



NTT

**General terms and conditions for deliveries of
equipment and related services (projects)**

NTT Czech Republic s.r.o.

01 September 2022



General terms and conditions for deliveries of equipment and related services (projects)

1. Introductory Provisions

The provisions of these general terms and conditions for deliveries of equipment and related services (projects) (hereinafter referred to as the **"Terms and Conditions"**) are valid for all deliveries of equipment, for which services are also provided, and other work in accordance with Section 2587 of the Civil Code supplied by **NTT Czech Republic s.r.o.**, registered address: Milevská 2095/5, 140 00 Prague 4, reg. no.: 26175738, registered in the commercial register maintained by Prague City Court in section C, entry no. 77064 (hereinafter referred to as the **"Contractor"**) to the business entity ordering work (hereinafter referred to as the **"Client"**), unless stated otherwise in a separate contract.

2. Definition of Terms

For the purposes of these Terms and Conditions the terms below shall have the following agreed meaning:

- 2.1. **"Acceptance"** means the acceptance of the Work or part thereof according to the procedure specified in Article 6 hereof.
- 2.2. **"Affiliate"** means a legal entity that controls, is controlled by, or that is under common control with either Client or Contractor. For purposes of this definition, 'control' means ownership of more than 50% interest of voting securities in an entity or the power to direct the management and policies of an entity.
- 2.3. **"Civil Code"** means Act No. 89/2012 Coll. (the Civil Code), as amended.
- 2.4. **"Contract"** means the contract for work concluded between the Client and the Contractor on the basis of the Offer and the Order (and if relevant the Order Confirmation if sent according to paragraph 3.7 hereof), the contents of which shall be formed by these Terms and Conditions, as well as the Offer and the Order (and any Order Confirmation).
- 2.5. **"Confidential Information"** means any information that is disclosed by or on behalf of one party to the Contract (the **"Discloser"**) to the other party (**"Recipient"**) in connection with the performance of the Contract, whether it is provided in writing, verbally, electronically, through observation or by other method, including any information, data or communication of a business, marketing, financial, legal or other nature, and the agreed contractual terms. Amongst others, confidential information includes source codes to software if the Contractor has provided them to the Client, as well as all modifications, expansions and versions of such source codes, materials and information concerning the Parties' activities, business activities and the way in which they do business, information about the Parties' customers and suppliers, the Contractor's offer, including prices, as well as concepts and knowledge, including the results of research and inventions, knowledge about technologies and methods used, "know-how", designs, drawings, specifications, etc. The definition of Confidential Information under these Terms and Conditions expressly excludes Personal Data of the parties and their representatives, which will be treated more specifically in accordance with the terms of clause 14 below.
- 2.6. **"Copyright Act"** means Act No. 121/2000 Coll., the Copyright Act, as amended.
- 2.7. **"Documentation"** means the official documentation provided by the manufacturer in the version it provided, and the Contractor's documentation of actual work, or any other documentation agreed between the Parties. **"Equipment"** means hardware or Software to be procured by the Contractor and supplied to Client, as , described in the Offer/Order (and also in the Order Confirmation, if sent in accordance with paragraph 3.7 hereof).
- 2.8. **"Force Majeure Event"** means an obstacle that temporarily or permanently prevents a Party from fulfilling its obligations under the Contract and which is exceptional unforeseeable and insurmountable and was independent of the will of either Party. Force Majeure Events include floods, earthquake, war, terrorist attack, sabotage, revolution, invasion, insurrection, strike, lockout or other event during plant operation, rebellion, civil riots, mob violence, blockade, embargo, boycott, use of military force, fire, explosion, epidemics, quarantine, and/or conduct or constraints by the government, including the imposition of restrictions or embargoes on imports exports. Force Majeure Event shall also include unexpected delays of Contractor's suppliers, that cannot be influenced by the Contractor.
- 2.9. **"Handover Protocol"** means the document on the handover of the Work by the Contractor and the acceptance of the Work by the Client.
- 2.10. **"Intellectual Property Rights"** mean any of the following rights anywhere in the world, whether registered or unregistered: trade secrets, patents and application for patents, trademark rights, service mark rights and domain name rights and applications for the same, rights in unregistered trademarks and rights in trade names and business names, copyright (including copyright in



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- software and databases), database rights, rights in designs and rights in inventions, and any rights of similar effect or nature as any of the foregoing.
- 2.11. **"NTT Material"** means (a) the Work, Services and associated Documentation (but expressly excluding any Third-Party Services and associated Documentation); (b) equipment (including associated firmware, software, parts and components) leased, rented, or licensed by or on behalf of the Contractor in order for Client to receive and use any Services, regardless of physical location; (c) know-how, methodologies, processes, and/or Intellectual Property Rights used by the Contractor to perform the Work or provide any Services; (d) all materials, software, data, and information provided by the Contractor under the Contract, including any identifiers, passcodes, or access keys used to access the Work or the Services; and (e) any modifications, upgrades, derivate works, and improvements to any of the foregoing.
 - 2.12. **"OEM"** means the original equipment manufacturer of a relevant product.
 - 2.13. **"Offer"** means the Contractor's offer to perform the Work (the delivery of the Equipment and the provision of the Services) which may also include the SOW.
 - 2.14. **"Order"** means the Client's binding request for the performance of the Work (the delivery of the Equipment and the provision of the Services) which has been submitted by the Client according to the Contractor's valid Offer (i.e. an Order is considered acceptance of an Offer in accordance with Section 1740 of the Civil Code).
 - 2.15. **"Order Confirmation"** means confirmation of an Order that contains deviations or changes compared to the Offer by the Contractor, in which the Contractor confirms delivery of the Work to the Client under the terms contained in the Order (as specified in paragraph 3.7 hereof).
 - 2.16. **"Personal Data"** have the meaning ascribed to it in the Regulation of European Parliament and Council (EU) 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).
 - 2.17. **"Place of Performance"** means the place where the Work is to be implemented, where the procedure specified in paragraph 5.3 shall be used for determining it.
 - 2.18. **"Possibility of Remote Network Access"** means a situation where the Client allows the Contractor to have remote access to the Equipment and to provide Services remotely, in particular: (i) it allows fully secure data access to the Client's internal network from the Contractor's network, (ii) the installation and/or configuration of the SW allows remote access to the Equipment and (iii) it provides the Contractor with full access rights for full access to the Equipment.
 - 2.19. **"Privacy Statement"** means the then-current privacy statement describing Contractor's treatment of Personal Data in its general business administration, management, and operations, which is made available at <https://services.global.ntt/en-us/legal/privacy-statement> (or successor site) and as may be updated by the Contractor (or its parent company) from time-to-time (effective upon publication).
 - 2.20. **"Schedule"** means the plan for the implementation of the Work that is specified in the Offer, or in the Order, or in the Order Confirmation, if sent in accordance with paragraph 3.7 hereof, or determined according to paragraph 5.1 hereof.
 - 2.21. **"Services"** means installation, training, consultation, project management and other services that the Contractor is obliged to perform as part of the Work.
 - 2.22. **"Software"** means one or more programs capable of operating on a controller, processor or other hardware product, the detailed specifications of which are described in the Offer (or the Scope of Work part of the Offer). The Software is either a separate product or is contained in another hardware product ("Bundled Software") or is an integral part of the Equipment and cannot be removed during normal operation ("Firmware").
 - 2.23. **"SOW"** means the *Scope of Work* as part of the Offer, in which the Work is specified (Equipment/Software and Services).
 - 2.24. **"Work"** means the work that is specified in the Offer, or in the Order, or in the Order Confirmation, if sent in accordance with paragraph 3.7 hereof, and the delivery of which to the Client is the subject-matter of the Contract concluded on the basis of the Offer, the Order and these Terms and Conditions.
 - 2.25. **"Third-Party Services"** mean, as procured through the Contractor, services provisioned directly from a third-party service provider (other than as a subcontractor of the Contractor) for Client's access and use, as set out more particularly in the Offer and subject to any applicable third-party terms.

3. Order and Creation of Contract

- 3.1. An individual Contract shall be concluded on the basis of an Order which has been made out by the Client according to the Contractor's valid Offer. The Offer and the Order also include these Terms and Conditions. By making out an Order the Client confirms that it has read these Terms



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- and Conditions and that it considers them to be part of the Contract concluded between the Client and the Contractor. By making out an Order the Client also agrees that these Terms and Conditions are the only ones applicable to the Contract concluded on the basis of its Order. For the avoidance of doubt, any business or other contractual conditions printed or otherwise referred to or accompanying the Client's Order shall not be used for the Contract.
- 3.2. In certain cases the Contractor's Offer may also include a Scope of Work document (SOW), which specifies in detail the Contractor's subject of performance under the Contract. The SOW shall be binding for the Contractor's performance in the same way as other parts of the Offer.
 - 3.3. The Client's Order made out on the basis of the Contractor's Offer must be in the following form: (i) the original written Order delivered to the Contractor, for example by post or in person, (ii) a PDF, html or another form of a document that has been delivered to the Contractor as an email attachment or otherwise electronically, (iii) the Client's e-mail accepting the Contractor's Offer with an express reference to the Contractor's valid Offer, which can be clearly identified from such reference (e.g. by the Offer number and/or Offer title and/or subject of the Order / price of the Order). The Order must always (with the exception of the case in point (ii) and (iii) of this paragraph) be signed by the Client's authorised representative. An Order made out in this way by the Client shall be deemed binding.
 - 3.4. The Order must contain at least these basic requirements:
 - a) the Client's business name and registered address (place of business in the Czech Republic);
 - b) contact person, his/her email and phone number;
 - c) registration number; tax registration number if the Contractor is registered as a VAT payer;
 - d) name and designation of the Equipment that is to be supplied (numerical designation of the Equipment, i.e. the Equipment codes listed in the Offer) so that the subject of the Order is clearly identified;
 - e) total price of the Order;
 - f) signature of the Client's authorised representative (if appropriate, also the company stamp), with the exception specified in paragraph 3.3 above.
 - 3.5. The Client's Order shall also be deemed sufficient if it does not contain the information according to letters d), and e), provided it contains an express reference to the Contractor's valid offer, which can be clearly identified from such reference, and if the Offer contains various options for goods, the reference shall also specify which option the Client has chosen. If the Order does not contain the information regarding the date of performance and/or Place of Performance, such Order shall be deemed sufficient and Article 5 hereof shall be used to determine the Place of Performance and date of performance, or Schedule.
 - 3.6. Individual contracts are concluded on delivery of an Order to the Contractor if the Order fully matches the Offer and does not contain any deviations, additions, reservations, limitations or other changes compared to the Offer (Section 1740 (3) of the Civil Code does not apply and therefore the possibility of accepting an Offer with an addition or deviation is ruled out).
 - 3.7. If an Order contains deviations, additions, reservations, limitations or other changes compared to the Offer, such Order shall be considered as a new offer and shall be binding for the Contractor only if the Contractor sends the Client confirmation of the order confirming the delivery of the Work under the conditions specified in the Order, or confirming that the Client's Order has been accepted by the Contractor, including with the changes compared to the Offer. The Contractor shall send the Client confirmation of the Order by email. In such case a Contract shall be concluded on delivery of confirmation of the Order to the Client.
 - 3.8. If the Contractor's confirmation of an Order is required by the Client, the Contractor shall confirm the Order without undue delay after receiving it by email. However, if the Order fully matches the Offer, the Contract shall be concluded as soon as the Order is received (see paragraph 3.6 above). If the Order does not match the Offer, the procedure specified in paragraph 3.7 above shall apply.
 - 3.9. For the purpose of concluding a Contract an email shall be deemed delivered as soon as it is received by the other Party's email server according to the email system records of the Party that has sent the email; an email may be sent to any email address of the other Party listed in the Offer or Order or otherwise given to the other Party on concluding the specific business case.
 - 3.10. The subject-matter of a Contract concluded in the above manner is the Contractor's commitment to perform the Work for the Client and the Client's commitment to pay the agreed purchase price for it, all according to these Terms and Conditions.



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4. Price and Terms of Payment

- 4.1. The Client agrees to pay the Contractor the agreed price for the Work. The binding price of the Work (Equipment and Services) is specified in the Offer (or in the Order Confirmation, if sent in accordance with paragraph 3.7 hereof. The price given in the Offer (or Order Confirmation) is deemed to have been arranged as a fixed amount, unless expressly agreed otherwise.
- 4.2. The prices in the Contractor's offer do not include VAT which shall be added to the price by the Contractor according to applicable legislation, unless it is expressly stated in the Offer that the price is inclusive of VAT.
- 4.3. The price shall be paid by bank transfer into the Contractor's account on the basis of the Contractor's issued tax document (invoice).
- 4.4. If there is a change by more than 3% in the exchange rate for the currency, in which the Contractor purchases the Equipment or the manufacturer's support (maintenance), against the Czech crown on the date the Client is invoiced compared to the exchange rate on the date the Offer (or the Order confirmation) is sent, the Contractor shall be entitled to amend the invoice price accordingly, if this price is set in CZK. The exchange rate announced by CNB shall be relevant for calculating exchange rate differences.
- 4.5. Unless it is stated otherwise in the Offer (or the Order confirmation), invoicing shall be done partially as follows:
 - the price for the delivery of the Equipment (hardware and Software), if it is part of the Work, shall be invoiced immediately after the Equipment has been delivered to the Client to the Place of Performance, or after the equipment is handed over to the carrier (according to section 5.3 below);
 - the price for providing the digital content (Software, including subscription) and arranging of support of the manufacturer (maintenance) shall be invoiced after fulfilment of these parts of obligation under the Contract, as specified in Sections 5.4 and 5.5 below;
 - the price for other parts of the Work (Services, cost of compiling Documentation, training, etc.), shall be invoiced after the Acceptance of the Work, but not later than 5 days after the Acceptance of the Work;
 - if the handover of the Work in parts has been agreed (acceptance milestones), the invoice for the relevant part (acceptance/invoice milestone) shall be issued not later than 5 days after the handover of the relevant part of the Work (acceptance milestone).

The Contractor shall be also entitled to issue invoice for the entire price of the Work after the Acceptance of the Work.

- 4.6. Invoices shall be payable within fourteen (14) days of the date of issue. The Client shall be required to pay the amount in such a way that it is credited to the Contractor's bank account on the due date. If the Client is in default of payment of an invoice, it agrees to pay the Contractor default interest of 0.1 % on the amount owed for each day of the delay.
- 4.7. In the event of a delay in the payment of invoices the Contractor shall be entitled to suspend the performance of the Work until the date on which the entire amount owed, including default interest, is credited to the Contractor's account. The Schedule deadlines shall be extended by this period. In the event of a delay of more than thirty (30) days the Client shall allow the Contractor to enter the Place of Performance and dismantle and remove the installed Equipment or other components of the Work. The Client shall bear the costs thus incurred by the Contractor.

5. Date and Place of Performance of the Work, Cooperation

- 5.1. The Contractor agrees to perform the Work (supply the Equipment, provide the related Services) on the dates, or according to the Schedule, specified in the Offer (or in the Order Confirmation. If no date is specified, Section 2590 of the Civil Code shall apply.
- 5.2. The Contractor shall notify the Client of any delay in performance according to the Schedule. If the delay is caused by: (i) a Force Majeure Event, or (ii) any action, omission or delay by the Client regarding its contractual obligations, in particular not providing cooperation on the agreed date or in the agreed manner, or (iii) any other event beyond the Contractor's control, the performance date shall be extended by the period agreed between the Parties, whereas this period may not be shorter than the duration of the facts specified in points (i), (ii) and (iii) above, unless the Parties agree otherwise. If the delay in the Schedule is caused for reasons on the part of the Client, it shall be required to reimburse the Contractor for all extra costs and expenses incurred by the Contractor as a result of such action, omission or delay by the Client.
- 5.3. The Place of Performance given in the Offer (or in the Order confirmation) shall be used to determine the Place of Performance. If it is not listed therein, the Place of Performance listed in the Order shall apply. If no Place of Performance is listed in either of these documents, the



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- Place of Performance (i) for the delivery of the Equipment shall be the Client's registered address and (ii) for the provision of the Services shall be the Contractor's registered address, whereas the Client is required to provide the Contractor with the Possibility of Remote Network Access so that the Contractor can provide the Service via remote access from its registered address. Unless it is agreed that the Equipment shall be delivered to the Place of performance directly by the Contractor, or personal collection by the Client is agreed, the Equipment shall be delivered to the Client to the Place of performance by a standard delivery service (carrier) according to the choice of the Contractor. The Contractor shall fulfil part of its obligation under the Contract consisting in delivery of the Equipment, i.e. handover the Equipment to the Client, by handing over the Equipment to the carrier for transportation to the Client. After handing over the Equipment to the carrier according to this section, the Contractor shall issue a tax document (invoice) for the Equipment and shall send it to the Client.
- 5.4. If delivery of a digital content (Software, including subscription) by the Contractor is a part of the performance under the Contract, the Contractor shall fulfil this part of obligation under the Contract and this performance shall be considered as delivered, when the Contractor (or directly the manufacturer) enables the Client to exercise the rights to software according to the license (including the subscription license), i.e. enables the Client access to software and its use according to the license agreement. Consequently, the Contractor shall issue the tax document (invoice) and will send it to the Client.
 - 5.5. If arranging for the maintenance of the manufacturer by the Contractor is a part of the performance under the Contract, the Contractor shall fulfil this part of obligation under the Contract and this performance shall be considered as delivered, when the Contractor arranges for the maintenance by the manufacturer for the agreed period of time according to the conditions set out by the manufacturer. Consequently, the Contractor shall issue the tax document (invoice) and will send it to the Client.
 - 5.6. On the date the Equipment is delivered the Client shall ensure that the Place of Performance is prepared in accordance with the Contractor's requirements specified in these Terms and Conditions and in the Offer (or the Order Confirmation), or in a separate "environment requirements" document, which shall be handed over to the Client by the Contractor. Furthermore, the Client shall provide the Contractor with access to the Place of Performance, and ensure that a lockable room is provided to put the Equipment and installation tools in. If the Client does not have a secured room according to this Article on delivery of the Equipment, it shall be required to reimburse the Contractor for all the costs it incurs due to a breach of this obligation. The Client shall also notify the Contractor of any delay in the preparation of the Place of Performance.
 - 5.7. The receipt of goods shall be confirmed by the Client's authorised representative by signing the delivery note.
 - 5.8. If part of the Work includes the supply of Documentation, it shall be handed over to the Client not later than on the Handover Date. The Documentation shall be provided in Czech or English, in one counterpart at the Place of Performance. The Client agrees to not provide or make available any information about the Documentation to any third party without the Contractor's written consent for a period of 5 years after the signing of the Handover Protocol. It also agrees to take all necessary measures to preserve the confidentiality of the Documentation and to limit its employees' access to the Documentation only to the most necessary cases.
 - 5.9. If part of the Work includes training, the Contractor agrees to provide this training for the Client's employees who will be responsible for the operation and maintenance of the Equipment. Training shall take place on the Client's premises, in Czech or English, on working days and during working hours. The Contractor shall not bear any liability for the result of the training courses regarding the fulfilment of tasks by employees after they have completed the training courses.
 - 5.10. The Client shall be required to provide the Contractor promptly with all cooperation necessary for the performance of the Work.

6. Handover of the work, transfer of risk of damage and ownership

- 6.1. After the Work, or part thereof (if acceptance milestones have been agreed), has been completed, the Contractor shall invite the Client to take over the Work/part thereof. The Client shall be required to verify within five (5) days whether the Work has been properly completed and therefore meets the agreed acceptance criteria, or other specifications made in the Offer (or SOW) - hereinafter referred to as "**Acceptance Criteria**".
- 6.2. If the Work does not meet the agreed Acceptance Criteria, the Client shall notify the Contractor in writing or by email within five (5) days of the Work being handed over to it for the acceptance tests, or verification that the Work has been completed. The Client shall state all the reasons why the Work does not meet the Acceptance Criteria/cannot be considered to have been



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- completed in sufficient detail so that the Contractor can replicate the detected errors/defects and determine their cause. The Contractor shall remove all the defects as soon as possible and again prepare the Work for handover in accordance with the specified procedures. The Client shall then have five (5) days to again verify that the defects have been removed and that the Work meets the Acceptance Criteria. The specified procedure shall be repeated until the Work is properly completed and the agreed Acceptance Criteria have been met.
- 6.3. If the Work is properly completed (if it meets the agreed Acceptance Criteria), the Acceptance of the Work shall be confirmed with the signing of the Handover Protocol. If the Work is properly completed, the Client shall be required to accept it. The Client shall be entitled to refuse to accept the Work only if defects are ascertained on the takeover of the Work (see paragraph 6.2 above). Deficiencies or defects that do not hinder the functional use of the Work shall not justify a refusal to accept the Work.
 - 6.4. If, within five (5) days of the date on which the Work is handed over to the Client for verification whether it has been properly completed (it meets the Acceptance Criteria), the Client does not sign the Handover Protocol or does not draw up a written report on its refusal to accept the Work, including a list of defects, the Work shall be deemed to have been accepted by the Client, and the Handover Protocol shall only be signed by the Contractor's representative and shall be equivalent to a Handover Protocol signed by both Parties.
 - 6.5. In addition, any partial or full use or launch into operation of the Work by the Client or a third party before the signing of the Handover Protocol shall be deemed acceptance of the Work by the Client. In such case the Handover Protocol shall be drawn up and signed only by the Contractor and shall be equivalent in all regards to a Handover Protocol signed by both Parties.
 - 6.6. The signing of the Handover Protocol by both Parties on the acceptance of the Work, as well as the conduct referred to in paragraphs 6.5, and 6.6 above, shall be considered conduct confirming the completion and handover of the Work to the Client in accordance with Section 2604 of the Civil Code.
 - 6.7. The above procedure shall also be used for the acceptance of individual parts of the Work (acceptance milestones, if they have been agreed).
 - 6.8. The risk of damage to the Equipment shall pass to the Client on the date the Equipment is delivered to the Place of Performance.
 - 6.9. The Contractor reserves the ownership right to the Equipment and the Client shall acquire the ownership right to the Equipment as soon as 100% of the price of the Work, including any default interest or other claims the Contractor has under this Contract, is credited to the Contractor's account.
 - 6.10. The Client shall not be entitled to further sell or otherwise transfer ownership or other rights (for example licences) to the Equipment/Work or any parts of the Work to any third party without the Contractor's prior written consent.

7. Change Management

- 7.1. The Client shall be entitled to propose a change to the Work at any time during the performance of the Work, in writing. In such case the Contractor shall assess the proposal for a change to the Work, its feasibility, the impact on the Schedule, the price of the Work, and on cooperation, etc., and submit the result of its assessment to the Client for approval.
- 7.2. The Contractor shall also be entitled to propose a change to the Work to the Client, for example if new facts are ascertained after the performance of the Work has started. In such case the Contractor shall submit the proposed change to the Client in writing, including a description of the change, the reasons for it, the impact on the Work, price, and any other points necessary in order for the Client to be able to assess the change. In such case the Contractor shall have the right to carry out such work as is immediately necessary to prevent damage to the Work during the mutual approval of the request for a change.
- 7.3. If the Parties agree on a change to the Work under paragraphs 7.1 and 7.2, the request for a change shall be entered in the Contractor's change request form. The change request form shall be signed by both Parties' authorised representatives. Change request forms that are the result of agreement between the Parties according to paragraphs 7.1 and 7.2 and are properly signed by both Parties' representatives shall become part of this Contract.
- 7.4. Changes to the Work (including their impact on the Schedule) can also be agreed between the Parties in the form of a written record of the meeting between the Parties' representatives signed by the representatives of both Parties.
- 7.5. If a change to the Technical Specifications Work according to this Article 7 requires a change to the price of the Work the change request form cannot be used and such change shall be agreed separately, i.e. the Contractor shall prepare a special Offer for the Client for this change, which the Client shall accept in a special Order.



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8. Software and Intellectual Property Protection

- 8.1. When the Client order licenses to Software and/or maintenance/subscription to Software, the Client acknowledges that the Contractor is not a manufacturer, or a owner/holder of the copyright to such a software, nor is it a provider of the maintenance/subscription for such Software, and the Contractor only arrange for the licenses and/or the maintenance/subscription by the owner/holder of the copyright to Software.
- 8.2. The use of any Software, whose manufacturer/copyright owner is not the Contractor and which is supplied by the Contractor under this Contract, shall be governed by the licence terms that are supplied with such Software and the Client shall comply with such licence terms of manufacturer/OEM /copyright owner of the Software. The licence agreement for the use of third parties' Software shall exist directly between the Client and the owner/holder of the copyright to the Software, unless agreed otherwise in the Contract. All third party software that is supplied is listed by the Contractor in its Offer (including SOW).
- 8.3. Unless it is expressly stated in the Offer (including SOW) that the Contractor is the holder of the copyright to the supplied Software, the Contractor shall not be a party to any licence agreement regarding the Software and so it shall not provide any guarantee or declaration concerning this Software, including (but not exclusively) guarantees regarding ownership/authorship, use or operation of such Software.
- 8.4. Licenses to use Software and/or maintenance/subscription to Software are arranged for by the manufacturer/OEM/ copyright owner of the Software for the specific Client only, and the Client shall not be authorized to further assign the licenses, or the right to receive maintenance/subscription, to any third party, without a prior written approval of the Contractor.
- 8.5. Maintenance/subscription to Software are arranged for by the Contractor by the manufacturer/OEM always as of the date and for the time (period) specified in the Offer, whereas the time (period) cannot be changed (shortened) later. Extent of the manufacturer/OEM's maintenance/subscription to Software is specified in the Offer and/or in the conditions of the manufacturer/OEM, which are available at website of the manufacturer/OEM. If requested, the Contractor will send the extent and conditions for the maintenance/subscription to the Client via email. If the Client orders together with maintenance/subscription to Software also support services of the Contractor, providing of such services shall be governed by the Contractor's General Terms and Conditions for Support Services.
- 8.6. The Contractor shall provide the Client with a non-exclusive and non-transferrable licence for the use of part of the Work fulfilling the characteristics of a copyright work according to the Copyright Act, which is created by the Contractor (for example, a computer program created by the Contractor). The licence shall be granted for the entire duration of the property rights to the work. The licence shall be granted for the Czech Republic. The work may be copied and amended only for the Client's internal purposes. The Contractor shall not provide the source code for a computer program that it has created. If a computer program created by the Contractor is one of its standard products, its use shall be governed by the Contractor's licence terms for that product. Other conditions of copyright protection shall be governed by applicable legislation.
- 8.7. Unless expressly stated otherwise in the Contract (or these Terms and Conditions), no Intellectual Property Rights are intended to be transferred under the Contract. Except for those rights expressly granted in the Contract, all rights, title, and interest (including Intellectual Property Rights) in any NTT Material remains vested in Contractor (or its Affiliates) or, in the case of Equipment or Third-Party Services, the relevant third-party OEM, licensor, or service provider (as applicable).
- 8.8. In the event Client elects to communicate to the Contractor any suggestions for improvement to any NTT Material, NTT will, to the extent permitted by applicable laws, be entitled to use such suggestions without restriction or compensation to Client.

9. Confidential Information

- 9.1. The Parties shall be required to maintain the confidentiality of Confidential Information and to protect it against disclosure. Neither Party is entitled to disclose Confidential Information to any third party without the prior written consent of the Discloser, or to use this Confidential Information for any purposes other than the performance of this Contract. The Parties agree to maintain the confidentiality of Confidential Information at least to the same degree as they protect their own confidential information of a similar nature, but at least to the usual extent with regard to all circumstances.
- 9.2. The obligation according to paragraph 9.1 above does not apply to Confidential Information that:
 - 9.2.1 the Recipient had available before it was provided by the Discloser;



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- 9.2.2 has become publicly known other than through a breach of the obligation to maintain confidentiality under this Contract;
 - 9.2.3 has been provided to the Recipient by a third party without a confidentiality obligation;
 - 9.2.4 has been independently developed by the Recipient;
 - 9.2.5 the Discloser has given approval for it to be published.
- 9.3. The Recipient shall be entitled to disclose the Confidential Information to Recipient's (or, if applicable, Recipient's Affiliates') directors, officers, professional advisors, employees, contractors, and, in the case of the Contractor as Recipient, to any relevant subcontractor or third-party OEM, licensor, or service provider used in the performance or administration of the Agreement, on a need-to-know basis only and subject to sufficient obligations of confidentiality with such parties (and Recipient will remain fully liable for a breach of this clause 9 by any entity or individual to which it transfers the Confidential Information as set out herein).
- 9.4. Recipient may disclose Discloser's Confidential Information to the extent required by law or any governmental or other regulatory authority (including by a court or other authority of competent jurisdiction) (the "Disclosure Order"), provided that:
- 9.4.1 Recipient's disclosure of such Confidential Information is limited to the minimum amount necessary to comply; and
 - 9.4.2 to the extent permitted by law, the Recipient:
 - (i) gives the Discloser prior written notice of the Disclosure Order as soon as practicable;
 - (ii) provides the Discloser with a reasonable opportunity to make representations to the relevant authority to oppose the Disclosure Order; and
 - (iii) reasonably cooperates with Discloser to oppose or limit the Disclosure Order or otherwise obtain the maximum possible continuing protection for such Confidential Information.
- 9.5. Upon termination of the Contract, Recipient will promptly return or destroy (as reasonably directed by the Discloser) any Confidential Information in its possession, provided that nothing in this clause obliges either party to return or destroy any document or information incorporated into or annexed to anything that:
- 9.5.1 must be retained for compliance purposes (including any accounting standard or the rules of any stock exchange) or as required by Applicable Laws; or
 - 9.5.2 is contained in backups or other systems such that the information cannot be reasonably and practicably located and deleted.
- 9.6. These confidentiality obligations will remain valid for a period of 3 years after the expiry or termination of the Agreement, provided that such obligations will continue:
- 9.6.1 in respect of any Confidential Information retained pursuant to clause 9.5 above, for as long as such information remains in the possession of Recipient; and
 - 9.6.2 in respect of any Confidential Information constituting a trade secret, in perpetuity.
- 9.7. The Parties agree that confidentiality does not apply to information about the existence of this Contract, including commercial references, i.e. using the other Party's business name, logo, the project name and general description of the Work in marketing and/or reference materials. The Client agrees that the performance of the Work under this Contract can be used as a public reference indicating the performance or subject of performance, trademarks and generally known facts. This consent is of unlimited duration and shall also remain valid after the termination of this Contract. The Contractor shall also be entitled to include the Client in its list of references.

10. Liability for Defects

- 10.1. The Contractor shall be liable for defects in the Work on its handover to the Client.
- 10.2. The Contractor shall not be liable for defects in the Work if the defect appears after the Work has been handed over and it has been found that (i) the Work/Equipment has been placed in an unsuitable environment; (ii) during the operation of the Work/Equipment the Contractor's instructions on proper operation set out in the Documentation or otherwise provided by the Contractor have not been followed; (iii) the Work/Equipment has been used in a way or for a purpose for which it is not intended; (iv) the Work/Equipment has been interfered with by a third party without the Contractor's prior consent, including cases where the Work/Equipment has been modified or repaired by a third party without the Contractor's prior consent; (v) the Work/Equipment has been used in conjunction with any product (HW or SW) that has not been approved by the Contractor; (vi) the defect has occurred due to external influences, including excessive physical force, a power or air-conditioning failure, accident, incorrect handling, or a Force Majeure Event.



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- 10.3. Paragraph 10.2 shall also apply if a warranty is agreed.
- 10.4. The Client shall notify the Contractor of any defects within two (2) working days after discovering the defect.

11. Warranty

- 11.1. The Contractor shall provide the same warranty for the goods supplied under the Contract as the manufacturer of the goods provides, to the extent where it is possible legally and on the basis of the contractual relationship between the manufacturer of the goods and the Contractor for the Contractor to transfer such warranty to the Client. The Contractor shall inform the Client of the warranty on the Equipment in the Offer or when the Equipment is handed over. For the avoidance of doubt, the Client states that it is not the manufacturer of the Equipment and does not provide any warranty on the Equipment (unless expressly stated otherwise in the Offer), in particular it does not provide any warranty regarding the satisfactory or usual quality of the Equipment or the suitability to use the Equipment for a particular purpose, or a guarantee of non-infringement of third party rights in connection with the use of the Equipment.

12. Liability

- 12.1. The Contractor's liability to the Client for damage caused by a breach of obligations arising from the Contract (including these Terms and Obligations) or the law is limited to an amount equal to 100 % of the price of the Work. This restriction also applies to non-pecuniary damages which the Contractor might be obliged to pay by law and to compensation in special cases under Section 2920 et seq. of the Civil Code.
- 12.2. The Contractor shall be exempt from the obligation to pay compensation and shall not be required to pay damages if it shows that the damage occurred due to (a) a Force Majeure Event, or (b) conduct by the Client or other third party beyond the Contractor's control, or (c) a lack of cooperation from the Client. Furthermore, the Contractor shall not be required to pay the Client or any third party for damage if any of the facts in paragraph 10.2 occurred.
- 12.3. The Contractor shall not be liable and therefore shall not be obliged to compensate for (i) loss of profit, revenues and income, (ii) loss of use or business interruption, (iii) loss of bargain or opportunities or anticipated savings, and/or loss of goodwill, reputation, (iv) loss or corruption of data, (v) any accidental, subsequent or other indirect damages or losses. This restriction shall apply regardless of the form in which the claim is made, whether it be a claim based on an obligation to pay compensation due to a breach of law or a breach of contract, and regardless of whether the Contractor was warned of the possibility of such damages or losses.
- 12.4. The above restrictions shall not apply to the obligation to (i) compensate for a loss on the death or injury of a person, or (ii) compensate for a loss caused intentionally or through gross negligence; or other obligation to compensate for a loss where the exclusion or restriction of this obligation would by law be invalid or unenforceable.
- 12.5. The Client and the Contractor shall be required to mitigate or reduce the impact of any losses, damages, fines, costs, expenses (including legal expenses) or other obligations and liabilities that may arise due to any breach of law or this Contract.

13. Force Majeure

- 13.1. A Party affected by a Force Majeure Event shall not be in default of meeting its contractual obligations or otherwise responsible for any delay in meeting or the failure to meet its contractual obligations (with the exception of any payments under this Contract), if the delay in meeting or the failure to meet the obligation was as a direct consequence of the Force Majeure Event and provided that:
 - (a) the Party affected by the Force Majeure Event has notified the other Party of the Force Majeure Event, its nature and probable duration, including its impact on the other Party, in writing and without undue delay;
 - (b) the Party affected by the Force Majeure Event has taken all reasonable measures to mitigate the impact of the Force Majeure Event.
- 13.2. As soon as the Force Majeure Event ends, the Party affected by it shall immediately notify the other Party that the Force Majeure Event has ended and renew the fulfilment of its contractual obligations affected by the Force Majeure Event.
- 13.3. If a Force Majeure Event lasts for more than thirty (30) consecutive days and the fulfilment of contractual obligations is prevented/delayed for this period, the Party that is not affected by the Force Majeure Event shall (i) be entitled to terminate the Contract by written notice, which



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shall take effect on the delivery of notice to the other Party, and (ii) shall not be liable for damages that might arise in this context.

14. Personal Data

- 14.1. Client acknowledges and accepts, without the need for further notification or consent (unless required by applicable laws), that the Contractor may transfer (both domestically and cross-border) and disclose Client's customer relationship management ("CRM") and other business administration data (including contact information for relevant Client personnel, User credentials, etc.) to Contractor's (and its Affiliates') personnel, subcontractors, and third-party service providers that have a need-to-know such information for the purposes of servicing the accounts with Client and otherwise administering the performance of this Contract. Contractor will process and maintain such CRM and other business administration data, including any Personal Data contained therein, in accordance with its Privacy Statement and applicable laws, provided that Client remains solely responsible for obtaining any individual consents or authorizations that may be required in connection with the contemplated processing activities set out in this clause 14.1.
- 14.2. To the extent Contractor's provision of any Services under the Contract contemplates the processing of Personal Data on behalf of Client, the data processing agreement in the wording at this link: <https://services.global.ntt/en-us/legal/data-privacy-and-protection> (the "DPA") shall apply. The parties' respective rights and obligations in relation to any such Personal Data processing will be governed by the DPA, which is hereby incorporated into this Terms and Conditions, and by submitting an Order the Client accepts also conditions of this DPA.
- 14.3. The Client can process as a controller personal data of persons representing the Contractor, i.e. its employees, statutory representatives, subcontractors, agents, contractors or other persons (the "**Contractor's Personal Data**"). The Client can process Contractor's Personal Data only for the purposes related to the conclusion and performance of the Contract, including in connection to access of employees and subcontractors of the Contractor into the internal systems of the Client. Contractor's Personal Data then can include especially contact data, such as name and surname, email address, telephone number, job title, or IP address. The Client shall secure that it has legitimate grounds or lawful basis to process the Contractor's Personal Data according to the applicable laws on personal data protection.
- 14.4. When processing Contractor's Personal Data according to previous section, the Client shall comply with all applicable laws on personal data protection. The Client undertakes to have all necessary technical and organizational security measures in place to secure that processing of Contractor's Personal Data is performed in compliance with applicable laws and to prevent disclosure or accidental loss of the Contractor's Personal Data. The Client must make available all information necessary to demonstrate compliance with laws on personal data protection to the Contractor on request. The Client must also permit and contribute to audits, including inspections, by the Contractor or an auditor mandated by the Contractor in relation to the processing of Contractor's Personal Data. The Contractor reserves the right to terminate sharing the Contractor's Personal Data where it considers that the Client is not processing the Contractor's Personal Data in accordance with this Contract or applicable data protection laws. The Client must not retain or process Contractor's Personal Data for longer than is necessary to carry out the agreed purpose. The Client shall not transfer the Contractor's Personal Data to third parties, or process them outside the European Union, United Kingdom or Switzerland, or a state for which an adequacy decision has been issued by the European Commission. In the event there is a personal data breach of the Contractor's Personal Data, the Client must immediately notify the Contractor in writing with available details regarding the breach.

15. Withdrawal from Contract

- 15.1. The Contract may be terminated by (i) written agreement between the Parties, and/or (ii) a withdrawal from the Contract. The Contractor and the Client are entitled to withdraw from the Contract in the cases expressly specified in the Offer (or Order Confirmation) and in these Terms and Obligations. The option to withdraw from the Contract on the expiry in vain of an additional period to provide performance is expressly excluded. A withdrawal from the Contract must be made by the Parties explicitly, in a written withdrawal notice.
- 15.2. The Parties are entitled to withdraw from the Contract in the event of a substantial breach of Contract by the other Party under the conditions below. The following are deemed a substantial breach of Contract:
 - a delay of more than sixty (60) days in the delivery, acceptance and/or proper implementation of the Work,



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- the implementation of the Work with defects that prevent its use and which have not been repaired by the Contractor by the agreed deadline,
- non-payment of the contractual price of the Work or part thereof,
- the Client's failure to secure, prepare and equip the Place of Performances according to the provisions of this Contract,
- a material breach of the obligation to maintain the confidentiality of Confidential Information under Article 9 hereof.

Prior to a withdrawal due to a substantial breach of Contract, the Party that intends to withdraw from the Contract shall first be required to summon the other Party in writing to redress the situation and to give it a reasonable period to do so, which shall not be less than five (5) working days from the delivery of the summons. If the breach of Contract is not rectified even within this additional period, the Party shall be entitled to withdraw from the Contract by written notice.

- 15.3. If either Party is in non-substantial breach of Contract, where a non-substantial breach is any other breach of this Contract, with the exception of those specified in paragraph 15.2 hereof, the other Party is entitled to summon the Party that is in breach of Contract, in writing, to fulfil its contractual obligations. If, within thirty (30) days of the delivery of this summons, the Party that has breached the Contract does not take satisfactory steps to redress the situation or if, within sixty (60) days of this summons or within any longer period agreed between the Parties, this Party does not correct the breach of contractual obligations, the other Party may withdraw from this Contract, without thereby depriving itself of any other rights or means of redress.
- 15.4. If a Party is bankrupt or if insolvency proceedings are initiated against a Party under Act No. 182/2006, on Bankruptcy and Settlement (the Insolvency Act), as amended, or if it is in liquidation or administration, or it is unable to meet its financial obligations, the other Party may withdraw from this Contract immediately.
- 15.5. A withdrawal from this Contract shall take effect on delivery of the written withdrawal notice to the other Party.
- 15.6. In the event of a withdrawal from this Contract the Parties agree that their contractual obligations shall cease on the effective date of the withdrawal and as of that date the performance realised under this Contract shall be mutually settled according to the following rules: the Client shall pay the Contractor for the implemented and fulfilled part of the Work and reasonably incurred costs associated with the Work (hereinafter referred to as "Costs") regardless of the official acceptance of that part of the Work by the Client, based on the written specification of the Costs which shall be sent to the Client by the Contractor. In the event of a delay in the payment of the Costs, the Parties agree on a contractual fine of CZK 5,000 for each commenced day of the delay.

16. Final Provisions

- 16.1. These Terms and Conditions are binding for the contractual relations on deliveries of Equipment, including Services (performance of work) concluded by NTT Czech Republic s.r.o. goods, as of their date of publication.
- 16.2. The Contract (including these Terms and Conditions) shall be governed by and interpreted according to Czech law. In interpreting the Contract (including these Terms and Conditions) the provisions of the law shall take precedence over trade practices maintained generally and in the specific sector.
- 16.3. The Parties agree to take every effort to settle amicably any and all disputes arising from this Contract or in connection with it (including the provisions of these Terms and Conditions). Disputes that cannot be settled amicably shall be resolved by the Court of Arbitration attached to the Commerce Chamber of the Czech Republic and the Agrarian Chamber of the Czech Republic in accordance with the Court of Arbitration's Rules. The arbitration tribunal shall comprise three arbitrators and its award shall be final and binding. The arbitration proceedings shall be held in Prague, the Czech Republic, and shall be conducted in Czech.
- 16.4. All official notices, requests or communications between the Parties concerning this Contract shall be made in writing in Czech and sent by letter signed by the Party's authorised representative or by e-mail, which shall be confirmed immediately by letter. All notices shall be deemed validly delivered on the third working day after sending, if they are sent by registered post to the Party's registered address.
- 16.5. Any change to the provisions and terms of the Contract must be made in writing.
- 16.6. Neither Party shall be entitled to assign its claims under the Contract concluded in accordance with these Terms and Conditions, or allow the assumption of a debt by a third party, or transfer its rights and obligations under the Contract (assign the Contract) without the other Party's prior written consent. Any assignments or transfers made without the other Party's prior consent shall



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- be deemed invalid and ineffective towards the other Party. This provision shall not be interpreted in such a way that the Contractor is not entitled to use a subcontractor to fulfil its obligation. The Contractor shall also be entitled to assign the Contract to another NTT Affiliate.
- 16.7. The Contractor shall be entitled to sub-contract any part or the entire scope of the Work under this Contract.
- 16.8. Under the terms of Section 630 of the Civil Code the Parties agree on a ten-year limitation period for financial obligations arising under this Contract.

These Terms and Conditions are valid and effective from 1 September 2022.