

# **Dassault Systèmes' Internal Charter concerning control of interested party transactions**

Approved by Dassault Systèmes' Board of Directors

on 11 March 2020

## PREAMBLE

This Charter (the "**Charter**") describes the methodology implemented by the Dassault Systèmes group (the "**Group**") regarding (i) the prior review of agreements to be entered into between Dassault Systèmes SE ("**3DS**") and interested parties and (ii) the annual review of agreements entered into between 3DS and interested parties.

This Charter was drawn up pursuant to the provisions of the French Commercial Code and the AMF recommendation n°2102-05 of 2 July 2012 (as amended) relating with regulated transactions (*conventions réglementées*), the provisions of the French Commercial Code relating to the procedure for reviewing ordinary transactions entered into on arm's length terms and, more generally, pursuant to 3DS' prevention and resolution of conflicts of interests between 3DS and its corporate officers, directors or shareholders.

This Charter was approved by 3DS' Board of Directors on 11 March 2020. It is available on 3DS' website.

Any significant subsequent modification of the Charter that would be necessary or desirable to take into account, in particular, legislative or regulatory changes as well as the evolution of best practices in this area, shall be submitted to the approval of 3DS' Board of Directors.

## CHAPTER 1 – Identification of interested party transactions

### 1.1 Identification of interested parties

The Group Legal Department draws up a list of interested parties by identifying:

- the corporate officers of 3DS,
- the companies that have corporate officers in common<sup>1</sup> with 3DS, and
- the shareholders of 3DS holding a fraction of the voting rights greater than 10% (or, in the case of a corporate shareholder, the company controlling it, within the meaning of article L.233-3 of the French Commercial Code).

Pursuant to the 3DS Board of Directors' internal regulation, each director must inform the Board of Directors of his other functions or offices at other French or foreign companies, including committee-related functions or duties.

The list of interested parties is updated at least once a year by the Group Legal Department in connection with the preparation of 3DS' annual report.

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<sup>1</sup> Cf. Annex 2.

## 1.2 Identification of agreements to be entered into with interested parties

The list of 3DS' interested parties is periodically shared with all in-house lawyers within the Group, and with other departments if necessary, who are thus required to inform the Group Legal Department as soon as they become aware of a draft agreement being contemplated to be entered into with interested parties.

### CHAPTER 2 – The prior review of agreements to be entered into with interested parties

The Group Legal Department reviews all agreements prior to them being entered into with interested parties; and upon each modification, renewal or extension of said agreements, including when the agreement was initially entered into as a “free” transaction (*convention “libre”*)<sup>2</sup>.

The Group Legal Department is informed of draft agreements that are contemplated to be entered into with interested parties:

- by the secretary of the Board of Directors; pursuant to the provisions of the French Commercial Code, anyone directly or indirectly interested in the transaction is required to inform 3DS' Board of Directors as soon as they become aware of a regulated transaction (*convention réglementée*) or a transaction likely to constitute a regulated transaction. More generally, the provisions of the 3DS Board of Directors' internal regulation also provide that each director must inform 3DS' Board of Directors of any potential or existing conflict of interests with 3DS or one of its subsidiaries.
- by the in-house lawyers of the Group whenever they are involved in the negotiation and/or conclusion of an agreement between 3DS and someone on the list of interested parties that was shared with them in accordance with paragraph 1.2 of this Charter.

As part of this preliminary review, the Group Legal Department, in coordination, if necessary, with other departments of 3DS (Finance, Purchasing, etc.), classifies the draft agreement into one of the following three categories:

- prohibited transactions (*conventions interdites* - Cf. Annex 1)
- regulated transactions (*conventions réglementées* - Cf. Annex 2)
- free transactions (*conventions libres* - Cf. Annex 3)

The results of the Group Legal Department's preliminary review are reported in a follow-up table.

When the preliminary review concludes to the characterisation of a prohibited transaction, the Group Legal Department informs the parties involved of said prohibition.

When the preliminary review concludes to the characterisation of a regulated transaction, the Group Legal Department informs 3DS' General Secretary as well as the Chairman of the Board of Directors in order to implement the provisions of article L.225-40 of the French Commercial Code.

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<sup>2</sup> Cf. Annex 3.

## **CHAPTER 3 – Authorisation of regulated transactions by the Board of Directors and approval of the General Meeting of Shareholders**

### **3.1 Prior authorisation of the Board of Directors**

Whenever the Group Legal Department's preliminary review concludes to the characterisation of a regulated transaction, the draft agreement must be submitted to the prior authorisation of 3DS' Board of Directors in accordance with the following procedure:

- a specific item is placed on the agenda of 3DS' Board of Directors meeting;
- the party directly or indirectly interested in the transaction may not take part in the Board of directors' deliberations or vote on the authorisation to enter into the agreement.

The Board of Directors' authorisation shall be justified by explaining 3DS' interest in the transaction, notably by disclosing the financial terms.

Pursuant to the French Commercial Code, information on the regulated transactions' main terms and conditions, including notably information relevant to assess the Group and its shareholders' interests in the transaction, shall be disclosed on 3DS' website at the latest upon the date the parties enter into the agreement.

### **3.2 Statutory Auditors' information and approval by the General Meeting of Shareholders**

As required by law, the Chairman of the Board of Directors notifies to the Statutory Auditors all regulated transactions' agreements that have been authorised and entered into during the course of the year and submits said agreements to the General Meeting of Shareholders for approval.

The approval gives rise to the vote of a separate resolution when it pertains to an agreement that is significant for one of the parties and concerns, directly or indirectly, a corporate officer or a shareholder.

The directly or indirectly interested party may not participate in the vote and is not included in calculating the majority.

The Board of Directors may decide to submit any significant regulated transaction that have been authorised and entered into after the closing date of the financial year to the approval of the next General Meeting of Shareholders, provided that the Statutory Auditors have had the opportunity to analyse these transactions within a timeframe compatible with the issuance of their report.

### **3.3 Annual review of regulated transactions**

Each year, the Board of Directors examines all regulated transactions' agreements entered into during previous financial years and whose performance was pursued during the last financial year. As part of this review, the Board of Directors reviews their classification and, if appropriate, re-classifies the agreements. These agreements are also communicated to the Statutory Auditors.

#### **CHAPTER 4 – Procedure for evaluating ordinary transactions entered into on arm’s length terms between 3DS and interested parties**

The Group Legal Department performs an annual evaluation of ordinary transactions entered into on arm’s length terms between 3DS and interested parties during the last financial year or previous financial years when the performance of these transactions has carried on.

Within the framework of this annual evaluation, the Group Legal Department undertakes to:

- review the relevance of the criteria laid out in Annex 3 for determining whether a transaction constitutes an ordinary transaction entered into on arm’s length terms;
- analysis of the characterisation of the transaction as constituting an ordinary transaction entered into on arm’s length terms, taking into account evolution in the Group's situation and market practices; and
- submit agreements of transactions that no longer meet the criteria to the authorisation of the Board of Directors.

In accordance with the provisions of the French Commercial Code, the parties directly or indirectly interested in the transaction may not take part in the evaluation procedure.

The Group Legal Department may seek opinion of other Group departments and/or the Statutory Auditors in the event of doubt regarding the characterisation of a transaction submitted to its review.

Each year, during the review of the annual financial statements, the results of the review of ordinary transactions entered into under normal conditions and, if appropriate, proposals to revise the evaluation criteria of these transactions, are presented to the Audit Committee of the Board of Directors, which deliberates on this presentation.

If the evaluation leads to the characterisation of a regulated transaction, said transaction’s agreement shall become subject to the procedure on control of regulated transactions<sup>3</sup>.

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<sup>3</sup> Cf. Annex 2.

## **ANNEX 1**

### **PROHIBITED TRANSACTIONS (*conventions interdites*)**

**Statute:** article L.225-43 of the French Commercial Code (for French stock companies, i.e. *société anonyme*).

**Companies falling under the scope:** European Companies (*Société européenne*), French stock companies (*Société anonyme*), French limited liability companies (*Société à responsabilité limitée*), French simplified stock companies (*Société par actions simplifiées*) and French partnerships limited by shares (*Société en commandites par actions*).

**Interested parties:** directors that are natural persons, chief executive officer, deputy chief executive officers, permanent representatives of directors that are legal persons and their spouses, ascendants and descendants, and any intermediary.

**Purpose of the agreement:** obtaining a loan, overdraft on a current account or otherwise from the Company, as well as having the Company guaranty or endorse their commitments towards third parties.

**Prohibition:** to enter into the transaction. Any such transaction's agreement shall be null and void. Nullity is absolute and may be sought by any interested person. There is no requirement for the company to establish a damage and the nullity cannot be remedied by a confirmatory act.

Tort (damages, reimbursement of the amount borrowed) or even criminal (misappropriation of corporate assets) liability of the interested party may be engaged.

## ANNEX 2

### **REGULATED TRANSACTIONS (*conventions réglementées*)**

**Statute:** article L.225-38 of the French Commercial Code (for French stock companies, i.e. *société anonyme*).

**Companies falling under the scope:** European Companies (*Société européenne*), French stock companies (*Société anonyme*), French limited liability companies (*Société à responsabilité limitée*), French simplified stock companies (*Société par actions simplifiées*) and French partnerships limited by shares (*Société en commandites par actions*).

**Interested parties:** chief executive officer, deputy chief executive officers, directors, shareholders holding a fraction of the voting rights greater than 10% or, in the case of a corporate shareholder, the company controlling it, within the meaning of article L. 233-3 of the French Commercial Code, directly or indirectly, or through an intermediary, or having corporate officers in common with the company.

A person with an "indirect interest" in transaction to which it is not a party to is a person that, as a result of its relationship with the parties and its power to direct their conduct, benefits from or is capable of benefiting from the transaction.

An "intermediary" means any natural or legal person who enters into an agreement with the company for the actual benefit of a corporate officer or shareholder of said company.

"With common corporate officers" means agreements entered into between the company and an enterprise where the chief executive officer, any of the deputy chief executive officers or any of the directors of the company is the owner, unlimited partner, manager, director or otherwise a corporate officer of that enterprise that is counterparty to the agreement.

**Purpose of the agreement:** agreements concerning transactions other than those that are prohibited<sup>4</sup> or that constitute ordinary transactions entered into on arm's length terms<sup>5</sup>.

**Specific approval procedure:** all regulated transactions' agreements must be submitted to the prior authorisation of the Board of Directors (French stock company or European company) and the *a posteriori* authorisation of the General meeting of shareholders.

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<sup>4</sup> Cf. Annex 1.

<sup>5</sup> Cf. Annex 3.

## ANNEX 3

### **FREE TRANSACTIONS (*conventions libres*)**

**Statute:** article L.225-39 of the French Commercial Code (for French stock companies, i.e. *société anonyme*).

**Companies falling under the scope:** European Companies (*Société européenne*), French stock companies (*Société anonyme*), French limited liability companies (*Société à responsabilité limitée*), French simplified stock companies (*Société par actions simplifiées*) and French partnerships limited by shares (*Société en commandites par actions*).

**Interested parties:** chief executive officer, deputy chief executive officers, directors, shareholders holding a fraction of the voting rights greater than 10% (or, in the case of a corporate shareholder, the company controlling it, within the meaning of article L. 233-3 of the French Commercial Code, directly or indirectly, or through an intermediary, or having corporate officers in common with the company

**Purpose of the agreement:** (a) ordinary transactions entered into on arm's length terms or (b) agreements entered into between two companies where one holds 100% of the share capital of the other, directly or indirectly after deducting, as the case may be, the minimum number of shares required to satisfy the legal requirements of article 1832 of the French Civil Code or articles L.225-1 and L.226-1 of the French Commercial Code.

**Internal criteria used to characterise the agreement:**

**Concept of "ordinary transactions":** ordinary transactions are those carried out by 3DS in connection with its usual course of business. Frequency constitutes a presumption that a transaction is entered into in the usual course of business.

The Group Legal Department also assesses the concept of ordinary transaction in light of its compliance with the company's corporate purpose, the nature of the transaction, its legal significance, its economic impact and the length of the agreement as well as its compliance with the typical practices of companies in a similar situation.

**Concept of "arm's length terms":** arm's length terms are characterised when they are used by 3DS in its relationship with third parties in such a way that the interested party does not derive a profit that it would not have gotten if it had been an ordinary supplier or customer of 3DS.

Accordingly, the terms relating with the purpose, consideration, the warranties granted by 3DS to independent third-parties (i.e. non-interested persons) or commonly used in the same line of business or for similar transactions are considered arm's length terms.

Whether or not terms are arm's length is determined in light of:

- economic data, and therefore in light of a market price or usual market terms both inside and outside the Group;



- the concept of "balance of mutual benefits", which implies taking into consideration not only the actual price but also all of the terms governing the transaction (payment terms, warranties, etc.)

The Group Legal Department assimilates agreements with low financial stakes to ordinary transactions entered into on arm's length terms as long as the low financial stakes agreed in return for the benefit of the person undertaking an obligation correspond to an arm's length term and that the agreement is not materially important for either party.

Based on the Group's practice, the following intra-group agreements are considered as ordinary transactions entered into on arm's length terms, bearing in mind this list is not exhaustive:

- management fees, asset management, services, technical assistance, management and property/facility management agreements;
- agreements relating to the granting of the right to distribute licences;
- assistance agreements in relation to financing and financial instrument re-invoicing, cash management (centralised management of treasury operations) and/or loan/current account/borrowing transactions;
- tax consolidation agreements;
- acquisitions and/or assignments of receivables;
- share sale or loan agreements to a corporate officer in connection with the performance of his/her functions;
- agreements for the purchase or sale of assets (including intellectual property rights, stocks or shares, contracts, tangible or intangible assets of the company), non-remunerated transactions constituting an equity contribution granted to a subsidiary, commitments to subscribe to a capital increase carried out by a company of the Group; and
- securities, endorsements and guarantees given by an entity for the benefit of a third party (customers, suppliers, landlords and banks) as security for the payment of debts of a Group company, provided that such commitments are submitted to the Board of Directors for approval pursuant to article L. 225-35, subparagraph 4 of the French Commercial Code.

**No specific approval procedure:** free transactions' agreements are not subject to the review procedure setup for regulated transactions' agreements<sup>6</sup>.

**Specific procedure for periodic review of ordinary transactions entered into under normal conditions:** ordinary transactions entered into on arm's length terms are subject to a specific procedure for assessing their regularity as defined in this Charter.

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<sup>6</sup> Cf. Annex 2.