



NTT Spain Intelligent Technologies and Services – General Terms and Conditions of Sale

1. INTERPRETATION

- 1.1. **Definitions.** In these General Terms and Conditions of Sale, the following definitions apply:
- Business Day:** means a Business Day in the Barcelona's labour calendar (other than Saturday, Sunday or public holiday).
- Conditions:** the terms and conditions set out in this document as amended from time to time in accordance with clause 13.6.
- Contract:** the contract between the Client and the Supplier for the sale and purchase of Goods and/or Services in accordance with these Conditions.
- Client:** means the person or company stated on the applicable Order.
- Data Protection Legislation:** means any applicable law of the European Union or any of its Member States protecting personal data, including, in particular, the GDPR, and such other equivalent data protection legislation in any other applicable jurisdiction relating to a Party;
- Deliverables:** all documents, products and materials developed by the Supplier, or its agents, contractors and employees, as part of, or in relation to, the Services, in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
- GDPR:** means Regulation (EU) 2016/679 of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC;
- Goods:** the goods (or any part of them) set out in the Order.
- Goods Specification:** any specification for the Goods, including any related plans and drawings that is agreed by the Client and the Supplier.
- Order:** any Client order for the Goods and/or Services, as set out in the Client's purchase order form OR in the Client's written acceptance of a Supplier's quotation as the case may be.
- Services:** the services, including without limitation any Deliverables, to be provided by the Supplier under the Contract as set out in the Service Specification.
- Service Specification:** the description or specification for Services agreed in writing by the Client and the Supplier.
- Supplier:** NTT Spain Intelligent Technologies and Services S.L.U., with registered address calle Pujades 350, 7ª planta, 08019 Barcelona and tax identification number C.I.F B-62. 174.842, and incorporated in the Companies Register of Barcelona, volume 32.382, page 64, sheet B-209.005.
- 1.2. **Construction.** In these Conditions, unless the context requires otherwise, the following rules apply: (a) a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (b) a reference to a party includes its personal representatives, successors or permitted assigns; (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; (d) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and (e) a reference to writing or written includes faxes and e-mails.

2. BASIS OF CONTRACT

- 2.1. These Conditions apply to the Contract to the exclusion of any other terms that the Client seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
- 2.2. The Order constitutes an offer by the Client to purchase the Goods and/or Services in accordance with these Conditions.
- 2.3. The Order shall be deemed accepted on the earlier of: (a) the Supplier issuing a written acceptance of the Order; or (b) the Supplier doing any act consistent with fulfilling the Order, at which point the Contract shall come into existence.

- 2.4. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract and comply with all applicable laws and regulations.
- 2.5. The Supplier shall observe all health and safety rules and regulations and any other security requirements that apply at any of the Client's premises, or the Client's clients' premises.
- 2.6. In the event of a conflict between these Conditions and an Order, and any Special Conditions attached to an Order, the order of precedence shall be the Special Conditions, the Order and lastly these Conditions.

3. THE GOODS

- 3.1. The Goods are described in the Order.
- 3.2. The Supplier warrants that the Goods are free from material defects in design, material and workmanship.
- 3.3. The Client shall indemnify the Supplier against all liabilities, costs, expenses, damages, losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Supplier in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with this Contract.
- 3.4. The Supplier reserves the right to amend the specification of the Goods if required by any applicable statutory or regulatory requirements.

4. DELIVERY OF GOODS

- 4.1. The Supplier shall deliver the Goods to the location set out in the Order or such other location as the parties may agree ("**Delivery Location**") at any time after the Supplier notifies the Client that the Goods are ready. Time of delivery shall not be of the essence and any delay in delivery shall not entitle the Client to terminate the Contract.
- 4.2. Risk in the Goods shall pass to the Client on completion of delivery. Title to the Goods shall not pass to the Client until the Supplier has received payment in full (in cleared funds).
- 4.3. The Supplier shall deliver the Goods: (a) on the date specified in the Order, or, if no such date is specified, within ten (10) days of the date of the Order; (b) to the Client's premises or such other location as is set out in the Order, or as instructed by the Client prior to delivery at Delivery Location; and (c) during the Client's normal business hours, or as instructed by the Client
- 4.4. Delivery of the Goods shall be completed on the completion of unloading the Goods at the Delivery Location.

5. SUPPLY OF SERVICES

- 5.1. The Supplier shall from the date set out in the relevant Order and for the duration of that specific Order provide the Services detailed in that Order to the Client in accordance with the terms of the Contract.
- 5.2. The Supplier shall meet any performance dates for the Services specified in the Order or notified to the Supplier by the Client.
- 5.3. In providing the Services, the Supplier shall (a) co-operate with the Client in all matters relating to the Services, and comply with all instructions of the Client; (b) perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade; (c)

use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract; (d) ensure that the Services and Deliverables will conform with the Service Specification, and that the Deliverables shall be fit for any purpose expressly or impliedly made known to the Supplier by the Client; (e) provide all equipment, tools and vehicles and such other items as are required to provide the Services; (f) use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Client, will be free from defects in workmanship, installation and design; (g) not do or omit to do anything which may cause the Client to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Client may rely or act on the Services.

6. PRICE AND PAYMENT

- 6.1. The price of the Goods shall be the price set out in the Order. The price of the Goods includes the costs of packaging, insurance and carriage of the Goods.
- 6.2. The charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Client, the charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 6.3. The price of the Goods and/or Services is exclusive of amounts in respect of value added tax (VAT). No extra charges shall be effective unless agreed in writing and signed by the Client. The Client shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services.
- 6.4. The Supplier may invoice the Client for the Goods on or at any time after the completion of delivery. In respect of Services, the Supplier shall invoice the Client on satisfactory completion of the Services. The Client shall pay correctly rendered invoices within 30 days of receipt of the undisputed invoice.
- 6.5. If a party fails to make any payment due to the other under the Contract by the due date for payment ("**Due Date**"), then the defaulting party shall pay the legal interest for late payment and compensation regarding recovery costs as provided in Law 3/2004, December 29th, establishing measures to combat late payment in commercial transactions, or any regulation that may replace it. Such interest shall accrue on a daily basis from the Due Date until the date of actual payment of the overdue amount, whether before or after judgment. The defaulting party shall pay the interest together with the overdue amount. This clause shall not apply to payments the defaulting party disputes in good faith.
- 6.6. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Client to inspect such records at all reasonable times on request.

7. INTELLECTUAL PROPERTY

- 7.1. In respect of the Goods and any goods that are transferred to the Client as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery to the Client, it will have full and unrestricted rights to sell and transfer all such items to the Client.
- 7.2. The Supplier acknowledges that all materials, equipment and tools, drawings, Specifications, and data supplied by the Client to the Supplier ("**Client Materials**") and all rights in the Client material are and shall remain the exclusive property of the Client. The Supplier shall keep the Client Materials in safe custody at its own risk, maintain them in good condition until returned to the Client, and not dispose or use the same other than in accordance with the Client's written instructions or authorisation.

- 7.3. If a third party claims that the Goods and/or Services infringe a patent or copyright or any other Intellectual Property Right (“**IPR Claim**”), The Party (“**Indemnifier**”) will defend and hold the other Party (the “**Beneficiary**”) harmless against such IPR Claim at the Indemnifier’s expense and the Indemnifier shall pay all costs, fees, liabilities, losses and/or damages of any nature that a court finally awards, provided that: (i) the Beneficiary promptly notifies the Indemnifier of the claim when the Beneficiary learns of the claim of the third party; and (ii) cooperates with the Indemnifier in the defence and provides the relevant materials as reasonably required.
- 7.4. If such a claim as above mentioned is made or appears likely to be made against the Client, the Supplier shall at its option either: (i) procure the right to continue using the Intellectual Property Right which is in issue to enable the Client to continue to use the Goods and/or Services, or (ii) to modify it, or replace it with goods and/or services that are at least functionally equivalent; or (iii) if use of the goods and/or Services is prevented by a permanent injunction and the Supplier determines that none of the alternatives in (i) and (ii) above are reasonably available, the Client may return the Goods and/or terminate the Services, and the Supplier will then refund the Client an amount equal to the sum paid by the Client for the Goods and/or Services.

8. INSURANCE AND LIABILITY

- 8.1. **Insurance.** During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance, product liability insurance and public liability insurance to cover such heads of liability as may arise under or in connection with the Contract, and shall, on the Client's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 8.2. **Liability.** (a) Neither party shall in any circumstances exclude or limit its liability for: (i) death or personal injury caused by its negligence; and/or (ii) fraud or fraudulent misrepresentations; and/or (iii) any other events or circumstances to the extent that they that cannot be lawfully limited or excluded under law. (b) The Supplier shall not be liable to the Client, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any for any consequential, indirect and/or special damages or losses of whatever nature howsoever arising, and any loss of profit, loss of revenue, loss of business, loss of opportunity, loss of reputation, loss or corruption of data, loss of anticipated savings, and/or loss of goodwill (whether such losses are deemed direct or indirect). (c) The Parties’ Contractual Liability to the other shall not exceed the value of the charges paid or payable by the Client to the Supplier under the relevant Order during the previous 12 months of the relevant Order. “**Contractual Liability**” means the total maximum aggregate liability howsoever arising under or in relation to the subject matter of this Contract that is not: (i) unlimited by virtue of clause 8.2(a), and/or (ii) limited or excluded pursuant to clause 8.2(b).

9. CONFIDENTIAL INFORMATION AND DATA PROTECTION

- 9.1. A party (“**Receiving Party**”) shall keep in strict confidence all technical or commercial know-how, Goods Specification and Service Specifications, inventions, processes or initiatives which are disclosed to the receiving party by the other party (“**Disclosing party**”), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products or its services which the receiving party may obtain. The Receiving Party shall only disclose such confidential information to those of its employees, agents or subcontractors who need to know the same for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors shall keep such information confidential. For the avoidance of doubt, confidential information of the Client shall include any information about or disclosed by any of the Client's clients.
- 9.2. The Client and Supplier shall comply at all times, with the Data Protection Legislation.

10. TERMINATION

- 10.1. The Client may terminate the Contract and/or any Order, in whole or in part, at any time by giving the Supplier ninety (90) days' written notice, whereupon the Supplier shall discontinue all work on the Contract and/or the relevant Order. The Client shall pay the Supplier fair and reasonable compensation for work-in-progress at the time of termination.
- 10.2. Either Party may terminate the Contract with immediate effect by giving written notice to the other Party ("**Insolvent Party**"), if the Insolvent Party ceases to do business, becomes unable to pay its debts as they fall due, becomes or is deemed insolvent, has a receiver, manager, administrator, administrative receiver or similar officer appointed in respect of the whole or any part of its assets or business, makes any composition or arrangement with its creditors, takes or suffers any similar action in consequence of debt or an order or resolution is made for its dissolution or liquidation (other than for the purpose of bona fide solvent amalgamation or reconstruction), or any equivalent or similar action or proceeding is taken or suffered in any jurisdiction
- 10.3. Termination of the Contract, however arising, shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

11. FORCE MAJEURE

Neither party shall be liable to the other for any delay or failure in performing its obligations under the Contract to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the Supplier shall use all reasonable endeavours to cure any such events or circumstances and resume performance under the Contract. If any events or circumstances prevent the Supplier from carrying out its obligations under the Contract for a continuous period of more than 30 days, the Client may terminate this Contract immediately by giving notice to the Supplier.

12. CURRENCY AND FOREIGN EXCHANGE ADJUSTMENT

- 12.1. Charges will be billed in the currency specified in the applicable Order ('**Invoicing Currency**'). Client acknowledges that: (a) in respect of Goods and Third-Party Services ordered by Client, the Supplier may incur costs in a currency different from the Invoicing Currency ('**Cost Currency**'). Where this is the case, Client will bear the ongoing benefit or risk associated with foreign exchange fluctuations between the Cost Currency and the Invoicing Currency, with the charges (or impacted portion thereof) being subject to a proportional adjustment based on any variation to the applicable foreign exchange rates between the date the relevant binding Order was formed and the date the relevant invoice is issued; and (b) in respect of Services ordered by Client, Invoicing Currency may be different from the Supplier's local currency ('**Local Currency**'). Where this is the case, Client will bear the ongoing benefit or risk associated with foreign exchange fluctuations between the Local Currency and the Invoicing Currency, with the Charges for such Services being subject to a proportional adjustment based on any variation to the applicable foreign exchange rates upon each anniversary of the relevant Service Activation date; in each case, as determined by reference to the rates published by the Supplier's reasonably selected reputable and independent provider of financial market data (e.g., Bloomberg, Refinitiv).

13. ADJUSTMENT TO SERVICE CHARGES

- 13.1. Unless otherwise set out in an Order (or for a specific Service comprising part of an Order), the Supplier reserves the right, upon each anniversary of the relevant service activation date, to proportionately adjust any and all charges applicable to ongoing Services (excluding Third-Party Services, which will remain subject to clause 12.1 above) to account for any fluctuation to the

Supplier's costs to provide the relevant Services to Client, including inflation, cost-of-living-adjustments (COLA), foreign currency exchange rates, and costs of arranging, operating or procuring underlying utilities, services or technology.

14. MODIFICATION OR DISCONTINUANCE OF SERVICES

- 14.1. **Service Delivery and Management Locations.** Unless expressly agreed otherwise in the Contract, the Supplier has the sole discretion to determine the service delivery and management locations, resources, and personnel it uses to provision any remotely-delivered Services ('**Remote Delivery Model**'). The Supplier may modify any aspect of the Remote Delivery Model at any time, provided that such modification does not materially diminish the overall level of performance of the Services.
- 14.2. **Service Enhancements and Modifications.** The Supplier reserves the right, in its sole discretion and at any time, to: (a) add to or enhance the Services through the implementation of a new or updated feature or component (a '**Service Enhancement**') and, if applicable, make a corresponding adjustment to the applicable charges for the enhanced Services; and (b) modify, replace or decommission any part, feature or component of the Services (a '**Service Modification**'). For any Service Enhancement resulting in a corresponding adjustment to the applicable charges, the Supplier will deliver reasonable prior notice to Client, which will specify (at a minimum) the effective date of such enhancement and the details of any corresponding adjustment to the associated charges for the impacted Services. If Client objects to the charges adjustment corresponding with any Service Enhancement or reasonably believes that a Service Modification will materially diminish Client's ability to use the impacted Services, Client must notify the Supplier in writing within 15 business days of either, as applicable, receipt of the Supplier's prior written notice (in the specific case of any adjustment to charges accompanying a Service Enhancement) or the effective date of the Service Modification ('**Client Objection**'). Upon receipt of a Client Objection, the parties will use reasonable, good faith efforts to resolve the matter, provided that the Supplier is not obligated to agree to any accommodation that is not commercially practicable (without a corresponding adjustment to charges) or technically feasible.
- 14.3. **Discontinuance of Services.** Without limiting any other termination rights reserved by the Supplier under the Contract, the Supplier may, in its sole discretion and at any time, discontinue any Services in their entirety, provided that the Supplier will: (a) give Client no less than 6 months prior written notice of such discontinuance (with the stated or inferred date being referred to as the '**Discontinuance Date**'); and (b) use reasonable commercial efforts to offer a replacement service with a substantially similar purpose or function to Client.
- 14.4. To the extent the discontinued Services are subject to any Transition-Out Period (or similar extension rights or options reserved by Client), the Supplier's obligation to provide the relevant Services beyond the Discontinuance Date due to any such transition commitments may, at the Supplier's discretion, be subject to and contingent upon a modification to the applicable charges for such Services. Any modification to the charges pursuant to this clause will be effective from the Discontinuance Date and be determined by Client's proportionate share of any extended or increased costs to the Supplier to continue the provision of the discontinued Services for such period. For the avoidance of doubt, nothing in this clause requires the Supplier to provide any transition services that are not otherwise expressly agreed in the Contract, nor extend any Services beyond the duration of any relevant Transition-Out Period (where applicable).
- 18.5 If Client objects to the terms of any notice of discontinuance issued by the Supplier, Client must provide a written objection to the Supplier within 20 business days of receiving such notice ('**Discontinuance Objection**'). the Supplier will review any Discontinuance Objection in good faith and, within 20 business days from receipt, determine whether any exception or accommodation can be made regarding the discontinuance of the relevant Services. If no exception or accommodation can be made or Client does not agree with the accommodation proposed by the Supplier, the Services directly subject to the discontinuance will terminate on the earlier to occur of (i) the

Discontinuance Date (unless extended pursuant to clause 14.4 above) or (ii) 30 days from delivery of a written termination notice to the Supplier from Client.

- 18.6 **Disclaimer.** The Supplier will not be liable for any cost incurred or loss or inconvenience suffered by Client due to the Supplier exercising the rights reserved under clauses 14.1 through 14.5 above. For the avoidance of doubt, in the event of any termination due to the Supplier's discontinuance of Services, all charges accrued up to the effective date of termination will still be owed by Client as set out in the Contract or Order.

15. GENERAL

- 15.1. **Assignment and subcontracting.** The Supplier may at any time assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract. The Client may not assign, transfer, charge, subcontract or deal in any other manner with any or all of its rights or obligations under the Contract without the Client's prior written consent.
- 15.2. **Anti-Bribery.** Each party shall (a) comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti- corruption ("**Relevant Requirements**"); (b) not engage in any activity, practice or conduct which would constitute an offence under Law 10/2010 of 28 April 2010 on the prevention of money laundering and terrorist financing; and (c) have and shall maintain in place their own policies and procedures, to seek to ensure compliance with the Relevant Requirements.
- 15.3. **Notices.** All notices which are required to be given under these Conditions shall be in writing and shall be sent to the address of the recipient set out in these Conditions or such other address as the recipient may designate by notice given in accordance with this clause 13.2. Any such notice may be delivered personally, by first class pre-paid letter (airmail if overseas), by electronic mail or facsimile transmission.
- 15.4. **Severance.** If any part of this Contract is held unlawful or unenforceable that part shall be struck out and the remainder of this Agreement shall remain in effect.
- 15.5. **Waiver.** No delay, neglect or forbearance by either party in enforcing its rights under this Contract shall be a waiver of or prejudice those rights.
- 15.6. **Third party rights.** A person who is not a party to the Contract shall not have any rights under or in connection with it.
- 15.7. **Variation.** Except as set out in these Conditions, any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in writing and signed by the Client.
- 15.8. **Governing law and jurisdiction.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of Spain, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Barcelona.

The Parties hereby acknowledge having read and understood the Conditions herein and agree to be bound by them.

Signed for and on behalf of

NTT Spain Intelligent Technologies and Services S.L.U.

Signature:

Name:

Job title:

Date:

Signed for and on behalf of

Client

Signature:

Name:

Job title:

Date:
