its specific needs or capable of integration and personalization processes planned by the User. The User agrees that it is liable to ensure, if required with third-expert assistance, the Product compatibility with its needs and to check that the Product enables to achieve its own objectives (notably configuration of its IT resources with the support of manufacturers and software publishers to ensure Product compatibility).

To enable CENTREON to execute its obligations in conformity with this Agreement, the User undertakes to fulfill its obligations under this Agreement and notably:

- To ensure that its servers can connect with the authentication server of CENTREON;
- To comply with the terms of the end-user license;
- To process to all necessary back-up of data, files, programs and other information to ensure their securities, in order to avoid all loss and, if required, for allowing a recovery of the concerned elements without delay, to implement recovery procedures following a daily periodicity, and to check the medium readability;
- To subscribe appropriate insurance policies, if required, with respect to all consequence of an eventual loss of data, files, programs and other information;
- To apply all CENTREON’ recommendations relating to Product use.

## 4. LICENSE

CENTREON, intellectual property rights’ holder of the Product and its Documentation, grants to the User a personal, exclusive and non-transferrable right to use the Product for its internal needs on premise and in compliance with its Documentation and its objectives.

This right to use is subject to the following limits and conditions:

- The User undertakes to use the Product only on the site and the servers authenticated by CENTREON;
- The User acknowledges that the Product contains an activation key system. CENTREON provides the User a personal activation key (token) for the duration of its subscription allowing it to use and install the Product on premise;
- To the exception of one back-up copy of the Product, the User is not authorized to copy the Product without prior written approval of CENTREON;
- CENTREON reserves the right to fix Product defects within the framework of a separate maintenance agreement. Therefore, the User forbids itself to make any intervention on the Product for the purposes of correction, without prior written approval of CENTREON;

- The User has the ability to observe, to study and to test the Product within the limits of the applicable legal provisions, with the clarification that the User has the obligation to inform CENTREON, by registered letter with an acknowledgement of receipt, of its intention to decompile the Product for interoperability to enable CENTREON to appreciate the lawfulness of this demand and, if required, to supply the necessary information, as referred to the article L.122-6 of the French Intellectual Property Act.

The User undertakes to respect and to ensure its employees respect the intellectual property rights of CENTREON, especially on the Product, the brands and the logos belonging to CENTREON.

The User obliges itself to respect and to ensure its employees respect the property provisions appearing on the Product and the Documentation.

## 5. INSTALLATION

The User acknowledges that the installation and Product use imply that the User's computer system complies with the technical prerequisites defined in the Documentation and that its servers can connect to the authentication server of CENTREON.

The User acknowledges that the Product contains a personal activation key (token) for the duration of the subscription for the authenticated platform of the User. Activation is performed by registering the token on the User's platform. The User is not allowed to use the Product without the personal activation key (token). There is a limit to the number of platforms simultaneously registered on a license. Consequently, if the User reaches this limit and wishes to transfer the Products from one platform to another, he must make a prior request to CENTREON. In this case, the User undertakes to uninstall the Products on the old platform within two (2) weeks of his request.

The Product is supplied to the User on a digital medium via the Internet.

In order to enable the User to use the Product, CENTREON provides the User:

- A personal activation key (token) for the duration of its subscription allowing it to use the Product on premise on its authenticated servers;
- Different programs constituting the Product under readable and executable format in the exploitation environment, in conformity with the Documentation;
- The Documentation under electronic or paper format.

The User undertakes to proceed to the Product installation and configuration, as its own cost and under its liability, in compliance with the installation instructions appearing in the Documentation of the Product supplied by CENTREON.

It is up to the User to ensure that it has received, as well as its employees, the necessary training to correctly use the Product.

## 6. TECHNICAL SUPPORT

Under this on-premise online subscription based CENTREON IT EDITION 100 license, CENTREON does not provide any technical support and assistance. Any support service is subject to additional fees.

The User may extend at any time its level of support by entering into a paid CENTREON IT EDITION subscription.

## 7. UPGRADES

During the subscription, the User benefits from upgrades, improvements and modifications of the Product for the supported versions of the Product.

CENTREON provides the User the maximum of information concerning the scope of upgrades, whether it is minor or major, as well as the nature of the operated modifications.

CENTREON may, in exceptional circumstances, demand to install imperatively an upgrade if this upgrade is essential for the proper execution of the support service, to the exclusion of updates that require payment of additional cost. Installation of upgrades is performed by the User.

The User is aware that the upgrade installation can possibly lead to incompliance with some third-party product.

CENTREON grants to the User a right to use all upgrades of Product under the same conditions of license than the license terms.

## 8. FEES AND PAYMENT TERMS

Subscription to the CENTREON IT EDITION 100 product offer is free of charge.

## 9. AUDIT

During the subscription term and during a period of twelve (12) months from its expiration or termination for any reason whatsoever, CENTREON has the right, with a thirty (30) days' prior notice, to audit or to require a third-party to audit at its costs and yearly, in compliance with this Agreement. The audit is performed in the User's premises during normal business hours and ensuring that it doesn't disturb the User's activities.

In case the audit reveals the Product is used beyond the scope defined under this Agreement, CENTREON will charge to the User a license extension corresponding to the difference between the right acquired by the User and its effective Product use at the applicable public price. The User reimburses to CENTREON the audit fees on the presentation of supporting documents.

The payment of the license extension by the User leads to the automatic modification of the license scope, as the case may be.

## 10. WARRANTY

CENTREON warrants that the Product complies with their Documentation. For the duration of the subscription or for a maximum duration of three (3) months from the delivery of the Product, CENTREON undertakes to correct all reproducible defects of the Product.

After the expiry of this warranty, all defects attributable to the Product is addressed by CENTREON for the duration of the subscription under the upgrades provided, as described above. The User may extend at any time its level of support by entering into a paid CENTREON IT EDITION subscription.

CENTREON warrants the User against all claims, demands, actions, costs, expenses, losses and damages arising from or incurred by reason of any claim for infringement of any Intellectual Property Right arising from the use of Product.

As such, CENTREON shall indemnify and hold harmless the User against all damages that shall pay further to a definitive court decision and having for exclusive grounds the demonstration of such infringement.

This warranty is subject to the following express conditions:

- The User shall promptly notify CENTREON if any claim or demand is made or action brought against the User;
- CENTREON shall at its own expense conduct any litigation arising therefore and all negotiations in connection therewith in consultation with the User;
- The User shall at the request of CENTREON provide to CENTREON all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the User;
- The alleged infringement could not have been avoided by the installation and use by the User of an upgrade provided by CENTREON.

If any Product provided by CENTREON infringes or is likely to infringe a third party's Intellectual Property Rights, CENTREON will promptly and at its own expense:

- To procure the right for the User to continue using such Product; or
- To replace the Product to make its use non-infringing; or
- To modify the Product to make its use non-infringing; or
- To reimburse to the User the price received under this Agreement.

The previous provisions set the only appeal of which the User has and the limits of the CENTREON's infringement warranty.

## 11. TERM AND TERMINATION

The subscription is taken out for an unlimited period, which means that the licensed user has an unlimited right to use the product for an unlimited period of time.

The activation of the Product is performed upon processing of the order and delivery of the Product.

To allow control, activation and deactivation of Products, the User must ensure that its servers can connect with CENTREON's authentication server.

In the case of any serious breach by either Party of its obligations hereunder, the license may be terminated by the non-breaching Party, without having to file any claim before the competent court to this effect ("*de plein droit*") and without prejudice to other remedies available for any damages suffered, subject to a thirty (30) days prior notice from the receipt of the acknowledgement of the registered letter, if the breaching Party does not cure its breach within thirty (30) days of the date of receipt of the failure notification.

In case of termination of the subscription, the User may continue to use the Product, as enriched and updated during the subscription period, with the exception of the self-discovery tool allowing the automatic detection of the resources targeted by the supervision.

Upon expiration of the subscription or termination for any reason, the User no longer benefits from updates on the Product.

## 12. CONFIDENTIALITY - Data Protection

### 12.1 Obligation of confidentiality

CENTREON prohibits itself from disclosing any information it may have access to in the context of the execution of this Agreement. The information contained in the material and documents which it will have access to are strictly covered by professional secrecy (Article 226-13 of the Criminal Code).

CENTREON shall vouch for the compliance of all its employees or subcontractors with this clause.

Any information provided by one Party to the other Party or to whom a Party has access during the negotiation and/or execution of the Agreement of any nature whatsoever (technical, financial, legal, commercial, strategic, computer-based) transferred either in material form (containing inside a physical medium of any form or nature whatsoever) or in immaterial form (verbally, digital or audiovisual media, etc.) is confidential.

Any information relating to hardware or Product, the documentation, the commercial proposals of CENTREON, also to the commercial strategies and business processes of one or other of the Parties are notably considered as confidential.

The Parties undertake to keep confidential the aforesaid information and to apply at least the same provisions than those usually applied to protect their own confidential information, and must uphold the same obligation of confidentiality to all their employees of any position whatsoever for any confidential information as defined hereinabove.

The Parties acknowledge that the following information should not be considered as confidential:

- Information that is in the public domain;
- Information previously known by the receiving Party, which is not subject to an obligation of confidentiality;
- Information lawfully obtained from a third-party or independently of the execution of the Agreement.

The provisions of this article remain in force during the term of the subscription and for five (5) years from the expiration or the termination for any reason whatsoever.

While using CENTREON Products, CENTREON uses a telemetry system collecting anonymous and non-personal data about the servers use and

statistics on the software suite use in order to exploit them in the Customer Experience Improvement Program (CEIP). This information is only used for the purposes of improving the user experience and nothing else. For further information refer to [ceip.centreon.com](http://ceip.centreon.com).

### 12.2 Data protection

For the purposes of this Agreement, "**Personal Data Regulations**" means the applicable French and European regulations on the protection of personal data, including: Law No. 78-17 of January 6, 1978 on data processing, files and freedom, as amended, EU Regulation 2016/679 of April 27, 2016 published in the Official Journal of the European Union on May 4, 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data applicable since May 25, 2018, Directive 2002/58/EC of July 12, 2002, known as "Privacy and Electronic Communications", as amended, as well as any other European statute that may amend or supplement the provisions in force at the date of this Agreement and that may apply to any of the Parties.

In principle, CENTREON does not have access to personal data processed by the Client as part of its activity (hereinafter referred to as "**the Personal Data**").

As part of the Agreement, CENTREON may, as the case may be, have access to information processed by the User as part of his activities, and qualified as personal data within the meaning of the Personal Data Regulations (hereinafter referred to as "Personal Data").

The User retains the full control over Personal Data and is liable, as data controller, in compliance with the provisions of the Personal Data Regulations.

CENTREON will act exclusively, regarding these Personal Data, as data processor in the meaning of the Personal Data Regulations.

According to this, CENTREON will process Personal Data for the sole purposes of providing the services to the User for the duration of this Agreement.

The Personal Data processed by CENTREON on behalf of the User shall be: first and last names, job, phone number, e-mail addresses and postal addresses.

The User, in its capacity as data controller, hereby guarantees that the Personal Data it provides to CENTREON in this context is processed by it in accordance with the Personal Data Regulations.

It undertakes to document in writing its instructions concerning the processing of the Personal Data that it entrusts to CENTREON.

Generally, the User undertakes to:

- Answer as quickly as possible to CENTREON's questions on the methods of processing of Personal Data, and in particular on the selection of any processors;
- Take into account CENTREON's advice on compliance with the Personal Data Regulations, and to consult CENTREON in the event of any difficulties;
- Promptly inform CENTREON of any claim or difficulty that may arise from a security breach in order to coordinate the response, and collaborate with CENTREON in this respect;
- Supervise the processing carried out on his behalf by CENTREON.

CENTREON, in its capacity as processor, undertakes to comply with its obligations under the Personal Data Regulations, and in particular to:

- Process Personal Data solely for the aforementioned purpose (to provide to the User the services covered by this Agreement);
- Process Personal Data in accordance with the instructions of the User. If CENTREON considers that an instruction from the User is in breach of the Personal Data Regulations, it undertakes to immediately inform the latter;
- If CENTREON is required, under Union law or French law by which it is governed, to transfer Personal Data outside the European Union, it undertakes to inform the User of such legal obligation before the processing, unless the relevant law prohibits such information for substantial grounds of public interest;

- Guarantee the safety and confidentiality of the Personal Data processed, in accordance with the provisions of this Agreement and the Personal Data Regulations;
- Ensure that persons authorized to process the Personal Data are contractually bound to maintain confidentiality or are subject to a suitable legal obligation of confidentiality and receive the necessary training on the protection of Personal Data.

In the event of the selection of other processors, CENTREON shall obtain prior and specific written authorization from the User.

The subsequent processor(s) shall be subject to the same obligations as CENTREON.

CENTREON shall be responsible for ensuring that the subsequent processor(s) provide sufficient guarantees as to the safety and confidentiality of the Personal Data, so that the processing meets the requirements of the Personal Data Regulations.

Should the subsequent processor(s) not fulfil its (their) data protection obligations, CENTREON shall remain fully liable to the User for the performance by the other processor(s) of its (their) obligations.

Insofar as the Personal Data is initially collected by the User, it is the User's responsibility to provide information to the persons concerned by the processing operations carried out by CENTREON on its behalf at the time of data collection.

CENTREON shall assist the User in answering requests regarding the exercise of the rights of access, rectification, deletion and opposition, the right to limit processing, the right to data portability, the right not to be the subject of an automated individual decision (including profiling).

When the relevant persons make a request to CENTREON to exercise their rights, CENTREON shall forward these requests as soon as it receives them by e-mail to the User at the e-mail address provided by the User to CENTREON.

CENTREON shall notify the User in writing of any Personal Data breach within a maximum period of forty-eight (48) hours of becoming aware of it.

This notice shall be accompanied by all relevant documentation to enable the User to (i) take all appropriate measures or instruct CENTREON to that effect, (ii) if necessary, to notify such violation to the competent supervisory authority.

The User shall be responsible for informing the relevant persons, if required by the Personal Data Regulations.

CENTREON undertakes, as necessary, to assist the User in carrying out a Data protection impact assessment.

CENTREON undertakes, as necessary, to assist the User in carrying out the prior consultation of the supervisory authority.

CENTREON undertakes to implement the technical and organizational security measures necessary for the safety and integrity of the Personal Data it processes in such a way that the processing carried out on behalf of the User meets the requirements of the Personal Data Regulations and guarantees the safeguarding of the rights of the relevant persons.

Specifically, CENTREON undertakes to implement the following security measures, as a minimum:

- User authentication (individual password, certificate, signature, etc.);
- Data backup;
- Business continuity measures (smoke detectors, fire extinguishers, etc.);
- Security of the premises (door locking, badges, etc.);
- Server security (administrator password, updates, etc.);
- Archiving;
- Protective measures in the event of data exchange (e.g. "https" protocol);
- Data encryption (enciphering);

Upon expiry of the Agreement, CENTREON undertakes, in accordance with the instructions of the User to:

- Delete all of the Personal Data that it has been required to process on the User's behalf, subject to any applicable legal obligations; and/or

- Return all Personal Data to the User, it being specified that the return must be combined with the deletion of all existing copies in CENTREON's information systems, unless applicable law requires the retention of the Personal Data. Once the copies have been deleted, CENTREON shall provide written evidence of the deletion.

The Parties undertake to provide each other with the name and contact details of their Data Protection Officer, if they have appointed one in accordance with the Personal Data Regulations.

CENTREON undertakes to provide the User with the necessary documentation to demonstrate compliance with all its obligations and to enable audits, including inspections, to be carried out by the User or any other auditor it may have appointed, and to assist in such audits.

In addition, insofar as CENTREON is required, within the context of the performance of this Agreement, to process the Personal Data of the User (and/or of the User's employees), it undertakes to do so in accordance with the Personal Data Regulations and to CENTREON's privacy policy.

CENTREON will not outsource the execution of services to another company without the User's prior written consent.

### 12.3 Non-personal data

When using CENTREON Products, CENTREON collects anonymous and non-personal data concerning the use of the servers, hosts, services, polluters and usage statistics of the software suite in order to integrate them into its user experience improvement program (CEIP & Anomaly Detection programs). This information is used for the sole purpose of improving the user experience and for no other use. For additional details, please visit [ceip.centreon.com](http://ceip.centreon.com)

## 13. COMMERCIAL REFERENCE

Unless otherwise expressly agreed in the order form(s), the User authorizes CENTREON to disclose its name as a commercial reference in its presentations, its commercial propositions, its commercial documentation and its website. Any other type of communication shall be specifically subject of prior written approval of the User.

## 14. EXPORT CONTROL

**YOU MAY NOT USE OR OTHERWISE EXPORT OR RE-EXPORT THE PRODUCT EXCEPT AS AUTHORIZED BY FRENCH LAW AND THE LAWS OF THE JURISDICTION IN WHICH THE PRODUCT WAS OBTAINED. IN PARTICULAR, BUT WITHOUT LIMITATION, THE PRODUCT MAY NOT BE EXPORTED OR RE-EXPORTED (A) INTO ANY FRENCH, EUROPEAN OR U.S.-EMBARGOED COUNTRIES OR (B) TO ANYONE ON THE UE CONSOLIDATED LIST OF PERSONS, GROUPS AND ENTITIES SUBJECT TO EU FINANCIAL SANCTIONS OR TO ANYONE ON THE U.S. TREASURY DEPARTMENT'S SPECIALLY DESIGNATED NATIONALS LIST OR THE U.S. DEPARTMENT OF COMMERCE DENIED PERSONS LIST OR ENTITY LIST. BY USING THE PRODUCT, YOU REPRESENT AND WARRANT THAT YOU ARE NOT LOCATED IN ANY SUCH COUNTRY OR ON ANY SUCH LIST. YOU ALSO AGREE THAT YOU WILL NOT USE THESE PRODUCTS FOR ANY PURPOSES PROHIBITED BY FRENCH, EUROPEAN OR UNITED STATES LAW, INCLUDING, WITHOUT LIMITATION, THE DEVELOPMENT, DESIGN, MANUFACTURE, OR PRODUCTION OF NUCLEAR, MISSILE, OR CHEMICAL OR BIOLOGICAL WEAPONS.**

**YOU FURTHERMORE ACKNOWLEDGE THAT IN ALL CASES IT IS PROHIBITED FROM EXPORTING, RE-EXPORTING, SELLING/OR PASSING ON OR DISCLOSING THE SOFTWARE IN ALL OF THE COUNTRIES LISTED UNDER THE INTERNET ADDRESS GIVEN BELOW, AND THAT EVEN ACTIVATION OF THE SOFTWARE IS, IN ALL CASES, PROHIBITED IN SUCH COUNTRIES:**

<https://www.centreon.com/en/centreon-embargoed-and-sanctioned-countries/>

## 15. FORCE MAJEURE

CENTREON shall not, in any case, be liable and no indemnity can be requested for delay or in consequence of damages in the event of force majeure.

Internal or external strike, any destruction for any reason whatsoever of all or part of the CENTREON' premises or installations, any government decisions, any difficulties in oil and energy supply or traffic and communication networks disturbances, on which depend CENTREON, and more generally any unforeseeable event of human or natural origin that prevents or reduces the possibility of execution by CENTREON of its contractual obligations are expressly considered as constituting force majeure or unforeseeable circumstances, except those considered as such by French court.

The event of force majeure suspends the execution of the Agreement and the current orders, except the obligation for the User to pay the due sums until the date of force majeure.

If such force majeure event lasts for more than one (1) month, the license could immediately be terminated at no cost immediately upon a registered letter with an acknowledgement of receipt, without having to file any claim before the competent court to this effect ("*de plein droit*").

## **16. MISCELLANEOUS PROVISIONS**

If any provision of this Agreement is held to be invalid or unenforceable for any reason, it will be deemed to be severed from this Agreement and the remaining provisions will continue in full force and effect.

The fact that one or other Party does not require, temporally or definitely, the application of a provision of this Agreement shall not be considered as a waiver of the rights, which are held by this Party.

Any exchange of postal or electronic mail between the Parties cannot modify this Agreement. Any change of this Agreement requires an order form or an amendment signed by the Parties.

The User may not sell, assign or transfer its rights or delegate its duties under this Agreement in whole or in part without prior written approval of CENTREON. CENTREON reserves the right to transfer this Agreement or all or part of its rights or duties under the Agreement to any transferee of its choice.

## **17. GOVERNING LAW AND JURISDICTION**

The Agreement is governed by the French law.

ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS LICENSE WHICH CANNOT BE SETTLED AMICABLY SHALL BE BROUGHT EXCLUSIVELY BEFORE THE COURT OF PARIS, EVEN IN THE CASE OF A THIRD-PARTY PROCEEDING, A PLURALITY OF DEFENDANT OR A PROCEDURE FOR INTERIM MEASURES.