

# Terms of Sale (Consumer) (Canada - English)

Last Modified: January 27, 2021

These Terms of Sale (Consumer) (these "Terms") apply to the purchase and sale of products by Western Digital Technologies, Inc. and/or its affiliates (referred to as "WDT", "us", "we", or "our" as the context may require) and other select products chosen by WDT that are manufactured or developed by entities other than WDT ("Devices") and services offered by WDT and other select services chosen by WDT that are provided by entities other than WDT ("Services") through any of the websites offered by WDT (collectively, the "Site") or any other means through which we engage in the sale of Devices and Services, including orders by phone. These Terms are subject to change by WDT without prior written notice at any time, in our sole discretion. The latest version of these Terms will be posted on this Site, and you should review these Terms before purchasing any Device or Services that are available through this Site.

**IMPORTANT NOTICE: WDT IS WILLING TO SELL DEVICES AND SERVICES TO YOU THROUGH THIS SITE ONLY IF YOU ACCEPT THESE TERMS. BY CLICKING ON THE "SUBMIT ORDER" BUTTON, YOU AGREE TO BE BOUND BY ALL OF THESE TERMS.**

**ALL ACCEPTED ORDERS ARE FINAL, NON-CANCELABLE AND NON-REFUNDABLE, EXCEPT AS SPECIFIED HEREIN OR IN OUR RETURNS AND CANCELLATIONS POLICY AS APPLICABLE TO YOUR PURCHASE.**

**PLEASE READ THESE TERMS CAREFULLY. THESE TERMS ARE LEGALLY BINDING AND CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, INCLUDING LIMITATIONS OF LIABILITY AND YOUR OBLIGATION TO INDEMNIFY WDT AND OTHERS AFFILIATED WITH WDT FOR YOUR BREACHES OF THESE TERMS.**

**YOU MAY NOT ORDER OR OBTAIN DEVICES OR SERVICES FROM THIS SITE (AS DEFINED BELOW) IF YOU (A) DO NOT AGREE TO THESE TERMS, (B) ARE NOT THE OLDER OF (i) AT LEAST 18 YEARS OF AGE OR (ii) LEGAL AGE TO FORM A BINDING CONTRACT WITH WDT, OR (C) ARE PROHIBITED FROM ACCESSING OR USING THIS SITE OR ANY OF THIS SITE'S CONTENTS, DEVICES OR SERVICES BY APPLICABLE LAW. THESE TERMS APPLY ONLY TO PURCHASES MADE BY CONSUMERS LOCATED IN IN CANADA. IF YOU ARE NOT LOCATED IN CANADA AND WDT'S DEVICES AND SERVICES ARE AVAILABLE IN YOUR COUNTRY OR JURISDICTION, DIFFERENT TERMS AND CONDITIONS OF PURCHASE WILL APPLY.**

## 1. Terms And Conditions

These Terms are an integral part of the [Terms of Use](#) that apply generally to the use of our Site. You should also carefully review our [Privacy Statement](#) before placing an order for Devices or Services through this Site. Your purchase of Devices and Services through this Site is subject to our Privacy Statement.

## 2. Ordering And Acceptance; Cancellation Policy.

- a) You agree that your order is an offer to buy, under these Terms, all Devices and Services listed in your order. All orders must be accepted by us or we will not be obligated to sell the Devices or Services to you. We may choose not to accept any orders in our sole discretion. After having received your order, we will send you a confirmation email with your order number and details of the items you have ordered. Any order confirmation email received by you prior to our acceptance shall constitute an acknowledgement of our receipt of your offer only, and not an acceptance of your offer.
- b) You need an email address to place an order, and you may need to set your browser to accept both (functional) cookies and pop-ups in order to be able to use all the functionalities of the Site, which includes adding items to your shopping cart and submitting your order. You acknowledge and agree that if you are placing an order through the Site, by clicking or activating the button or hyperlink to submit your order, you are placing a legally binding offer. You consent to: (i) the use of electronic communications in order to enter into contracts and place orders with us; and (ii) the electronic delivery of notices, policies and records of transactions initiated or completed by you online.
- c) WDT sells Devices and Services through this Site to individual consumers solely for their personal use. WDT does not appoint you or anyone acting on your behalf as a reseller, distributor or other agent or representative of WDT, and therefore purchase of Devices for resale is strictly prohibited. Purchase for resale means the purchase of a Device by someone who resells, or intends to resell, the Device to others (whether consumers, businesses or any other third party). If WDT believes you are involved in purchase for resale, WDT reserves the right to restrict sales to you, to cancel your orders, and/or to suspend or close your account, in addition to taking legal action.
- d) Please review your order carefully before you place it. Unless stated otherwise with your order (for example, an order marked 'final sale' or similar), you have a limited period of time to cancel your order before it is shipped. For additional information about cancelling your order, please review the [Returns and Cancellations Policy](#). You can also call Customer Support at (800) 275-4932
- e) While we make every effort to ensure that items appearing on the Site are available, we cannot guarantee that all items are in stock or immediately available when you submit your order. Furthermore, Devices and Services may vary depending on your region or hardware components. In addition, there may be limits on where we can ship Devices or provide Services. We may reject your order (without liability) if we are unable to process it, fulfill it or provide it. If we reject an order for any reason, we will refund any prior payment that you have made for that item, without undue delay, and we will not bill you further amounts for that item.
- f) We may place a limit on the quantities that may be purchased per order, per account, per credit card, per person, or per household. If Devices or Services that you ordered are unavailable, we may contact you to offer you an alternative Device or Service. If you do not choose to purchase the alternative Device or Service, we will cancel your order and, without undue delay, we will refund any prior payment that you have made for the cancelled Device or Service, and we will not bill you further amounts for that item.
- g) Our acceptance of your order and the formation of the contract of sale between WDT and you only occurs at such time that we have both (i) dispatched your Device order and/or provided you with access to the Services, and (ii) received payment of the purchase price of your order

through settlement of funds via your provided credit card or other permitted payment method ("acceptance"). We may cancel your order at any time and for any lawful reason prior to acceptance.

- h) By submitting your order, you represent and warrant that (i) you are an individual consumer located in Canada who is purchasing the Device or Service for your own personal use in compliance with these Terms and the Terms of Use, (ii) all information supplied by you in placing your order is accurate and complete, (iii) you are not impersonating another person and (iv) you are not utilizing any program or routine to accelerate purchases or to make multiple purchases through different accounts to conceal your identity. Without limiting any other right or remedy we may have under these terms or applicable law, we may cancel, terminate, modify, or suspend all or any part of any order or orders (including orders that we have accepted) if WDT has reason to believe, in its sole discretion, that such order or orders may have been placed in breach of these Terms or the Terms of Use, may impose a risk or burden on the Site or other users of the Site or may corrupt or impair the proper performance of the Site.
- i) WDT is not responsible for technical failures that limit your ability to complete a purchase on the Site, including any failures caused in whole or in part by any computer system, phone line, hardware, software, lost, interrupted or unavailable network connections, delayed computer transmissions or any technical or human error that may occur in the processing of your orders.
- j) Without limiting the generality of any other section of these Terms of Sale, we reserve the right to limit or refuse any order you place with us. Further, we reserve the right to verify the validity of all orders and/or cancel any order if we find evidence of fraud, tampering and/or any other violation of these Terms of Sale. We also reserve the right, in our sole and absolute discretion, not to ship items ordered or purchased through the website to certain addresses. In the event that we are unable to or choose not to ship an item, you will be notified accordingly and the amount for that item charged in relation to your order will be reduced accordingly.
- k) All orders are subject to verification by us at any time and for any reason. We reserve the right, in our sole and absolute discretion, to require proof of identity (in a form acceptable to us): (i) for the purposes of verifying the legitimacy of any order and/or other information; and/or (ii) for any other reason we deem necessary, in our sole and absolute discretion, for the purposes of fulfilling an order in accordance with our interpretation of the terms and conditions of this agreement. We may use third party verification services for payment processing and fraud detection. Information that you have provided during your check out process may be shared with our third party partners for these purposes.
- l) Pictures shown may vary from the Devices you order. Device specifications are subject to change without notice.

### 3. Prices And Payment Terms.

- a) All prices posted on this Site are subject to change without notice. The price charged for a Device or Service will be the price in effect at the time the order is placed and will be set out in your order confirmation email. Price increases will only apply to orders placed after such changes. Posted prices do not include taxes or charges for shipping. All such taxes and charges will be added to your merchandise total and will be itemized in your shopping cart and in your order confirmation email. For avoidance of doubt, the Site does not have a price match guarantee, and we will not match the advertised price other retailers offer for the same items.

- b) You have a legal obligation to pay for any orders you make through the Site. By placing an order through the Site, you are agreeing to pay, in full, the prices and all applicable taxes and specified shipping and handling and other fees in relation to your order, either by credit card or other permitted payment method. Payment must be made by the payment method selected during your order completion process through the Site. If complete payment for your order is not received and verified by us, your order will not be processed. If you do not complete or improperly complete your order it may not be accepted or acknowledged. We reserve the right, in our sole and absolute discretion, to change the permitted methods of payment, including without limitation, the credit cards and/or other types of payment options we are able to accept, at any time. We will charge your credit or debit card on dispatch of the Device or upon purchase of Services, unless stated otherwise. We reserve the right to verify and/or authorize credit or debit card payments prior to dispatch of the Devices or Services. To assist with payment processing on this Site, we use Worldpay. Worldpay is a Data Controller in respect of your personal information. Worldpay's privacy policy can be found at [www.worldpay.com](http://www.worldpay.com). Unless otherwise indicated, all dollar amounts on the Site are in CAD. If you use a payment card in another currency, charges are subject to exchange rate where applicable as assessed by your financial institution, and your financial institution may charge you a fee. Consult your financial institution for further information. You are also responsible for any additional third party costs that we do not control and cannot estimate, such as brokerage fees or duties.
- c) You represent and warrant that (i) the credit card or other permitted payment information you supply to us is true, correct, and complete, (ii) you are duly authorized to use such credit card or other permitted payment method for the purchase, (iii) charges incurred by you will be honored by your credit card company or other financial institution, (iv) you will pay charges incurred by you at the posted prices, including all applicable taxes, if any, and (v) you authorize WDT to charge you for any Devices or Services purchased using your payment method.
- d) If you elect to use the services of a third-party payment or billing provider in connection with your purchase from us, your use of such services will be subject to the third-party provider's own terms and conditions. You may be required to create an account with such third-party provider and/or provide that third-party provider with your bank account or credit/debit card details. We are not responsible for, and you agree to hold us harmless from and against any liability resulting from, the acts or omissions of any third-party payment or billing provider.
- e) We do not warrant that the prices, quotations, anticipated delivery dates, and descriptions made or referred to on Site are accurate, free of typographical errors, complete, reliable, current, or error-free. We reserve the right to cancel any orders where such an error occurred. Promotional prices may be offered for select Devices and are subject to additional terms related to such promotion. The prices, quotations and descriptions made on the Site are subject to availability, do not constitute an offer and may be withdrawn or revised at any time prior to our express acceptance of your order (as described above).

#### **4. Shipments; Delivery; Title And Risk Of Loss.**

- a) We will arrange for shipment of the Devices to you. Where any Device supplied is or includes software ("Software"), for Software delivered electronically, we will deliver such Software by electronic transmission or via download. Please check the individual Device page for specific delivery options. You are required to pay all shipping charges specified during the ordering process.

- b) The places that we deliver to are listed on the Site ("Territory"). Delivery must be to a valid address within the Territory submitted by you and subject to our acceptance ("Delivery Address"). However, please note that we may not be able to ship to all valid addresses and, in such circumstances, we reserve the right in our sole and absolute discretion to cancel your order. In the event we are not able to ship to the shipping address you provide, we will notify you, your order will be cancelled, and you will receive a refund in respect of your order. You must check the Delivery Address on any order acknowledgement or acceptance we provide. If you have provided us with an incorrect Delivery Address, you must notify us immediately. We reserve the right to charge you for any extra costs arising from changes you make to the Delivery Address after you submit an order.
- c) Where possible, we try to deliver all items which you have ordered at the same time. However, multiple items may not always be shipped together. In addition, depending on the size of your order you may receive several shipments to complete it. Delivery times vary according to your selected Delivery Address, availability of your items and the time of day you place your order. A signature may be required for delivery. Shipping and delivery dates and Service start dates are estimates only and cannot be guaranteed. As we use a third party to deliver Orders, it is possible that your Order will arrive before or after the estimated delivery time. To the extent permitted by applicable law, we are not liable for any delays in shipments.
- d) Title for Devices (other than Software) purchased pass to you upon our delivery to the carrier. Risk of loss for Devices purchased pass to you upon delivery to the delivery address. For additional information about returns and cancellations, please review our Returns and Cancellations Policy.
- e) If you refuse or fail to take delivery of Devices, any risk of loss or damage to the Devices shall nonetheless pass to you, and without prejudice to any other rights or remedies we have, we will remain entitled to payment in full for the Devices or Services delivered.

## 5. Software Use And License Rights

### For Software, you acknowledge and agree that:

- a) All uses on this Site of the terms "sell," "sale," "resell," "resale," "purchase," "price" and the like when used in reference to Software mean the purchase of a limited license to use the Software in accordance with the license terms made available for such Software. Each Software product and service made available on this Site is licensed, not sold. Without limiting the foregoing, all materials on this Site are considered property of WDT, or are used with permission/under licence, and are protected by intellectual property and other laws of Canada, the United States, and other jurisdictions. Subject to any licence terms we offer you, we expressly reserve all rights not expressly granted herein.
- b) Notwithstanding any contrary term in Section 4(d), for Software, your license rights and risk of loss passes to you upon the provision to you of a download link for Software, or your receipt of a license key, via email or other electronic delivery method.
- c) You will comply with all terms and conditions of the specific license agreement for any Software you obtain through this Site, including all confidentiality obligations and restrictions on the resale, use, reverse engineering, copying, making, modifying, improving, sublicensing and transfer of such licensed Software

- d) You will not cause, induce or permit others' noncompliance with the terms and conditions of any of these Software license agreements.

## 6. Returns And Refunds.

As fully described in our [Returns and Cancellations Policy](#), we will accept a return of the Devices (excluding: (i) Software once it was made available to you by sending you a link for downloading, or a license key via e-mail or other electronic delivery method or for which instructions to download (including from a third party platform) have been provided to you and (ii) any Devices or products which we inform you may not be returned) for a refund of your purchase price, less the original and return shipping costs, provided such return is made within thirty (30) days of shipment and provided such Devices are returned in their original condition. Furthermore, you are entitled to return Devices delivered to you in the event that they are defective or otherwise not in conformity with your order when you received them. For practical information on how to return, visit our Returns and Cancellations Policy page, call (800) 275-4932 or email our Returns Department at this [link](#). Please obtain a Return Merchandise Authorization ("RMA") number before shipping your Device. No returns of any type will be accepted without an RMA number.

Unless otherwise stated in our Return Policy, to the maximum extent permitted under applicable law, you are responsible for all shipping charges on returned items. You bear the risk of loss during shipment. We therefore strongly recommend that you fully insure your return shipment against loss or damage and that you use a carrier that can provide you with proof of delivery for your protection.

Once processed, and if you qualify under the terms of these Terms of Sale and our Returns and Cancellations Policy, refunds are typically processed within approximately 7-10 business days of our receipt of your merchandise. Your refund will be credited back to the same payment method used to make the original purchase on the Site.

IMPORTANT NOTE: SOME DEVICES ON THE SITE ARE DESIGNATED AS NON-RETURNABLE. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, WE OFFER NO REFUNDS ON ANY DEVICES DESIGNATED ON THIS SITE AS NON-RETURNABLE.

## 7. Warranty; Disclaimers

Please refer to documentation accompanying any Software to determine if any warranty is provided with such Software, and, if so, the terms of such warranty. Excluding Software, the warranty for a Device purchased through this Site varies depending on Device model. You may find the applicable warranty for your Device via the Device detail webpage, in your Device documentation or by contacting our support team. For more information, see our Warranty Policy page.

To obtain warranty service for a Device or Service, you must call (800) 275-4932 or email our Customer Service Department at this link during the applicable warranty period to obtain an RMA number. No warranty service will be provided without an RMA number.

TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, (AND EXCEPT WHERE PROHIBITED FOR INDIVIDUALS RESIDENT IN THE PROVINCE OF QUEBEC), EXCEPT AS EXPRESSLY PROVIDED IN OUR LIMITED WARRANTIES, THE DEVICES AND SERVICES THAT YOU PURCHASE FROM US ARE

PROVIDED TO YOU "AS IS," AND YOUR USE IS AT YOUR OWN RISK. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, WE DO NOT MAKE, AND HEREBY DISCLAIM, ANY AND ALL EXPRESS, IMPLIED OR STATUTORY WARRANTIES, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OF THIRD-PARTY RIGHTS, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WDT DOES NOT WARRANT THAT THE SOFTWARE WILL OPERATE WITHOUT INTERRUPTION OR ERROR OR THAT THE SOFTWARE WILL BE FREE OF BUGS, VIRUSES, TROJAN HORSES, DESTRUCTIVE COMPUTER CODES, OR THE LIKE. ADDITIONAL DISCLAIMERS AND LIMITATIONS RELATING TO SOFTWARE YOU PURCHASE MAY BE INCLUDED IN THE LICENSE AGREEMENT GOVERNING THE USE OF THE SOFTWARE, AND YOU AGREE TO BE BOUND BY SUCH TERMS.

YOU ACKNOWLEDGE AND AGREE THAT THE DEVICES, WHETHER STANDING ALONE OR WHEN INTERFACED WITH THIRD-PARTY PRODUCTS OR SERVICES, ARE NOT INTENDED OR MARKETED FOR EMERGENCY RESPONSE, OR OTHER LIFE CRITICAL APPLICATIONS. WE MAKE NO WARRANTY OR REPRESENTATION THAT USE OF THE DEVICES, INCLUDING WITH ANY THIRD-PARTY PRODUCT OR SERVICE, WILL AFFECT OR INCREASE ANY LEVEL OF SAFETY.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES ARE PERSONAL TO YOU AND ARE NON-TRANSFERABLE AND NON-ASSIGNABLE, AND ANY WARRANTIES PROVIDED FOR OUR DEVICES OR SERVICES ONLY EXTEND TO YOU ON THE UNDERSTANDING THAT YOU ARE A USER AND NOT A RESELLER OF THOSE DEVICES OR SERVICES.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO YOU.

## **8. Limitations Of Liability; Indemnification.**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (AND EXCEPT WHERE PROHIBITED FOR INDIVIDUALS RESIDENT IN THE PROVINCE OF QUEBEC), WDT, ITS AFFILIATES AND EACH OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS, VENDORS, LICENSORS AND SUPPLIERS (COLLECTIVELY, "THE WDT PARTIES") SHALL NOT BE LIABLE FOR ANY DAMAGES SUFFERED AS A RESULT OF USING, MODIFYING, CONTRIBUTING, COPYING, DISTRIBUTING, OR DOWNLOADING THE DEVICES OR SERVICES ON THIS SITE OR BEING UNABLE TO DO ANY OF THE FOREGOING. IN NO EVENT SHALL THE WDT PARTIES BE LIABLE FOR ANY INDIRECT, EXTRAORDINARY, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE, OR OTHER ECONOMIC ADVANTAGE), HOWEVER ARISING, WHETHER FOR BREACH OR IN TORT, EVEN IF THE WDT PARTIES HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

YOU AGREE THAT YOU HAVE SOLE RESPONSIBILITY FOR ADEQUATE PROTECTION AND BACKUP OF DATA AND/OR EQUIPMENT USED IN CONNECTION WITH THE DEVICES OR SERVICES ON THIS SITE AND WILL NOT MAKE A CLAIM OF ANY NATURE AGAINST THE WDT PARTIES FOR LOST DATA, INACCURATE OUTPUT, WORK DELAYS, OR LOST PROFITS RESULTING FROM THE USE OF, OR INABILITY TO USE, THE DEVICES OR SERVICES.

IF YOU HAVE ANY BASIS FOR RECOVERING DAMAGES (INCLUDING BREACH OF THESE TERMS) FROM ANY WDT PARTIES IN CONNECTION WITH THE DEVICES, SERVICES OR THESE TERMS, YOU AGREE

THAT YOUR EXCLUSIVE REMEDIES ARE THE COMMERCIALY REASONABLE EFFORTS OF WDT TO REPAIR OR CORRECT THE DEVICE OR SERVICE, TO ACCEPT A REASONABLE SUBSTITUTE FOR THE DEVICE OR SERVICE OR TO RECOVER FROM THE WDT PARTIES DAMAGES UP TO AN AMOUNT EQUAL TO THE COST OF YOUR DEVICE OR THE SERVICES FEE FOR THE MONTH DURING WHICH THE BREACH OCCURRED (OR UP TO \$100.00 IF THE CLAIMS RELATE TO ANY DEVICES OR SERVICES THAT ARE FREE).

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU.

To the maximum extent permitted by law, you agree to defend, indemnify, and hold harmless the WDT Parties from and against any and all third party claims, actions, suits, or proceedings, as well as any and all losses, liabilities, damages, costs, fines, and expenses (including reasonable attorney's fees) incurred by any WDT Parties that arise out of any breach of these Terms by you.

## 9. Export Restrictions.

The Devices or Services provided under these Terms are for your internal use and not for further commercialization. You acknowledge that some or all of the Devices or Services, including the materials contained thereon, may be controlled or restricted under the United States Export Administration Laws and Regulations, the United States Treasury Department, the Office of Foreign Assets Control ("OFAC"), or other applicable laws and regulations relating to the export of products and may be subject to the approval of the U.S. Department of Commerce or Treasury, or other applicable regulatory authorities, respectively, prior to export. Any export or re-export of Devices or Services by you, directly or indirectly, in contravention of any export control laws, economic sanctions or other laws or regulations applicable to you, the Devices or Services ("Export Control Laws") is prohibited, and you shall comply with such laws and regulations, including the Export Control Laws of other countries, and you are responsible for obtaining any required export authorizations, government approvals and licenses required by any Export Control Laws. The Devices and Services will not be sold for use in, or to parties that are suspected to be involved in, the development, production, use or stockpiling of weapons of mass destruction; to entities or individuals on any applicable lists of parties denied export privileges (including, without limitation, those listed at <https://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>), or to parties in any embargoed countries. By accessing the Site, and/or purchasing or using the Devices or Services, you represent and warrant that you are not a citizen or resident of, and are not customarily resident in, any country or region that is subject to an embargo by the United States government, the Canadian government, or the European Union, that you are not listed as a sanctioned party on the list of specially designated nationals and blocked persons maintained by the United States (including OFAC) or similar sanction lists maintained by Canada or the European Union and other applicable governments and that you are purchasing and will use the Devices and Services in compliance with all laws governing export control.



## 10. Governing Law And Jurisdiction

Except as set out below, and for users who are not individuals resident in the province of Quebec, any claim arising from or relating to these Terms are governed by the laws of the State of California without regard to conflicts of laws principles. Except where prohibited for users who are not individuals resident in the province of Quebec, you agree to submit to the exclusive jurisdiction of the state and federal courts located in Santa Clara County, California, for the resolution of any and all disputes arising from or relating to these Terms.

## 11. Assignment.

You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Agreement is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

## 12.No Waivers.

The failure by us to enforce any right or provision of these Terms will not constitute a waiver of future enforcement of that right or provision. The waiver of any right or provision will be effective only if in writing and signed by a duly authorized representative of WDT.

## 13.No Third-Party Beneficiaries.

You will not assign any of your rights or delegate any of your obligations under these Terms without our prior written consent. Any purported assignment or delegation in violation of this Agreement is null and void. No assignment or delegation relieves you of any of your obligations under these Terms.

## 14.Notices.

- a) To You. We may provide any notice to you under these Terms by: (i) sending a message to the email address you provide or (ii) by posting to the Site. Notices sent by email will be effective when we send the email and notices we provide by posting will be effective upon posting. It is your responsibility to keep your email address current.
- b) To Us. To give us notice under these Terms, you must contact us as follows: (i) by facsimile transmission to (949) 672-6604; or (ii) by personal delivery, overnight courier or registered or certified mail to: Western Digital, ATTN: E-commerce Team, 5601 Great Oaks Parkway, San Jose, CA 95119. We may update the facsimile number or address for notices to us by posting a notice on the Site. Notices provided by personal delivery will be effective immediately. Notices provided by facsimile transmission or overnight courier will be effective one business day after they are sent. Notices provided by registered or certified mail will be effective three business days after they are sent.

## 15. Force Majeure

We will not be liable or responsible to you, nor be deemed to have defaulted or breached these Terms, for any failure or delay in our performance under these Terms when and to the extent such failure or delay is caused by or results from acts or circumstances beyond our reasonable control, including acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor disputes (whether or not relating to our workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

## 16. Severability.

If any provision of these Terms shall be deemed invalid, void, or for any reason unenforceable, that provision shall be deemed severable and shall not affect the validity and enforceability of any remaining provision of these Terms.

## 17. Survival

All terms that by their sense are expected to survive the purchase of each Device and Service by you shall survive, including, without limitation, the terms of the initial paragraphs and sections 7 through 21.

## 18. Notice To Government Purchasers.

For Sales of Devices in The United States: The Devices are Commercial Items as that term is defined by 48 C.F.R. 2.101. You acknowledge that WDT sells and offers for sale the Devices to the general public. The Software is Commercial Computer Software, and was developed solely at private expense. Governmental Purchasers shall have only the rights specified in the license under which the Commercial Computer Software or Commercial Computer Software Documentation was obtained. If the Governmental Purchaser has a need for rights not conveyed under the license customarily provided to the public, the Governmental Purchaser must negotiate with WDT to determine if there are acceptable terms for transferring such rights. To the extent any U.S. State or subdivision thereof purchases Devices under the Terms, such party agrees, to the fullest extent permitted by applicable law, to accept the terms and conditions of purchase and use as set forth in these Terms.

## 19. Entire Agreement.

Our order confirmation, these Terms, each license agreement relating to any Software you obtain on or through this Site, the Terms of Use and our Privacy Statement on the Site will be deemed the final and integrated agreement between you and us on the matters contained in these Terms.

## 20. Changes To These Terms Of Sale.

To the fullest extent permitted by applicable law, we reserve the right, in our sole and absolute discretion, to modify all or any portion of these Terms of Sale, including without limitation, our payment, delivery, and returns terms, at any time without incurring any liability or obligation whatsoever to you or any other person or entity. To the fullest extent permitted by applicable law, your continued access to and/or use of the Site or the Services, after the date specified in such notice constitutes your full acceptance of, and agreement to be legally bound by, these Terms of Sale, as modified.

Please revisit these Terms of Sale periodically to ensure you are aware of any such changes. Your continued access to and/or use of the Site after any such changes constitutes your acceptance of, and agreement to be legally bound by, these Terms of Sale, as revised. It is your sole responsibility to regularly check the Site to determine if there have been any changes to these Terms of Sale and to review such changes. We may, at any time, restrict your access to this Site at anytime and for any reason. IF YOU DO NOT ACCEPT AND AGREE TO BE LEGALLY BOUND BY AND COMPLY WITH THESE TERMS OF USE, YOU ARE NOT PERMITTED TO ACCESS OR USE THE SITE.

## 21. Contact Us.

If you have any questions, you may contact us at 1 (800) 275-4932 (for support in French, you may contact us at +31 88 006 2100). You may also write to us at 5601 Great Oaks Parkway, San Jose, CA 95119 or <https://support-en.wd.com/app/ask>