

# General Terms and Conditions

## NC-VISION GmbH

### for standard software and IT contractual services

*as of 2021/03*

The company NC-Vision GmbH, hereinafter referred to as NC-Vision, provides all deliveries and contractual services exclusively on the basis of these general terms and conditions. These also apply to all contracts concluded by authorized dealers of NC-VISION with customers in the relationship between the authorized dealer and customer. As far as license conditions, usage rights and other parameters of the license model are concerned, these general terms and conditions also apply in the direct relationship between NC-VISION and the customer of the authorized dealer.

In this respect, customers are also understood to be the customers of the NC-VISION authorized dealers and all other users of the NC-VISION software products.

The terms and conditions also apply to future business relationships without another express agreement. Deviating terms and conditions of the customer, not even as shrink-wrap, click-wrap or other forms of pre-formulated provisions, are not part of the contract unless they are expressly recognized in writing by NC-Vision. The execution of services by NC-Vision does not mean recognition of the customer's conditions.

NC-Vision is entitled to change or add to the general terms and conditions with a reasonable period of notice. The customer will be made aware of the amended or supplemented general terms and conditions. If the customer does not object to the changed or added terms and conditions within two weeks of receipt of the change or addendum notification, but no later than the point in time when the changed or added terms come into effect, the changed or added terms will become effective. If the customer objects in due time, NC-Vision is entitled to terminate the contract at the point in time at which the changed or supplemented conditions are to come into force

Additional or deviating agreements must be made in writing. This also applies to changes to the written form clause.

The general terms and conditions are available for download at [www.nc-vision.com/general-terms-and-conditions/gtac.pdf](http://www.nc-vision.com/general-terms-and-conditions/gtac.pdf).

The following general terms and conditions are structured as follows:

- Part A: General Part
- Part B: Special conditions for software licensing according to contract duration (Rental & SaaS)
- Part C: Special conditions for software licensing when purchasing standard software
- Part D: Special conditions for individual programming, customizing, configuration and installation of the standard software
- Part E: Special Conditions for support, maintenance and helpdesk services
- Part F: Special conditions for hosting and SaaS services
- Part G: Special conditions for support, helpdesk and SaaS operation

## Part A: General part

### 1. Conclusion of a contract

At the request of the customer, NC-VISION submits a contract offer. NC-Vision is bound to this contract offer for two weeks. The contract is concluded when the complete contract offer countersigned by the customer is received by NC-Vision.

Changes and / or additions or the delayed acceptance of the contract offer as well as changes and / or additions to these general terms and conditions are considered to be a new offer by the customer. In these cases, the contract is only concluded with the written acceptance by NC-Vision or with the services provided. If the services are performed without an order confirmation or contract, the invoice and / or the delivery note is to be regarded as an order confirmation, based on the applicable general terms and conditions of NC-VISION.

All contract documents are saved at NC-VISION. Upon request, customers will receive copies of the documents.

## 2. Service descriptions

For information from NC-Vision on software and services and other products, the current documents and information are relevant. Older documents automatically lose their validity as soon as a more recent version is sent to the customer or made available on the Internet.

All information from NC-VISION is only subject to the contract if this has been contractually agreed.

Insofar as employees or sales partners issue guarantees and other assurances of properties, these are only effective if they are confirmed as valid in writing by the management of NV-Vision.

## 3. Prices and terms of payment

Prices are generally without VAT. All services are billed according to the NC-VISION price list valid at the time the contract is concluded. In principle, all services are billed according to expenditure. Invoices are due 14 days after receipt of the invoice without deduction.

NC-VISION has the right to make price adjustments after a minimum contract period of 2 years.

In the event of a defect, the customer only has a right of retention in an appropriate amount, which depends on the type of defect and the impairment of use.

If the due payment dates are exceeded, default interest of 1.5% per month is to be paid without further reminder. In the event of default, all discounts and other discounts granted are void.

The customer can only offset counterclaims that are undisputed, recognized or titled. The assignment of claims of the customer against NC-VISION to third parties is excluded.

## 3. Property Rights

All rights to software and work results belong to NC-Vision. The customer may not change or remove copyright notices from NC-Vision.

## 4. Usage Rights

The standard software and adaptations and extensions to the standard software created for the customer are and remain the property of NC-Vision.

The following rights of use apply to all standard software, individual programming, services and their work results supplied by NC-VISION, as well as external services supplied and all other copyrightable services provided in the context of the contractual relationship:

NC-VISION grants the customer a non-exclusive right of use, which is irrevocable for the duration of the contract, spatially and materially limited to the purpose of the contract, for all works named in paragraph 2.

The rights of use with regard to the scope of use of the standard software result from the license scope of the orders according to the license model number 5.

All licenses are company licenses, unless a group license is expressly granted.

The rights of use are generally only granted to the customer for their own company purposes and within the scope of the contractual purpose. The rights of use are in no case sublicensable. Any transfer of rights or obligations to third parties is excluded. The customer is not permitted to use the software products from NC-VISION to provide services for third parties, to rent out, lease out the software products or to issue sub-licenses, whereby third parties are also group companies.

Any other form of marketing, digitization, making available online or any other public dissemination of the work results for purposes other than the contractual purposes is excluded.

For services and software from third parties supplied by NC-Vision, e.g. cloud services or standard software, the terms of use and license conditions of the manufacturer of these third-party products apply exclusively.

Any kind of processing, reworking and / or other processing of the software is not permitted. The transfer of the source code is excluded and no rights to source code are granted. Any form of reverse engineering, translation or disassembly of the software or other attempts to read the source code of the software is not permitted.

The customer may copy the software in all forms of state-of-the-art backup and recovery systems within the framework of the agreed contractual purposes. All copies are also subject to the license conditions of these General Terms and Conditions.

NC-VISION is entitled to revoke the rights of use granted in this clause for an important reason. An important reason exists in particular if the customer uses the software in breach of contract, violates this usage rights clause despite a warning or

is in default of payment with a considerable part of the remuneration. If the usage rights are revoked, the customer must immediately stop using the software and surrender all existing copies. At the request of NC-VISION, the deletion and surrender of all copies must be confirmed in writing.

If the customer goes bankrupt, the license expires.

## 5. License model

The license model of the standard software is based on a token system. For the individual modules or services of the standard software, the measured variables for the intensity of use of the standard software, such as number of users, number of instances, number of interfaces, a value per measured variable is defined by a number of tokens.

A price is defined for a token, which results from the current price list and offer. The number of tokens acquired by the customer results from the offers commissioned by the customer and the token license certificate with the list of tokens. The price for the software results from the price per token times the number of tokens purchased.

With the token, the customer acquires usage rights for modules in the scope of the measured variables defined for the tokens in accordance with the token value of the measured variable. The users are named user licenses. All users must be registered in the software with a unique user ID and password.

The customer is entitled to use the number of tokens purchased for the modules and performance parameters available in the standard software within the defined scope of use. E.g. 3 tokens are used for the use of module B instead of the use of module A. The return of tokens to NC-VISION is excluded.

Tokens can also be used for software adjustments on behalf of the customer. In this case, the tokens regulate, on the one hand, the remuneration for the programming services and the accompanying services of NC-VISION and the corresponding license rights as well as software support and maintenance of the developed software functionality.

## 7. Open source software

NC-VISION is always permitted to use open source software in software development for the purpose of fulfilling the contract, provided that the license conditions of the respective OSS software enable use and do not conflict with the license conditions of the contract.

## 8. Subcontractors

NC-VISION is always entitled to use subcontractors to provide services, even without the customer's consent. NC-VISION will take into account an objection by the customer if the customer's legitimate interests in terms of competition law are affected or there is another conflict of interests that does not exclude the risk of improper performance of the contract.

## 9. Customer's duty to cooperate

The customer's duty to cooperate is all contributions that are necessary for the proper fulfillment of the contract by NC-VISION, in particular the provision of trained personnel resources, information, process descriptions, data, documents, hardware, hardware environment, documentation of the customer's own software and operating systems, as well as the Timely granting of system access and the obligations to cooperate specified in the contracts and offers.

The customer is obliged to provide all cooperative acts in a timely, complete and defect-free manner.

If the customer violates this obligation, even in part, he can postpone the agreed project schedules. If this incomplete, delayed or inadequate obligation to cooperate on the part of the customer results in additional work, the customer is obliged to reimburse NC-VISION for this in accordance with the current price list.

The customer is also responsible for inadequate or delayed cooperation if he is not responsible for this.

## 10. Performance dates

Appointments defined according to time intervals begin with the conclusion of the contract at the earliest. NC-VISION is only in default without a reminder if a binding and written agreed delivery date on a specific calendar day is exceeded. In this case, the customer has to grant a reasonable grace period of at least 4 weeks.

Delivery and service periods begin at the earliest after clarification of all delivery specifications and the fulfillment of all contractual cooperation obligations of the customer.

Events of force majeure, unforeseeable circumstances and other unforeseeable disruptions in the business operations of NC-VISION or its suppliers, which cannot be averted by either NC-VISION or its sub-suppliers despite the care taken under the circumstances of the case, postpone the delivery dates by an appropriate period of time, including an appropriate start-up period.

In these cases, NC-VISION is released from its obligation to perform if delivery is not possible within a reasonable grace period.

If NC-VISION has concluded a corresponding congruent hedging transaction with service providers with the necessary care, NC-VISION does not need to deliver if the upstream supplier cannot deliver and NC-VISION is not responsible for this. NC-VISION must notify the customer immediately about these circumstances and, if necessary, immediately reimburse any fees paid.

NC-VISION can refuse delivery if, after the conclusion of the contract, facts become known which make the customer's counter-performance appear to be at risk due to the customer's inadequate performance and / or creditworthiness. In this case, delivery will only be made if the customer makes advance payments or provides adequate securities. NC-VISION is entitled to set for the customer a reasonable deadline for advance payment or the provision of securities and to withdraw from the contract after a deadline. It is not necessary to set a deadline if the customer has maliciously or negligently concealed the facts known or negligently not known to him when the contract was concluded.

## 11. Information from the customer to NC-VISION

The customer is liable for the correctness and timeliness of his details and other information for the preparation of offers, functional and requirement specifications and / or other specifications. The customer bears all additional costs resulting from incorrect or delayed information, even if he is not responsible for this.

## 12. Retention of title

NC Vision retains ownership of all the goods delivered until all claims from the current business relationship have been settled in full. If the customer is in default of payment, NC-Vision can - without prejudice to other rights - withdraw from the contract and demand the return of the goods. The customer is not entitled to pledge or assign goods owned by NC-Vision. The customer undertakes to notify any third party access, for example in the case of attachment, immediately. All rights of use are granted under the condition that the agreed and due license price has been paid in full and on time.

## 13. Extraordinary right of termination in the event of a continuing obligation

Each party can terminate a long-term contractual relationship, e.g. software contract in the rental or SaaS model, without notice for an important reason.

The extraordinary termination due to a slight breach of duty of the contract remains unaffected. Every termination without notice must proceed with a warning with an appropriate deadline if the reason for termination can be remedied. In the case of serious breaches of duty, the termination does not require a warning.

If the contractual partner entitled to terminate has been aware of the circumstances justifying the extraordinary termination for more than 30 working days, he can no longer base the termination on these circumstances.

## **14. Withdrawal from the contract**

If the customer does not accept a proper service or if the customer declares that he will not accept this, verbatim or analogously, even by silence on a corresponding written request, which contains a corresponding reference to the legal consequences of this paragraph, before completion withdraw from the contract without further warning and demand compensation instead of performance.

In the event that NC-VISION withdraws from the contract caused by the customer, in particular due to default in payment or any other reversal of the contract initiated by the customer, NC-VISION is entitled to compensation and compensation for expenses.

NC-VISION is entitled to lump-sum compensation for non-performance in the amount of 100% of the services already provided at this point in time plus ancillary costs. The services are calculated on the basis of the current NC-VISION price list.

## **15. Acceptance**

At the point in time after the commissioned installation of the standard software is available, the implementation in the system environment and the customizing work and / or individual programming have been completed, NC-VISION indicates to the customer that the service is ready for acceptance.

The customer can then start checking the suitability for acceptance within 14 working days or request an acceptance date.

If, after 30 days, the customer does not report any defects in the subject of the service in writing and / or does not request a formal acceptance date, the service shall be deemed accepted after the period from the notification of readiness for acceptance has expired.

If an acceptance date is carried out and defects are found, NC-VISION is entitled to correct defects in accordance with the rules in accordance with Section 17 of these General Terms and Conditions, general section. Only defects of class 1 and class 2 errors in accordance with the support and maintenance contract, which NC-Vision is responsible for which

NC-Vision is responsible for, prevent acceptance. Class 3 errors are documented in the acceptance protocol and promptly remedied by NC-Vision.

## 16. Warranty

NC-VISION guarantees that all contractual services comply with the recognized rules of the art of programming and the current state of the art, as well as the functionality of the programs supplied.

The warranty period and the period for asserting other claims due to poor performance is 1 year. The period begins with the acceptance of the contract. If the acceptance has not been contractually agreed or has not been carried out for other reasons, when the service has been completed, at the latest when the going live has taken place.

For SaaS and rental contracts, the regulations from Part B Special Conditions of these General Terms and Conditions apply.

The customer only has warranty claims if the reported defects are reproducible or can be documented by outputs generated by the IT system. The customer must report defects in writing in a comprehensible form, stating the information that is useful for identifying the defect. The customer has to support NC-Vision in the elimination of defects as far as necessary, in particular to provide a copy of the database upon request.

The guarantee is excluded if the customer changes the software, customizing or the system environment. Unless the customer can prove that the changes are not the cause of the reported defects. The warranty does not apply in total if the NC-VISION software is not used for its intended purpose or under exceptional operating conditions, if the NC-VISION customer uses interfaces that have not been approved by NC-VISION, if maintenance is improperly carried out, if maintenance instructions are violated or if the software is otherwise used, handled, operated or used improperly or if NC-Vision proves the customer to have acted fraudulently.

At NC-VISION's option, the warranty is limited to the removal of defects or replacement delivery. A release change is permitted as a replacement delivery. The customer can reasonably be expected to wait if a release change is imminent within a reasonable period of time. If an attempt at subsequent performance fails, the customer grants NC-VISION three further attempts at subsequent performance within a reasonable period of time.

The customer must report complaints in writing about incomplete or incorrect performance or because of obvious or normally recognizable defects no later than 14 days after receipt of the IT products and / or software or completion of the services. If the deadline is not met, the assertion of warranty claims for obvious defects is excluded. Deadline is sufficient for the timely dispatch. The customer has the burden of proof for the existence of the defect, the time of the discovery of the defect and the timeliness of the complaint.

If the subsequent performance attempts are unsuccessful, the subsequent performance is deemed to have failed. The right of withdrawal is excluded if there is only a minor defect. A minor defect is to be assumed if the subsequent performance costs are less than 20% of the total price of the IT system.

Further claims by the customer, in particular any form of damage compensation claims, in particular for consequential damage caused by defects, are excluded, with the exception of personal injury if NC-VISION has acted with gross negligence. In particular, NC-VISION is not liable for damage that did not occur on the delivery item itself.

NC-VISION is entitled to refuse subsequent improvement until the customer pays a proportion of the total purchase price that is reasonable taking into account the existing defect, in particular that of parts that are free of defects. If the customer reports a defect to NC-VISION that is not a defect or that the customer is responsible for, the customer is liable to NC-VISION for the resulting costs.

Further improvements, in particular after the one-year period has expired, are only owed if a support and maintenance contract has been concluded.

NC-Vision can demand the reimbursement of its expenses if NC-Vision has taken action on the basis of a defect report, without a defect being present or the customer not having created the prerequisites for looking for defects.

## **17. Liability**

NC-VISION's liability for claims for damages and claims for reimbursement of wasted expenses is determined, regardless of the legal reason, as follows:

For damage caused intentionally or grossly negligently by organs, legal representatives, employees or other vicarious agents of NC-VISION, NC-VISION is fully liable for foreseeable and contract-typical damage.

NC-VISION is not liable in the event of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents, unless it is a breach of essential contractual obligations.

Essential to the contract are the obligations to provide the services on time and their freedom from defects of title as well as those material defects that affect their functionality or usability more than just insignificantly, as well as advisory, protection and custody obligations that are intended to enable the customer to use the services in accordance with the contract or the Protection of life or limb, of the customer's personnel or the protection of his property from considerable damage.

In the case of negligent breach of essential contractual obligations by NC-VISION, the obligation to pay compensation is limited to the foreseeable damage typical for the contract. The foreseeable damage typical for the contract is the damage

that NC-VISION foresaw when the contract was concluded as a possible consequence of a breach of contract or that NC-VISION should have foreseen had it been exercising due diligence. Indirect damage and consequential damage resulting from deficiencies in the services are also only eligible for compensation if such damage is typically to be expected when these services are used as intended. Paragraph 6 of this paragraph remains unaffected.

The contracting parties assume that the typical and foreseeable damages in individual cases of damage will not exceed the amount of an annual turnover between the contracting parties. If, in the opinion of the customer, the foreseeable contractual risk does not only marginally exceed this maximum liability amount, NC-VISION is prepared to agree an appropriately higher liability amount for the assumption of risk in return for a corresponding increase in the remuneration regulation of the contract, provided that insurance cover can be agreed for this.

Liability for personal injury, ie for injury to life, limb or health, is unlimited. The legally mandatory liability, e.g. according to the product liability law, remains unaffected.

In the event of data loss or destruction, NC-VISION is only liable if NC-VISION caused the destruction / loss with intent, gross negligence or due to a breach of an essential contractual obligation. NC-VISION's liability is limited to the amount of damage that would have occurred if the customer had properly backed up data.

The no-fault liability of NC-VISION according to § 536a Paragraph 1, 1st alternative BGB due to defects that already exist at the time of the conclusion of the contract is excluded, unless the defect relates to a property assured by NC-VISION .

Claims for damages and claims for reimbursement of futile expenses by the customer expire within 1 year; With regard to the start of the limitation period, Section 199 (1) of the German Civil Code (BGB) applies.

This one-year period does not apply to claims for damages and claims for reimbursement of wasted expenses due to injury to life, limb or health, for claims under the Product Liability Act and for the violation of a quality guarantee. This also does not apply to claims based on an intentional or grossly negligent breach of duty by NC-VISION or a legal representative or vicarious agent of NC-VISION.

If the customer has liability claims according to this clause, the amount will be limited to the business liability insurance that exists with NC-VISION GmbH. At the customer's request, NC-VISION GmbH will provide the customer with the relevant insurance confirmations.

## **18. Change request**

The customer can only request changes and additions to the agreed scope of services in writing. The implementation for NC-VISION must be reasonable and feasible.

Insofar as the implementation of the change request has an impact on the contractual performance structure, in particular remuneration, dates, project plan, subject matter, NC-VISION will make an additional offer to the customer on the basis of the previous contractual price calculation. If necessary, a correspondingly adapted project plan will be agreed.

A contract change comes about through an order confirmation of an offer made by the customer. Alternatively, if the customer does not object to this new offer and NC-VISION provides the service.

## **19. System Usage Requirements and Customer Responsibilities**

For the customer to use the service in accordance with the contract, it is a prerequisite that the hardware and software used by the customer, including workstation computers, routers, data communication media, etc., meet the usual minimum technical requirements for the use of the versions of the NC-VISION software offered. The users authorized by the customer to use the application software must be familiar with and trained in the operation of the software. In addition, only those hardware and software may be used to use the services of NC-VISION that meet the minimum requirements specified in the software documentation and the system requirements. The system must be commissioned without errors, used and maintained professionally.

The configuration of the customer's IT systems which are used to use the NC-VISION software is the responsibility of the customer. NC-VISION offers support to the customer in this regard.

The configuration and operation of the standard software in the customer's IT infrastructure is the responsibility of the customer.

If the customer fulfills one of the obligations from this clause incompletely, late or inadequately, damage will be borne by the customer and the customer shall bear the additional expense that this incurs on the part of NC-VISION. Furthermore, all warranty, liability and other promises and guarantees become invalid.

## **20. Confidentiality and Copyrights**

The customer is obliged to treat all information and knowledge obtained in the context of the cooperation, in particular trade and business secrets, for example technical, commercial or organizational nature, confidentially and not to transfer it to third parties during the duration or after the end of the contractual relationship, or in any other form to make accessible.

If protected documents, objects and other information are transmitted or passed on in the context of the business relationship, these are protected by copyright. NC-VISION is entitled to all copyrights.

The customers of NC-VISION assure that the protected documents and other information of the company NC-VISION will be treated as strictly confidential, neither copied, nor reproduced, passed on or distributed, made available to third parties in any other way and / or transferred to third parties in any other way to inform. Third parties within the meaning of this clause are also group companies of the customer.

This obligation also applies after the end of the business relationship for a period of 5 years. Statutory and official disclosure obligations remain unaffected.

All documents transmitted by NC-VISION, the transfer of which is not part of the purpose of the contract, shall also physically remain the property of NC-VISION.

## **21. Data protection**

NC-VISION shall observe the provisions of data protection law and shall collect, process and use the Customer's data only to the extent that this is permitted or ordered by law or by another legal provision. By placing an order the Customer agrees that NC-VISION may use the data for the purpose of the execution of the contract, its termination or, if applicable, for the processing of the order by subcontractors. NC-VISION is entitled to use the business relationship with the Customer for marketing purposes until the Customer objects.

NC-VISION undertakes to secure all information and data of the Customer effectively against unauthorised access, modification, destruction or loss, unauthorised transmission, other unauthorised dissemination and other misuse in accordance with the state of the art. When securing the customer's data, all precautions and measures according to the current recognised state of the art shall be observed.

However, the Customer is responsible for the data backup, as long as the Customer's data is located on its own computers, otherwise NC-VISION is responsible for the data backup.

All further provisions regarding data protection are set out in NC-VISION's Privacy Policy.

## **22. Termination of the contract**

Upon termination of a business relationship, the Customer is obliged to return all objects, documents and other items which the Customer has received from NC-VISION in connection with the performance of a contract and the transfer of which was not subject to the contractual agreement. Upon termination of the contract all rights of use granted by NC-VISION in connection with the contract to the aforementioned documents and other copyrightable works shall also terminate, unless rights of use have been granted expressly and in writing for an unlimited period of time.

NC-VISION shall only be obliged to support the Customer in the migration of data if this has been contractually agreed upon in the contract. Provided that NC-VISION has the corresponding personnel capacities available, NC-VISION shall submit a corresponding offer to the Customer.

## 23. Contact person escalation levels

Upon request, the contractual partners shall appoint in writing a contact person responsible for escalation management, e.g. in the event of disruptions in the performance structure, who can issue legally binding declarations for the respective contractual partner.

If an agreement at the level of the contact person is not reached within 14 working days after notification of the facts and the need for a decision, the matter shall immediately be submitted to the respective management of the contractual partners or the representatives appointed by them for a decision. This escalation level shall make a final decision within a further 12 working days from receipt of the case.

The aforementioned escalation period shall not suspend the response, execution, recovery or other deadlines agreed in this contract.

## 24. Prohibition of soliciting

The contractual partners mutually undertake not to poach any employees of the respective other contractual partner. Solicitation in this sense occurs when the contractual partner approaches an employee of the other contractual partner and makes him an offer to change to the own company. Solicitation in this sense does not occur if an employee of a contractual partner applies to the other contractual partner on his or her own initiative.

## 25. Liability for loss or damage

Losses and damage caused by burglary, theft or other loss at the place of use of the software shall be borne by the customer.

All damage caused by natural forces, water, avalanches, lightning and fire shall be borne by the customer.

## 26. Applicable law, place of jurisdiction, partial invalidity

These Terms and Conditions and the entire legal relationship between NC-VISION and the Client shall be governed by the laws of the Federal Republic of Germany. The place of jurisdiction is Biberach / Germany. However, NC-VISION is also entitled to bring an action at the place of the Principal's registered office.

In case of disputes concerning mandatory consumer protection laws, the law of the Member State in which the Customer has its habitual residence shall apply.

The German version of the General Terms and Conditions shall take precedence over any English or other language version of the General Terms and Conditions, insofar as differences in interpretation exist in individual cases due to linguistic reasons.

## 27. General information obligation according to § 36 VSBG

Online dispute resolution platform and consumer dispute resolution:

The European Commission provides a platform for online dispute resolution, which you can find at <http://ec.europa.eu/consumers/odr/>.

## 28. Special Terms and Conditions

Rental and SaaS, standard software sales, individual programming and customising, support and maintenance, hosting and SaaS services and IT services are generally provided as separate contractual services. The following Special Terms and Conditions of NC-VISION shall apply additionally to the aforementioned services and shall prevail over the preceding provisions, if they deviate from them

## Part B: Special Conditions Standard Software Licensing by Contract Period (Rental & SaaS)

## 1. Object of the contract

The subject matter of the contractual performance is the licensing of standard software from NC-VISION's own development as well as for standard software products of other manufacturers for the term of the contract.

The scope of use of the standard software results from the number of Tokens acquired by the Customer from NC-Vision on the basis of the Token Licence Certificate with the number of acquired Tokens, the Token Matrix with the value of the Tokens for the intensity of use and the licence model defined in the General Section Clause 5.

The functional scope of the software is exclusively defined in the software documentation in the respective current version.

NC-VISION shall only be obliged to provide support, maintenance or helpdesk services if a corresponding support and maintenance agreement has been concluded.

## 2. Delivery and Services

NC-VISION provides the standard Software to the Customer under the licence conditions of these General Terms and Conditions including the customary documentation.

No further services such as services in connection with the delivery of the Standard Software are owed unless they are contractually agreed.

## 3. Licence fee and right of use

The amount of the licence fee results from the underlying contractual documents.

The rights of use shall be governed by the commissioned offers and the Licence Conditions General Section No. 4 and No. 5 of the General Terms and Conditions. The rights of use are generally granted for the term of the contract. All rights of use are limited to the term of the contract.

The usage fee shall be paid monthly in advance by the 5th working day of each month at the latest.

## 4. Warranty

In principle the warranty according to the General Part of the General Terms and Conditions, clause 17 applies with the particularity that the termination of the Customer according to § 543 para. 2 sentence 1 no. 1 BGB analogously is only permissible if NC-VISION has been given sufficient opportunity to remedy the defect and this has failed.

## 5. Term of the contract/ Termination of the rental

The duration of the contract and the periods of notice are set out in the contract.

If such is not agreed in the contract, the contract shall have an unlimited term and may be terminated at the earliest after 3.5 years minimum term with a notice period of 3 months to the end of a calendar year.

The right of each party to extraordinary termination remains unaffected.

If the Customer is in default of payment of the usage fee for 2 months, NC-VISION shall be entitled to terminate the contract without notice.

## 6. Termination of the contract

Any use of the software after termination of the contract is prohibited.

# Part C: Special Conditions for the Purchase of Standard Software

## 1. Object of the Contract

The subject matter of the contractual performance is the licensing of standard software from NC-VISION's own development and standard software of other manufacturers. Any transfer of use in return for a one-off payment for an indefinite period of use or a period of use limited by a period of time shall be deemed to be a sale.

The scope of use of the standard software results from the number of Tokens acquired by the Customer from NC-Vision on the basis of the Token Licence Certificate with the number of Tokens acquired, the Token Matrix with the value of the Tokens for the intensity of use and the licence model defined in the General Section, Item 5.

The functional scope of the software is exclusively defined in the software documentation in the respective current version.

NC-VISION shall only be obliged to provide support, maintenance or helpdesk services if a corresponding support and maintenance agreement has been concluded.

## 2. Delivery and Services

NC-VISION provides the standard software to the Customer under the licence conditions of these General Terms and Conditions including the customary documentation at the Customer's disposal.

No further services such as services in connection with the delivery of the Standard Software are owed unless they are contractually agreed.

## 3. Fees and Rights of use

The amount of the fees shall be determined by the underlying contractual documents.

The rights of use shall be governed by the commissioned offers and the licence conditions General Section 4 and Section 5 of the General Terms and Conditions.

The licence shall be granted without time limitation or for a period of use determined in advance.

## 4. Warranty

The warranty period is one year after the software has been provided. In all other respects, the warranty conditions of the General Section of these General Terms and Conditions shall apply.

# Part D: Special Conditions for Individual Software Programming, Customizing, Configuration and Installation of the Standard Software.

## 1. Object of the Contract

These special terms and conditions of NC-VISION shall apply to all individual programming, customising, configuration and other adaptation work of Software as well as its derivatives, such as documentation, specifications and the like, as well as to the installation of Software.

## 2. Scope of services

The scope of services according to clause 1 results from the project documents. Project documents represent the project description for defining the services to be provided under the contract. These specify the functional and technical specifications for the functionality of the services of the subject matter of the contract. These are e.g. offer, solution proposal, solutionsoluton concept, specifications or functional specifications.

These documents are binding only if they have been confirmed by NC-Vision and are part of the contract.

Other documents containing information on the specification of the scope of services shall only become part of the contract and shall only be decisive for the contractual performance if they are expressly confirmed in writing by NC-VISION as a contractual specification of the contractual performance.

NC-VISION shall not be obliged to perform any services not confirmed by NC-VISION in the Project Documents or other specifications.

## 3. Prices

Software programming, customising and configuration of the software and its installation are never included in the licence price of the software or in the support and maintenance contract.

Invoicing shall be on a time and material basis according to NC-VISION's price list or according to the prices in the contract.

Invoicing shall be made on a monthly basis according to the work performed with an hourly statement. If it turns out that cost estimates or the total cost calculation will be exceeded, NC-VISION will inform the Customer thereof in due time.

There is no claim for compliance with cost estimates and/or cost calculations, unless NC-VISION has acted grossly negligent in the cost estimate.

In the event of a fixed price agreement, the following provision shall apply:

If during a project it turns out that the commissioned service or service specification can only be implemented by NC-VISION with disproportionate effort and if NC-VISION was not able to recognise this despite exercising reasonable care in the individual case, NC-VISION shall be entitled to submit a supplementary offer as a contractual supplementary agreement. This contractual supplementary agreement shall also come into effect if the Customer does not object to the offer within a reasonable period of time, at the latest within 2 weeks, and NC-VISION has implemented the relevant specification.

## 4. Documentation

Documentation is basically understood to mean the documentation of the services. The source code is not made available.

## 5. Service provision

NC-VISION will realise the IT project according to the specifications in the project documents. In doing so, the recorded requirements will be taken into account and suitable technical and functional solutions will be implemented, which will enable the contractual performance to meet the Customer's requirements.

The Customer itself is obliged to check the specifications made for compliance with legal regulations or official requirements, unless this obligation is expressly imposed on NC-VISION by contract.

If the project documents or other specifications are incomplete and incomplete, they shall be supplemented in accordance with the state of the art and customary requirements. If additional costs and/or additional effort are incurred in this process and by the implementation, this shall be borne by the Customer, even if a fixed price for the software has been agreed.

## 6. Customizing

Customizing and configuration services are dictated by the structures and functionalities of the standard software, in particular its maintenance and servicing requirements.

## 7. Performance deadlines

Binding completion dates are only those which have been expressly agreed in writing as fixed dates.

All other schedules, in particular milestones, are envisaged project steps which are fundamentally non-binding.

## 8. Rights of use

The rights of use in accordance with the General Section of these General Terms and Conditions, Sections 4 and 5, shall apply to all services. These shall apply to all results and interim results of the contractual services, in particular the service descriptions, specifications, concepts, documentation, manuals, reports, documents, diagrams of the individual software created, the software adaptations and parameterisations.

## 9. Acceptance

The more extensive provisions in the General Section of these General Terms and Conditions shall apply.

## 10. Defects and service disruptions

Due to the complexity of the software, in particular the interaction of different systems, open source products and interfaces, it is unavoidable that programming errors occur. Minor programming errors that do not impair the use of the programming service or customising work therefore do not constitute a defect in the contractual software service.

# Part E: Special Conditions Support, Maintenance and Helpdesk Services

## 1. Object of the contract

These special terms and conditions of NC-VISION apply to all support, maintenance and helpdesk services.

## 2. Rights of use

For the copyrightable works provided within the scope of support and maintenance services, the rights of use according to the general part clauses 4 and 5 apply.

## 3. Scope of services

The scope of services is regulated in the contract

## 4. Warranty

In all other respects, the warranty conditions of the General Section of these General Terms and Conditions shall apply.

## 5. Compensation and liability

The liability clause General Section No. 17 of these General Terms and Conditions shall apply to claims for damages due to breach of duty of the contract including defective services.

## 6. Duration

The duration of the contract and the periods of notice shall be determined by the contract.

If no such period has been agreed, the contract shall have an unlimited term and may be terminated with 3 months' notice to the end of a calendar year.

The right of each party to extraordinary termination remains unaffected.

If the Customer is in default with the payment of the usage fee for 2 months, NC-VISION is entitled to terminate the contract without notice.

# Part F: Special Terms and Conditions Hosting and SaaS Services

## 1. Object of the contract

The object of the contract is the provision of services for the operation of the Standard Software by NC-VISION in a cloud environment.

The operation takes place in the cloud environment agreed upon in the contract. 2.

## 2. Initial setup and installation of the software

NC-VISION shall install, configure and provide the Standard Software with the associated runtime environment and middleware according to the contract.

## 3. Maintenance and operation

NC-VISION shall maintain the Standard Software in a trouble-free condition in accordance with the configuration of the contract.

This includes the following individual services.

- Patch management Bug fixes Standard software on integration and productive systems
- Release management of standard software on integration and productive systems
- Monitoring availability and performance of standard software
- Monitoring of database and middleware
- Monitoring of hardware resources (CPU, memory, storage, network)
- Ensuring data backup
- Configuration of the cloud environment
- Monitoring the proper operation of the standard software
- Elimination of malfunctions caused by the standard software

NC-Vision is not responsible for the operation of the hardware, operating systems, network, database and storage and the other infrastructure of the cloud environment which does not concern the standard software.

## 4. Not Included in the Contractual Services

NC-VISION's obligation to perform under the Contract are always excluded in the following cases:

- Faults caused by errors of employees of the Customer or third party companies on behalf of the Customer, suppliers in the operation or use of the system or in the cloud infrastructure.
- Faults caused by non-observance of documentation and instructions for use
- Errors caused by hacker attacks on the customer's computers or on the SaaS infrastructure
- The import of database extracts or dumps on behalf of the customer
- Any form of programming, software support, helpdesk and maintenance.
- Errors caused by malware that occur despite the latest version of firewall and software within the agreed update times due to malware.

Apart from that, services are only owed insofar as they are expressly mentioned in this contract.

## **5. Operating times**

Operating times, response times from the General Terms and Conditions, Special Part G.

## **6. Adjustment of system resources and framework parameters**

The dimensioning of the system resources, the server environment (processor main memory, data memory, etc.) including the parameters results from the state of the art of the cloud environment used and the respectively valid system requirements of the standard software. NC-Vision will configure the resources required for operation in the cloud.

## **7. Cooperation and provision**

The General Provisions according to the General Section of these General Terms and Conditions shall apply to cooperation services.

The violation of duties to cooperate supersedes all performance parameters, in particular response times, system availability parameters and other operating conditions.

## **8. Remuneration**

The remuneration for the services results from the order and the contract. Continuous services shall be invoiced on a monthly basis.

## **9. Warranty**

In principle the warranty according to the General Part of the General Terms and Conditions, clause 16 applies with the particularity that the termination of the Customer according to § 543 para. 2 sentence 1 no. 1 BGB analogously is only permissible if NC-VISION has been given sufficient opportunity to remedy the defect and this has failed.

## 10. Damages and Liability

For claims for damages due to breach of duty of the contract including defective performances the liability clause General Section No. 17 of these General Terms and Conditions shall apply.

## 11. Contract Period

The term of the contract and the notice periods are specified in the contract.

If no such term is agreed in the contract, the contract shall have an unlimited term and may be terminated at the earliest after a minimum term of 3.5 years with a notice period of 3 months to the end of a calendar year.

If the Customer is in default of payment of the usage fee for 2 months, NC-VISION is entitled to terminate the contract without notice.

## Part G: Special Conditions for SaaS Operation

### 1. Cloud Environment Uptime

The uptime and SLA's of the Cloud Environment are dictated by the Cloud Environment selected in the Contract.

### 2. Response times NC-Vision

The response times start exclusively with the receipt of the fault report by NC-Vision. The following regulations apply.

#### Definition of the Error categories:

Each error is assigned to one of the following error categories:

#### Error class 1:

The basic availability of the system is not given. A business-critical core function with a direct heavy impact to the client core business cannot be executed and cannot be circumvented by "workarounds".

Example:

- Application cannot be reached (web address cannot be reached).

- Application Server is running and can be accessed from an Internet browser but important endpoints cannot connect to the server
- Main Use Cases of the Application are not possible (ex. Deliveries to customers are stopped and there is no work around in the system possible to perform them)

**Error class 2:**

System operation is severely impaired. Only part of the application is affected by the problem: core function is not available. The error can be bypassed with a workaround. Bypassing the error can cause considerable effort.

*Example:*

- The Application is running without problems. Only a part of the application has a are not to configure new part information cannot be accessed and the production of a new part is delayed.
- The application feature to outstock materials from the warehouse does not work, but materials can be outstocked manually from the CRUD interface
- One of the line operation stations of the Application does not work. Material lots/parts can be counted and written down manually
- The upload of documents does not work.

**Error class 3:**

Less critical then class 1 + 2

The defect class is assigned by mutual agreement between the customer and NC-Vision.

## SLA (Service Level Agreement) for Services Class:

**Bronze Class**

Severity Class	Working Times	Response time	Expected Workaround Time
Class 1	09:00 am - 4:00 pm	1 day	2 days
Class 2	09:00 am - 4:00 pm	2 days	4 days
Class 3 (not 1 or 2)	09:00 am - 4:00 pm	5 days	10 days

The reaction time indicates the period of time within which the error analysis is to be started at the latest during the working times.

The reaction time indicates the time duration in which the support team will acknowledge the incident and, respectively, will solve it. The incidents will be answered only during the defined working times for SLA service class. Workaround times are not guaranteed.