General terms and conditions

NC-VISION Ltd.

for Standard Software and IT Contractual
Services as of 2023 January

Scope

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. They also apply to all contracts concluded by authorized dealers of NC-VISION with customers in the relationship between authorized dealer and customer. As far as license conditions, rights of use and other definitions of the license model are concerned, these General Terms and Conditions shall also apply in the direct relationship between NC-VISION and the customer of the authorized dealer.

Customers are in this respect also understood to be the customers of NC-VISION's authorized dealers and all other users of NC-VISION's software products.

NC-Vision software are the Toolbox applications and the No-Code software development environment NC-Builder.

The Terms and Conditions shall also apply to future business relations without repeated express agreement. Deviating terms and conditions of the Customer, also not as shrink-wrap, click-wrap or other forms of pre-formulated provisions, shall not become part of the contract, unless they are expressly accepted by NC-VISION in writing. The performance of services by NC-VISION does not imply any acknowledgement of the Customer's terms and conditions.

NC-VISION is entitled to change or amend the General Terms and Conditions. The amended or supplemented General Terms and Conditions shall be brought to the Customer's attention. If the Customer does not object to the amended or supplemented terms and conditions within two weeks after receipt of the notice of amendment or supplement, but at the latest at the time when the amended or supplemented terms and conditions come into force, the amended or supplemented terms and conditions shall become effective. If the Customer objects in due time, NC-VISION shall be entitled to terminate the contract at the point in time at which the amended or supplemented terms shall become effective.

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

The General Terms and Conditions are available for download at the address www.nc-vision.com/general-terms-conditions/.

The following General Terms and Conditions are structured as follows:

Part: General Part
Part B: Special Terms and Conditions for Software Licensing by Contract Term (Subscription & SaaS)
Part C: Special Conditions for Software Licensing for Purchase of Standard Software
Part D: SpecialConditions for Individual Software Programming, Customizing, Configuration and Installation of the Standard Software
Part E: SpecialConditions Support, Maintenance and HelpdeskServices Part F: Special Conditions for Hosting and SaaS Services

Part A: General part

1. Conclusion of contract

After request of the Customer NC-VISION submits a contract offer. NC-VISION is bound to this contract offer for two weeks. The contract shall be concluded upon receipt by NC-VISION of the complete contract offer countersigned by the Customer.

Amendments and/or supplements or the delayed acceptance of the contractual offer as well as amendments and/or supplements to these General Terms and Conditions shall be deemed as a new offer of the Customer. In these cases the contract shall only be concluded upon NC-VISION's written acceptance or upon rendered services. If the Services are performed without order confirmation or contract, the invoice and/or the delivery bill shall be considered as order confirmation, based on the applicable General Terms and Conditions of NC-VISION.

All contract documents are stored at NC-VISION. Customers will receive copies of the documents upon request.

2. Service descriptions

For information from NC-VISION regarding software or services and products, the respective current documents and information are generally authoritative. Older documents automatically lose their validity as soon as a more current version is transmitted to the Customer or made available on the Internet.

The functional scope of the software results exclusively from the software documentation in the respective current version.

All information of NC-VISION is only subject matter of the contract, if it is contractually agreed.

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

3. Prices and terms of payment

Prices are in principle without VAT. All services are charged according to the price list of NC-VISION valid at the time of the conclusion of the contract. All services will be charged on a time and material basis. Invoices are due 14 days after receipt 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 shall have a right of retention only to a reasonable amount, which shall be based on the nature of the defect and the impairment of use.

If due payment dates are exceeded, default interest in the amount of 1.5% per month shall be paid without further reminder. In the event of default, all discounts and other rebates granted shall be forfeited.

The Customer may only offset counterclaims that are undisputed, acknowledged 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 of NC-VISION.

4. Rights of use

Individual software developed for the Customer, the standard software and thereby for the Customer created adaptations and extensions to the standard software are and remain property of NC-VISION.

The following rights of use shall apply to all standard software, individual programming, services and their work results delivered by NC-VISION as well as delivered third-party services and all other copyrightable services rendered within the scope of the contractual relationship:

NC-VISION grants to the Customer a non-exclusive, for the duration of the contract irrevocable, spatially and factually limited right of use to all works mentioned in paragraph 2, limited to the purpose of the contract.

The rights of use with regard to the scope of use of the Standard Software result from the scope of license of the orders according to the license model clause 5.

All licenses are corporate licenses unless a corporate license is expressly granted.

The rights of use are granted to the customer in principle only for his own business purposes and within the scope of the purpose of the contract. The rights of use may not be sublicensed under any circumstances. Any transfer of rights or obligations to third parties is excluded. The Customer is not allowed to provide services for third parties with the software products of NC-VISION, to rent or lease the software products or to grant sublicenses, whereby third parties are also group companies.

Any other form of marketing, digitization, online provision or other public dissemination of the work results for purposes other than the contract is excluded.

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

Any kind of editing, reworking and/or other processing of the software is not permitted. The transfer of the source code is excluded and rights for source code are not 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 within the scope of the agreed contractual purpose in all forms of backup and recovery systems according to the state of the art. All copies are also subject to the license terms of these General Terms and Conditions.

NC-VISION is entitled to revoke the rights of use granted in this clause for good cause. An important reason is in particular given if the Customer uses the Software

uses the software contrary to the terms of the contract, violates this rights of use clause despite a warning, or is in default of payment of a substantial part of the remuneration. In case of revocation of the rights of use the Customer shall immediately stop using the Software and surrender all existing copies. Upon NC-VISION's request the deletion and the surrender of all copies shall be confirmed in writing.

In case of bankruptcy of the customer the license expires.

5. License model

The license model for software, which was individually created for the customer, results from the scope of use of the commissioned offer or contract and the associated offer and contract documents.

The license model of the standard software is based on a token system. For the individual modules and applications NC-VISION defines a price by the number of tokens. The number of tokens is determined at the discretion of NC-VISION based on the complexity and customer benefit of the module or application. For this purpose a named user and endpoint (network connectivity with a defined network address like e.g. IOT Device, PCL, Rest etc.) is priced with tokens.) is priced with tokens. The number of measured tokens multiplied by the price per token results in the license price for the standard software.

Sample calculation:

Customer uses from the NC-VISION standard software:

Price 1e token = x euro

Application   5 tokens * x = price Application A
Application C = 3 tokens * x = price Application B 3
named user =   3to* x = price 3 named user 2
endpoints   = 2 tokens * x = price 2 endpoints

Total prices customer solution = sum tokens/13 tokens * x

The price per Token results from the current price list and offer. The number of tokens purchased by the customer results from the offers ordered 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 purchased tokens.

The scope of use of the software results from the number of tokens acquired by the customer. The customer is entitled to use the number of acquired tokens as desired for the modules and performance parameters available in the standard software within the defined scope of use.

Example:

Initial customer solution

Application   5 tokens * x = price Application A
Application C = 3 tokens * x = price Application B 3
named user =   3to* x = price 3 named user 2
endpoints   = 2 tokens * x = price 2 endpoints

Sum= 13 tokens * x = total price of the

solution Customized customer solution:

Application   5 tokens * x = price Application A
Application C is no longer used Application B = 2
tokens * x = price Application B 4 Named user = 4
tokens * x = price 3 nameduser 2 endpoints   2
tokens * x = price 2 end

Sum= 13 tokens * x = total price of the solution

Application C was deactivated. The free 3 tokens were used to license the additional application B worth 2 tokens and one additional user.

As an alternative to the aforementioned token system, alternative licensing models specified in the contract can be agreed.

All users must be registered in the software with unique user ID and password.

7. Open Source Software

NC-VISION is always permitted to use Open Source Software in the software development for the purpose of the fulfillment of the contract, as far as the license conditions of the respective OSS Software allow the use and do not contradict the license conditions of the contract.

8. Subcontractor

NC-VISION is always entitled to use subcontractors for the performance of services, even without the Customer's consent. NC-VISION will consider an objection of the Customer accordingly, provided that legitimate interests of the Customer are affected in terms of competition law or another conflict of interests exists, which does not exclude the risk of an improper performance of the contract.

9. Cooperation obligations of the customer

The Customer's obligations to cooperate are all contributions 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 used, as well as the timely granting of system accesses and the obligations to cooperate specified in the contracts and offers.

The customer is obligated to provide all cooperation in a timely manner, completely and free of defects.

If the Customer violates this obligation, also in parts, the Customer may postpone the agreed time schedules of the project. If additional expenses arise due to this incomplete, delayed or defective duty to cooperate of the Customer, the Customer is obliged to reimburse these to NC-VISION according to the valid price list.

The customer is also responsible for insufficient or delayed cooperation, provided that he is not responsible for this.

10. Performance dates

Dates defined by time intervals start at the earliest with the conclusion of the contract. NC-VISION shall be in default without reminder only if a binding delivery date agreed upon in writing is exceeded on a certain calendar day. For this case the Customer has to grant a reasonable grace period of at least 4 weeks.

Delivery and performance periods shall commence at the earliest after clarification of all delivery specifications and fulfillment of all contractual obligations to cooperate on the part of the customer.

Events of force majeure, unforeseeable circumstances and other unforeseeable disturbances of the business operations of NC-VISION or its suppliers, which cannot be averted by NC-VISION or its suppliers despite reasonable care according to the circumstances of the case, shall postpone the delivery dates by a reasonable period of time, including a reasonable start-up period.

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

If NC-VISION has concluded a corresponding congruent hedging transaction with service providers for performance with due diligence, NC-VISION is not obliged to deliver if the sub-supplier is not able to deliver and NC-VISION is not responsible for this. NC-VISION has to inform the Customer immediately about these circumstances and, if applicable, has to refund paid fees without delay.

NC-VISION may 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 lack of ability to perform and/or creditworthiness. In this case the delivery shall only be made if the Customer makes advance payments or provides adequate securities. NC-VISION is entitled to set the Customer a reasonable deadline for advance performance or provision of securities and to withdraw from the contract after expiry of such deadline. The setting of a deadline is not necessary if the Customer has fraudulently or negligently concealed the facts already known or not known to him at the time of the conclusion of the contract.

11. Information by the Customer to NC-VISION

The customer shall be liable for the correctness and timeliness of its details and other information for the preparation of offers, specifications and requirements and/or other specifications. All additional costs incurred due to incorrect or late information shall be borne by the customer, even if the customer is not responsible for this.

12. Retention of title

In case of a license purchase, NC-VISION reserves the right of ownership of the entire delivered goods until the complete settlement of all claims resulting from the current business relationship. If the Customer is in default of payment, NC-VISION may - without prejudice to any other rights - withdraw from the contract and demand the return of the delivered goods. The Customer is not entitled to pledge or assign goods owned by NC-VISION. The Customer undertakes to immediately notify NC-VISION of any access by third parties, e.g. in case of seizure. All rights of use are granted under the resolutive condition that the agreed and due license price is paid in full and in due time.

13. Extraordinary right of termination for continuing obligation

Either party may terminate a continuing obligation, e.g. software contract in the subscription or SaaS model, without notice for good cause.

The extraordinary termination due to a slight breach of duty of the contract remains unaffected. Any termination without notice shall be preceded by a warning with a reasonable deadline if the reason for termination can be remedied. In the case of serious breaches of duty, termination shall not require a warning.

If the contracting party entitled to terminate the contract has knowledge of the circumstances justifying the extraordinary termination for more than 30 working days, it may no longer base the termination on these circumstances.

14. Contract withdrawal

If the Customer does not accept a proper performance or if the Customer declares already before completion, literally or analogously, also by silence on a corresponding written request, which contains a corresponding reference to the legal consequences of this paragraph, that he will not accept it, NC-VISION may withdraw from the contract without further reminder and claim damages instead of performance.

In case of a withdrawal from the contract by NC-VISION caused by the Customer, in particular due to default of payment or any other reversal of the contract caused by the Customer, NC-VISION is entitled to claim damages and compensation for expenses.

NC-VISION is entitled to lump-sum damages for non-performance in the amount of 100 % of the services already rendered at that time plus additional costs. The services will be charged on the basis of the respective valid price list of NC-VISION.

15. Acceptance

At the time when the ordered installation of the Standard Software is available, the implementation into the system environment and the customizing work and/or individual programming has been completed, NC-VISION shall notify the Customer that the service is ready for acceptance.

The customer may thereupon commence the inspection of the acceptance capability within 14 working days or request an acceptance date.

If the customer does not notify us in writing of any defects in the object of performance after 30 days and/or does not request a formal acceptance date, the performance shall be deemed to have been accepted after the expiry of the period from notification of readiness for acceptance.

If an acceptance test is carried out and defects are detected, NC-VISION is entitled to rectify defects according to the rules according to clause 17 of these General Terms and Conditions, general part. Preventing acceptance are only defects of class 1 and class 2 according to the support and maintenance contract which are caused by NC-VISION. Class 3 defects shall be documented in the acceptance report and shall be remedied by NC-VISION in a timely manner.

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 delivered programs.

The warranty period and the period for asserting other claims due to defective performance is 1 year. The period begins with the acceptance or alternatively with going live.

For SaaS and Subscription contracts, the provisions from Part B. Special Conditions of these General Terms and Conditions.

The Customer shall only have warranty claims if reported defects are reproducible or can be documented by output generated by the IT system. The Customer shall report defects in writing in a reproducible form stating the information relevant for the detection of defects. The Customer shall support NC-VISION as far as necessary in the elimination of defects, in particular by providing access to its system upon request or by providing a copy of the database as a substitute.

The warranty is excluded if the customer changes the software, customizing or system environment. Unless the Customer proves that the changes are not the cause for the reported defects. The warranty shall be void as a whole if the Software is not used by NC-VISION for the intended purpose or under extraordinary operating conditions, if interfaces not released by NC-VISION are used by the Customer, in case of improper maintenance, in case of violation of maintenance instructions or if the Software is handled, operated or used improperly in any other way or if NC-VISION proves malice towards the Customer.

The warranty is limited to removal of defects or replacement delivery at NC-VISION's option. A release change is permissible as a replacement delivery. In this case a waiting period is reasonable for the Customer, provided that a release change is imminent within a reasonable period of time. If an attempt of subsequent performance fails, the Customer shall grant NC-VISION three further attempts of subsequent performance within a reasonable period of time.

The Customer shall give written notice of complaints due to incomplete or incorrect performance or due to 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. Timely dispatch shall be sufficient to meet the deadline. The customer has the burden of proof for the existence of the defect, the time of the determination of the defect and the timeliness of the notice of defect.

If the attempts at subsequent performance do not lead to success, the subsequent performance shall be deemed to have failed. The right of withdrawal shall be excluded if there is only a minor defect. A minor defect shall be assumed if the costs of subsequent performance amount to less than 20% of the total price of the IT system.

Further claims of the Customer, in particular any form of claims for damages, especially consequential harm caused by a defect, are excluded with the exception of personal injury, if NC-VISION has acted grossly negligent. In particular, NC-VISION shall not be liable for damages that have not occurred to the delivery item itself.

NC-VISION is entitled to refuse the rectification of defects until the Customer pays a reasonable share of the total purchase price taking into account the existing defect, in particular that of defect-free parts. If the Customer notifies NC-VISION of a defect which is not a defect or which the Customer is responsible for, the Customer shall be liable to NC-VISION for the costs incurred thereby.

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

NC-VISION can claim the remuneration of its expenses, if NC-VISION has acted on the basis of a defect report without the existence of a defect or if the Customer has not created the conditions for defect search.

17. Liability

NC-VISION's liability for claims for damages and claims for reimbursement of futile expenses shall be determined as follows, irrespective of the legal basis:

For damages caused intentionally or by gross negligence by organs, legal representatives, employees or other vicarious agents of NC-VISION, NC-VISION is liable without limitation for foreseeable and contract-typical damages.

NC-VISION is not liable in case of simple negligence of its organs, legal representatives, employees or other vicarious agents, as far as it is not a violation of essential contractual obligations.

Material contractual obligations are the obligations to provide the services in a timely manner and to provide them free of defects of title and such material defects that impair their functionality or usability more than insignificantly, as well as consulting, protection and custody obligations that are intended to enable the customer to use the services in accordance with the contract or are intended to protect life or limb, the customer's personnel or the customer's property from significant damage.

In case of a simple negligent breach of essential contractual obligations by NC-VISION, the obligation to compensate is limited to the contract-typical, foreseeable damage. The contract-typical, foreseeable damage is the damage which NC-VISION foresaw at the time of conclusion of the contract as a possible consequence of a breach of contract or which NC-VISION should have foreseen by exercising due diligence. Indirect damages and consequential damages, which are the consequence of defects of the services, are furthermore only compensable, as far as such damages are typically to be expected in case of intended use of these services. Paragraph 7 of this clause remains unaffected.

The contracting parties assume that the typical and foreseeable damages in the individual case of damage do not exceed the amount of one annual turnover between the contracting parties at the time of the conclusion of the contract. If, in the opinion of the Customer, the foreseeable contractual risk exceeds this maximum liability amount not only insignificantly, NC-VISION is willing to agree upon an appropriate higher liability amount against a corresponding increase of the remuneration regulation of the contract for the assumption of risk, provided that insurance coverage can be agreed upon for this.

Liability for personal injury, i.e. for injury to life, limb or health, is unlimited. The legally mandatory liability, e.g. according to the Product Liability Act, remains unaffected.

In case of data loss or data destruction NC-VISION shall only be liable if NC-VISION has caused the destruction/loss intentionally, by gross negligence or due to a breach of an essential contractual obligation. NC-VISION's liability is limited to the amount of the damage that would have occurred even in case of a proper data backup by the Customer.

The strict liability of NC-VISION according to § 536a para. 1, 1st alt. BGB (German Civil Code) due to defects already existing at the time of the conclusion of the contract is excluded, as far as the defect does not refer to a property warranted by NC-VISION.

Claims for damages and claims for reimbursement of futile expenses of the customer shall become statute-barred within 1 year; with regard to the beginning of the limitation period, § 199 para. 1 BGB shall apply.

This one-year period shall not apply to claims for damages and claims for reimbursement of futile expenses due to injury to life, body or health, in case of claims under the Product Liability Act and in case of breach of a warranty of quality. Furthermore, this does not apply to claims based on an intentional or grossly negligent breach of duty by NC-VISION or a legal representative or a vicarious agent of NC-VISION.

Should liability claims of the Customer exist according to this clause, these shall be limited in amount to the business liability insurance existing with NC-VISION GmbH. Upon the Customer's request, NC-VISION GmbH shall hand over to the Customer the respective insurance confirmations.

18. Change Request

The Customer may request changes and amendments to the agreed scope of services only in writing. The implementation must be reasonable and feasible for NC-VISION.

As far as the implementation of the Change Request has an impact on the contractual service structure, in particular remuneration, deadlines, project plan, subject of performance, NC-VISION shall submit a supplementary offer to the Customer on the basis of the previous contractual price calculation. If necessary, a correspondingly adjusted project plan will be agreed upon.

A change of the contract comes into effect by an order confirmation of an offer commissioned by the Customer. Alternatively, if the Customer does not object to this new offer and NC-VISION performs the service.

19. System usage requirements and obligations of the customer

In order 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., comply with the usual minimum technical requirements for the use of the offered versions of the NC-VISION Software. 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 such hardware and software may be used for the use of NC-VISION's performance, which comply with the minimum requirements specified in the software documentation and the system requirements. The system must be put into operation without errors and must be used and maintained professionally.

The configuration of the Customer's IT systems, which serves the use of 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 customer's responsibility.

If the Customer fulfills any of the obligations under this clause incompletely, late or defective, damages shall be borne by the Customer and NC-VISION shall bear the additional expenses incurred thereby on its part. Furthermore, all warranty, liability and other promises and guarantees shall become invalid.

20. Confidentiality and copyrights

The customer is obligated to treat all information and knowledge obtained in the course of the cooperation, in particular company and business secrets, for example of a technical, commercial or organizational nature, as confidential and not to disclose them to third parties or make them accessible in any other form for the duration of the contractual relationship or after its termination.

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

NC-VISION's customers assure to treat the protected documents and other information of NC-VISION strictly confidential, neither to copy, reproduce, pass on or distribute them, to make them accessible to third parties in any other way and/or to inform third parties about them in any other way. Third parties in the sense of this clause are also group companies of the Customer.

This obligation shall also apply after termination 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. Privacy

NC-VISION observes the data protection regulations and collects, processes and uses the Customer's data only insofar as this is permitted or ordered by law or by another legal provision. By placing an order, the Customer agrees that NC-VISION uses the data for the purpose of the execution of the contract, its termination or, if applicable, for order processing 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 unauthorized access, modification, destruction or loss, unauthorized transmission, other unauthorized distribution and other misuse according to the state of the art. When securing the customer's data, all precautions and measures according to the current recognized state of the art are observed.

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

All further regulations regarding data protection result from the privacy policy of NC-VISION.

23. Termination of the contract

Upon termination of a business relationship the Customer is obliged to return all objects, documents and other things which the Customer has received from NC-VISION in connection with the execution of a contract and the transfer of which was not subject of 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.

An obligation of NC-VISION to support the Customer in the migration of data is only given if this is contractually agreed in the contract. Provided that NC-VISION has the corresponding personnel capacities available, NC-VISION will submit a corresponding offer to the Customer.

24. Contact escalation levels

Upon request, the contracting parties shall designate in writing for the purposes of escalation management,
e.g. in the event of disruptions in the performance structure, one responsible contact person in each case who can issue legally binding declarations for the respective contractual partner.

If an agreement is not reached at the level of the contact person within 14 working days of notification of the facts and the need for a decision, the matter shall be submitted without delay to the respective management of the contracting parties or the representatives designated 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 above escalation period shall not suspend any of the response, execution, recovery or other periods agreed in this Agreement.

26. Non-solicitation

The contractual partners mutually undertake not to poach any employees of the respective other contractual partner. Solicitation in this sense shall be deemed to exist if the contractual partner approaches an employee of the other contractual partner and makes him an offer to transfer to his own company. A solicitation in this sense does not occur if an employee of a contractual partner applies to the contractual partner on his own initiative.

27. Transfer of risk, force majeure.

NC-VISION shall not be liable for any loss or damage caused by burglary, theft or other loss at the place of use of the Software. NC-VISION shall not be liable for any failure or delay in the performance of any order or contract caused directly or indirectly by fire, flood, acts of nature, accident, riot, war, labor disturbance or strike, embargo, shortage of labor, materials, fuel or power , lack of transportation, compliance with governmental requirements, laws, orders or regulations, or any other cause beyond NC-VISION's reasonable control.

28. Marketing Considerations

The Customer grants NC-VISION the right to include the Customer's name in promotional materials as an organization that has purchased NC-VISION Software.
The Customer may exercise this right to NC-VISION by sending a written request by e-mail to info@nc-vision.com to refuse promotional material. Confirmation of such refusal by reply email will be made within 30 days and NC-VISION will make no further reference to the promotional material for the Customer's product.

29. 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 Stuttgart / Germany. However, NC-VISION is also entitled to sue at the Customer's place of business.

Without limiting the generality of the foregoing, the parties expressly exclude all provisions of the UN Convention on Contracts for the International Sale of Goods from the substantive and procedural law relating to all proceedings between them.
This Agreement supersedes all prior representations and agreements and may be amended only by written notice signed by officers of NC-VISION.

If for any reason a court of competent jurisdiction determines that any provision of this Agreement or portion thereof is unenforceable, such provision of the Agreement shall be enforced to the maximum extent permissible so as to affect the intent of the parties and the remainder of this Agreement shall remain in full force and effect.

If the dispute concerns mandatory consumer protection rights, the law of the Member State in which the customer has his 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 exist in individual cases due to linguistic interpretation.

30. General duty to inform according to § 36 VSBG

Online dispute resolution platform and consumer dispute resolution:

The European Commission provides a platform for online dispute resolution, which can be found at http://ec.europa.eu/consumers/odr/.

31. Export rules

Customer agrees to comply with all export laws and regulations of the European Union, the United States or any other government and agrees not to export or re-export the Software or License Key(s) in violation of such laws or regulations. Customer also agrees to comply with all applicable laws and regulations regarding the importation into or use of the Software in any country. Customer agrees to comply with all laws and regulations applicable to its use of the Software and its activities under this Agreement.

32. Special conditions

For Subscription and SaaS, Standard Software Sales, Individual Programming and Customizing Work, Support and Maintenance, Hosting and SaaS Services and IT Services, separate contractual services are generally provided. For the aforementioned services the following Special Terms and Conditions of NC-VISION shall apply additionally and take precedence over the preceding provisions, if they deviate from them.

Part B: Special Conditions Standard Software Licensing according to Contract duration (Subscription & SaaS)

1. Subject of the contract

Subject of the contractual performance is the licensing of standard software from own development of NC-VISION as well as for standard software products of other manufacturers for the term of the contract.

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

2. Delivery and services

NC-VISION provides the Standard Software to the Customer under the license terms of these General Terms and Conditions. No further services such as services in connection with the delivery of the Standard Software are owed, unless these are contractually agreed.

3. Terms of payment

The usage fee is generally payable monthly in advance by the 5th working day of each month at the latest.

4. License fee and right of use

The scope of use, right of use and license fee of the Standard Software results from the number of tokens purchased by the Customer from NC-VISION general part number 4+5 defined license model and the contractual documents.

As an alternative to the token system, alternative license models defined by contract can be agreed with the customer.

5. 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 p. 1 No. 1 BGB analogue is only permissible if NC-VISION has been given sufficient opportunity to remedy the defect and this has failed.

6. Term of contract/termination of subscrition contract

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

If such a term is not agreed in the contract, the contract shall have an unlimited term and may be terminated at the earliest after 3 years of 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 is entitled to terminate the contract without notice.

Part C: Special Conditions for the Purchase of Standard Software

1. Subject of the contract

Subject of the contractual performance is the licensing of standard software from own development of NC-VISION as well as for standard software products of other manufacturers for the term of the contract.

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

2. Delivery and services

NC-VISION provides the Standard Software to the Customer under the license terms of these General Terms and Conditions. No further services such as services in connection with the delivery of the Standard Software are owed, unless these are contractually agreed.

3. License fee and right of use

The scope of use, right of use and license fee of the Standard Software results from the number of tokens purchased by the Customer from NC-VISION general part number 4+5 defined license model and the contractual documents.

The license and right of use is granted without time limitation under the condition of a valid support and maintenance contract. Upon termination of the support and maintenance contract by the customer, the license and right of use ends at the same time.

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

1. Subject of the contract

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

2. Scope of services

The scope of services according to item 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, solution concept, requirement or functional specification.

These documents are only binding 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 contractual specification of the contractual performance.

Services not confirmed by NC-VISION in project documents or other performance specifications are not owed by NC-VISION.

3. Prices

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

Billing is based on time and effort, according to NC-VISION's price list or according to prices in the contract.

The invoicing will be done on a monthly basis according to the work performed with a time sheet. If it turns out that effort estimates or the total cost calculation will be exceeded, NC-VISION will inform the Customer thereof in due time.

A claim for compliance with cost estimates and/or cost calculations does not exist, 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 ordered service or service specification can only be implemented by NC-VISION with disproportionate effort and this was not recognizable for NC-VISION despite application of reasonable care in the individual case, NC-VISION shall be entitled to submit an additional offer as contractual additional agreement. This contractual additional 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 provided.

5. Service provision

NC-VISION will realize 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 realized, which will allow the contractual performance to meet the requirements of the customer.

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 dates

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

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

8. Rights of use

The rights of use according to the General Part of these General Terms and Conditions Clauses 4 and 5 shall apply to all results and intermediate results of the contractual services, in particular the service descriptions, specifications, concepts, documentation, manuals, reports, documents, diagrams on the created individual software, the software adaptations and parameterizations.

9. Acceptance

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

10. Deficiencies and performance failures

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

Part E: Special Conditions Support, Maintenance and Helpdesk Services

1. Subject of the contract

These special terms 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 Section Clauses 4 and 5 shall 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. Runtime

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

If no such agreement has been made, 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 2 months in arrears with the payment of the usage fee, NC-VISION is entitled to terminate the contract without notice.

Part F: Special Terms and Conditions Hosting and SaaS Services

1. Subject of the contract

The subject matter of the contract is the provision of services for the operation of the standard software by NC-VISION in a cloud environment.

Operation takes place in the cloud environment agreed in the contract.

2. Initial setup and installation of the software

NC-VISION will install, configure and provide the standard software with associated runtime environment and middleware according to the contract.

3. Maintenance and operation

NC-VISION will keep the Standard Software in a trouble-free operational condition according to the configuration of the contract.

This includes the following individual services.

- · Patch management Bug fixes Standard software on integration and production system
- · Release management standard software on integration (if available) - and productive system
- · Monitoring availability and performance of the standard software
- · Monitoring 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.

Not in the responsibility of NC-VISION are the operation of the hardware, operating systems, network, database and storage and the further infrastructure of the cloud environment, which does not concern the standard software.

4. Not included in the contract services:

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

- Disruptions caused by errors made by employees of the customer or third party companies on behalf of the customer, suppliers in the operation or operation of the system or in the cloud infrastructure.
- Errors resulting from non-compliance with documentation and instructions for use
- Errors caused by hacker attacks on computers of the customer or on the SaaS infrastructure
- import of database extracts or dumps on behalf of the customer
- any form of programming, software support, helpdesk and maintenance
- Errors caused by malicious software despite the latest version of the firewall and software within the agreed update times

Apart from that, services are only owed if they are explicitly mentioned in this contract.

5. Operating hours:

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

6. Adjustment system resources and frame 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 used cloud environment and the respectively valid system requirements of the standard software. NC-VISION will configure the resources necessary for operation in the cloud.

7. Participation and provision

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

Violation of cooperation obligations shall supersede all performance parameters, in particular response times, system availability parameters and other operating conditions.

8. Remuneration

The remuneration of the services results from the order and contract. The billing of permanent services is done 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 special feature that the termination of the Customer according to § 543 para. 2 p. 1 no. 1 BGB analogue is only permissible if NC-VISION has been given sufficient opportunity to remedy the defect and this has failed.

10. 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.

11. Runtime

The term and notice periods are specified in the contract.

If such a term is not agreed in the contract, the contract shall have an unlimited term and may be terminated at the earliest after 3 years of minimum term 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.

12 Operating hours cloud environment

The uptime and SLAs of the cloud environment are dictated by the cloud environment selected in the contract.