

TDM END-USER LICENSE AGREEMENT

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Thank you for purchasing TDM Software license(s). By downloading, installing, or using TDM software or a part thereof, You agree to be bound by this license agreement (the "LICENSE AGREEMENT"), which Is a legal contract between You as individual or a single business entity and Blue and Red BV which is the developer of TDM ("Blue and Red")

PREAMBLE

- A. You ("END-USER") agree to the "License terms and Conditions" listed below, by downloading, installing, or using this software or any part thereof, or using hardware or a virtual machine on which this software is pre-installed.

- B. By downloading, installing, or using this software or any part thereof, or using hardware or a virtual machine on which this software or a part of it is pre-installed, You represent that You are an authorized End-User of TDM and obtained TDM in the normal course of business from Blue and Red, or a by TDM authorized representative or dealer, who is licensed by Blue and Red.

- C. If You do not accept the terms of this AGREEMENT: (i) DO NOT install and/or use the software, or use the hardware or a virtual machine on which the software is pre-installed; and (ii) Return the hardware or a virtual machine and all software installed thereon, all media, and all other documentation, and materials associated with TDM and Software to Blue and Red B.V.

LICENSE TERMS AND CONDITIONS

1. DEFINITIONS

As used in this AGREEMENT, Capitalized terms not defined above shall have the following definitions:

- 1.1 "Add-On Software" means any TDM Software or Software components that function or execute with one or more Third-Party Programs.

- 1.2 "Blue and Red " means Blue and Red B.V. with the following address details: Pallasweg 14, 8938 AS, Leeuwarden the Netherlands.

- 1.3 "TDM communication protocol" means digital communication protocol developed by Blue and Red B.V. to provide compatibility with the on TDM connected device(s)
- 1.4 Hardware or a virtual machine means hardware or a virtual machine on which the software or a part of it is pre-installed.
- 1.5 "Develop" (or any conjugation thereof) means author, conceive, create, discover, design, engineer, prepare, reduce to practice, or otherwise develop.
- 1.6 "Device" means computer network compatible devices produced by a manufacturer from time to time and that are licensed by TDM, under a separate agreement, to use TDM digital Communication protocols.
- 1.7 "Distribute" (or any conjugation thereof) means sale, license, distribute, provide online access or otherwise make available (or such conjugation as the context may require).
- 1.8 "Effective Date" means the date that the End-User has accepted this AGREEMENT, such as by checking the "I Agree" checkbox.
- 1.9 "End-User", "You" (or the possessive thereof) means the individual or single business entity that has entered into this AGREEMENT with Blue and Red B.V..
- 1.10 "Manufacturer" means the person or entity that manufactures the Device that is licensed by Blue and Red B.V. under a separate agreement.
- 1.11 "Party" (or the plural thereof) means the parties to this AGREEMENT, specifically Blue and Red B.V. and/or an End-User who agrees to use the Software to operate a licensed Device in accordance with this AGREEMENT.
- 1.12 "Software" means management software such as TDM®, TDM Designer TDM Android App, TDM Windows App, TDM Tizen App, TDM WebOS app, TDM HTML Player or firmware provided by Blue and Red B.V. under this AGREEMENT and includes, as applicable, associated media, printed materials, and 'online' or electronic documentation.
- 1.13 "Third-Party Software" or "Third-Party Program" means any software that is written, developed, or produced by a company other than Blue and Red B.V..

2. LICENSE AND OWNERSHIP

- 2.1 *Ownership.* The Software is licensed and not sold. Blue and Red B.V. retains ownership of the Software and all copies of the Software and reserves all rights not expressly granted in writing, unless applicable law gives You more rights despite this limitation. You may use the Software only as expressly permitted in this AGREEMENT.
- 2.2 *License Grant.* Subject to the terms of this AGREEMENT, and provided that the Software is used only for the purpose of operating and sending content to licensed Devices and that You shall not use the Software for any other purpose, Blue and Red hereby grants You and users or visitors that are approved by You, and You hereby accept, a non-exclusive, non-sublicensable, non-transferable, limited license to use the Software:
- (a) *in machine readable object code as provided by Blue and Red B.V. to install on a central processing unit ("CPU") owned or leased or otherwise controlled exclusively by You; and*
 - (b) *only as authorized in this AGREEMENT and in accordance with any related explanatory files and written materials provided by Blue and Red B.V., directly or indirectly (via distributors) in the download file package containing the Software (or on the USB Disk or other file transfer means)*
- 2.3 *Backup Copy.* You may make one backup copy of the Software provided by Blue and Red B.V. under this AGREEMENT. You may use the one Backup Copy only to reinstall the Software.
- 2.4 *Sublicense.* You may not sublicense or otherwise transfer or assign any interest in or to the Software to any third parties.
- 2.5 *Copyright.*
- (a) *The Software is protected by copyright laws and international treaty provisions. Therefore, You must treat the Software like any other copyrighted material, subject to the provisions of this AGREEMENT.*
 - (b) *All title and copyrights in and to the Software, the accompanying media and printed materials, and any copies of the Software are owned by Blue and Red B.V..*
- 2.6 *Trademarks.* TDM, the TDM logo(s), are registered trademarks of Blue and Red B.V., in all countries of Europe. You shall not remove or conceal any trademark or proprietary notice of TDM or the TDM logo(s) from the Software including any back-up copy.

2.7 *Submissions.* Should You decide to transmit to the TDM website or the TDM Support system, by any means or by any media, any materials or other information (including, without limitation, ideas, concepts or techniques for new or improved services and products), whether in the form of information, feedback, data, questions, comments, suggestions or the like;

- (a) You agree such submissions are unrestricted and shall be deemed non-confidential; and
- (b) You automatically grant Blue and Red B.V. and its assigns a non-exclusive, royalty-free, worldwide, perpetual, irrevocable license, with the right to sublicense, to use, copy, transmit, distribute, create derivative works of, display and perform the same.

2.8 *Reservations.* All rights not expressly granted in this AGREEMENT are reserved by Blue and Red B.V.. No additional rights whatsoever (including, without limitation, any implied licenses) are granted by implication, estoppel, or otherwise.

3. LIMITATIONS AND OBLIGATIONS

3.1 *Authorized Parties.*

- (a) You must be an End-User of a Device obtained in the normal course of business from a Manufacturer, or a Manufacturer's authorized representative or dealer, who is licensed by Blue and Red B.V. to implement the TDM digital Communication protocols in order to install or use the Software.
- (b) If You are a business or organization, You agree that upon request from Blue and Red B.V. or its authorized agent, You will within thirty (30) days of the request fully document and certify that use of any and all Software at the time of the request is in conformity with Your valid license(s) from Blue and Red B.V..

3.2 *Delivery of TDM Software* As soon as practicable, after You have accepted this AGREEMENT, Blue and Red B.V. or one of their authorized dealers will deliver to You, in the form of an Internet file download, Access to the online TDM Software, or through other appropriate means:

- (a) a copy of the Software; and
- (b) related explanatory files and written materials.

3.3 *Restrictions.* You or any third party may not:

- (a) sell, lease, lend, rent, or distribute (including through the Internet) the Software;
 - (b) use the Software for any purpose other than for operating licensed Devices
 - (c) attempt to discover any underlying ideas or algorithms used by Blue and Red B.V. to Develop the Software through reverse engineering, de-compilation, or disassembly of the Software; or
 - (d) remove, alter, or obscure any product identification, copyright, trademark, or other intellectual property notices embedded within the Software or included in any related explanatory files and written materials provided by Blue and Red B.V..
- 3.4 *Support Services.* Blue and Red B.V. may, but is not required to, provide You with limited commercially reasonable Support Services to support Your use of the Software.
- (a) Blue and Red B.V. shall only provide the Development Support Services when available and competent personnel of Blue and Red B.V. are available to provide such support. any event, Blue and Red B.V. undertakes to reply to Your e-mails and telephone calls within a reasonable time.
 - (b) Blue and Red B.V.'s Support Services may only be availed of for problems and issues arising from the Software and/or from the use thereof.

4. PRIVACY POLICY

- 4.1 *Software Registration.* Download and/or operation of Software requires You to register by providing certain information and to accept this AGREEMENT.
- 4.2 *End-User Data Base.* Blue and Red B.V. will maintain a database of all registered End-Users including contact information.

5. WARRANTY DISCLAIMER AND LIMITATION OF LIABILITY

- 5.1 *Warranty Disclaimer.*
- (a) Blue and Red B.V. specifically disclaims any and all representations and warranties, either express or implied, including those of MERCHANTABILITY, MECHANICAL QUALITY, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, and FITNESS FOR A PARTICULAR PURPOSE.
 - (b) Except as otherwise expressly provided herein, the Software is provided on an "as is" basis, without warranty of any kind. More specifically, Blue and Red B.V. disclaims any warranties that the Software will meet End-User's requirements or that the operation

of the Software, including any associated software, will be uninterrupted or error-free.

- 5.2 *Limit of Liability.* In no event will Blue and Red B.V. be liable to You for any loss of use, interruption of business, or any direct, indirect, special, incidental, or consequential damages of any kind (including lost profits) regardless of the form of action whether 6 of 7 Blue and Red B.V.'s Software End-User SW License (Rev. 1.3) (15 OKTOBER 2019) in contract, tort (including negligence), strict product liability or otherwise, even if Blue and Red has been advised of the possibility of such damages.
- 5.3 *Interpretation of Warranty Disclaimer and Liability Limitation.* If the disclaimer of warranty and limitation of liability provided herein cannot be given local legal effect according to their terms, a reviewing court shall apply local law that most closely approximates an absolute waiver of all civil liability in connection with the Software.

6. GENERAL PROVISIONS

- 6.1 **Governing Law and Dispute Resolution.** This AGREEMENT shall be governed and construed in accordance with the laws of the Netherlands, without regard to conflicts of laws principles. In any action to enforce this AGREEMENT, the prevailing Party shall be entitled to reasonable costs and reasonable attorneys' fees from the non-prevailing Party. In the event of any dispute arising between the Parties under this AGREEMENT, the Parties agree that such dispute shall be resolved informally, if possible, and failing an informal resolution, then through binding arbitration.
- (a) For the avoidance of doubt, nothing in this Section (Governing Law and Dispute Resolution) shall prevent either Party from seeking injunctive relief from a court of appropriate jurisdiction.
 - (b) All disputes arising out of or in connection with this AGREEMENT shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.
 - (c) The arbitration proceeding shall be conducted in Leeuwarden, the Netherlands.
 - (d) The language to be used in the arbitration proceeding shall be English.
 - (e) The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this AGREEMENT.

- 6.2 *Injunctive Relief.* Each Party acknowledges that its breach of this AGREEMENT may cause irreparable damage to the other Party and hereby agrees that the other Party shall be entitled to seek injunctive relief under this AGREEMENT by a court of competent jurisdiction.
- 6.3 Entire Agreement.
- (a) This AGREEMENT constitutes the entire agreement between You and Blue and Red B.V. with respect to the subject matter hereof and supersedes all prior and contemporaneous representations, understandings, and/or agreements, whether oral or written, relating to the subject matter hereof.
 - (b) All prior or contemporaneous representations, understandings or agreements, whether oral or written, that are not expressly set forth within this AGREEMENT are hereby deemed waived, superseded, and abandoned.
- 6.4 *Severability.* The invalidity or unenforceability of any provision of this AGREEMENT shall not affect any other provision of this AGREEMENT, and the remaining provisions shall continue with the same effect as if such unenforceable or invalid provision had not been included in this AGREEMENT.
- 6.5 *No Third Party Beneficiaries.* This AGREEMENT is for the benefit of, and will be enforceable by, the Parties only. This AGREEMENT is not intended to confer any right or benefit on any third party. No action may be commenced or prosecuted against a Party by any third party (including, without limitation, affiliates) claiming as a third party beneficiary of this AGREEMENT or the Licenses granted herein.