

General terms and conditions of NESS Slovensko, a.s. for the supply of goods and services, version 1.4

1. DEFINITIONS OF TERMS

The terms defined in the Purchase order also apply to the terms listed in these General Terms and Conditions of NESS Slovensko a.s. for the supply of goods and services (hereinafter referred to as "GTC"). The terms listed in these GTC and beginning with a capital letter also apply to the terms listed in the Purchase order and have the following meaning:

- 1.1. **Acceptance procedure** – the process of approving the Partial fulfillment or the entire Fulfillment;
- 1.2. **Acceptance** – is a physical check and confirmation of the completeness and functionality of the Partial fulfillment or the entire Fulfillment, i.e. the moment of completion of the Acceptance procedure, which results in the signing of the Acceptance Protocol by the Parties;
- 1.3. **Acceptance criteria** – are measurable technical or substantive parameters agreed in advance by the Parties;
- 1.4. **Acceptance protocol** – document by which NESS confirms the Acceptance of the submitted Partial or of the entire Fulfillment;
- 1.5. **Author's work** – Fulfillment that is: a literary, artistic, scientific and/or other work that is the result of the author's own creative mental activity, especially, but not limited to, a computer program, Software, programming tool, Documentation or other work that is the result of the author's own creative mental activity;
- 1.6. **Partial fulfillment** – individual fulfillments specified in the Contract or in the Purchase order;
- 1.7. **Manday** – the work of one Provider's person during 8 (eight) working hours, which may or may not be done in one working day;
- 1.8. **Manhour** – the work of one Provider's person during 60 (sixty) minutes;
- 1.9. **Documentation** – a set of documents and other documents necessary for the proper, error-free and complete use of the Fulfillment made in written and/or electronic form in the Slovak language, including in particular instructions for use, manuals, technical / user / system / administrator / operator documentation;
- 1.10. **Hardware** – a set of technical means - devices forming solid, tangible components of a computer. An integral part of the Hardware is also the background material necessary for its use and the Documentation. Hardware mainly includes server, plotter, hard disk, monitor, printer, scanner, copier;
- 1.11. **Defect reporting** – a written document drawn up by NESS and delivered to the Provider at the Provider's contact details specified in the Contract or Purchase order or handed over to the Provider personally, the content of which is the NESS notification of the Defect;
- 1.12. **Help Desk** – is a service of the Provider, which serves to receive and record all requests for warranty repairs, as well as requests within the framework of Support Services;
- 1.13. **End user** – is a person of the End customer who uses outputs according to the Agreement in the course of fulfilling his work duties;
- 1.14. **Contact person** – an employee of the Party or another person designated by the Party in the Contract or Purchase order, who is authorized to represent the Party (in particular to sign the Acceptance Protocol/handover protocol) and to contact the other Party in contractual, commercial and technical matters related to the fulfillment of the subject of the Contract and/or the Purchase order as well as in any other connection with the fulfillment of the subject of the Contract and/or Purchase order. Unless otherwise expressly stated in the Purchase order, the Contact person of the Party listed only in the Purchase order is allowed to represent the Party only in matters of Fulfillment delivered according to the given Purchase order;
- 1.15. **Data migration** – is a process including preparation, testing and transfer of data from the End customer's existing information system to the new information system;
- 1.16. **NESS** – the company NESS Slovensko, a.s., based in Galvaniho 15/C, 821 04 Bratislava, Slovakia;
- 1.17. **Support period** - is the period specified in the Contract or in the Purchase order during which the Provider undertakes to provide NESS or the End customer with Support Services, if they are agreed;
- 1.18. **Purchase order** – a written document prepared by NESS, e.g. on the basis of the Provider's written offer or on the basis of the Contract and sent to the Provider by post, e-mail to the Provider's contact details, or delivered in person to the Provider's Contact Person, upon approval of which the Provider is obliged to deliver/provide NESS Fulfillment specified in Purchase order in accordance, in scope, quality, manner and under other conditions specified in the written offer of the Provider or agreed by the Parties in the Contract or otherwise agreed by the Parties. A subcontract concluded on the basis of the Contract is also considered an Purchase order. The rights and obligations of the Parties from the Purchase order shall be subject to the modification of the rights and obligations of the Rights from the Agreement specified in the General Terms and Conditions and the Agreement, unless otherwise stated in the provisions of the General Terms and Conditions or the Agreement. If there is a deviating provision in the Purchase order than in the Contract, the provisions of the Purchase order shall prevail;
- 1.19. **Defect elimination** – activity within the Warranty Period, which mainly includes (i) exchange of a non-functional or improperly functioning Fulfillment (Partial Fulfillment) for a new identical Fulfillment, or for a replacement Fulfillment of the same or at least similar quality and technical parameters; and/or (ii) putting a non-functional or improperly functioning Fulfillment (Partial Fulfillment) into a functional state; and/or (iii) repair of damaged Partial Fulfillment; and/or (iv) providing the Solution; and/or (v) checking and analyzing the error statistics of the Fulfillment (Partial Fulfillment) in case of suspected Defects; and/or (vi) setting the optimal software configuration of the Fulfillment (Partial Fulfillment); and/or (vii) solving problems related to the compatibility of software and/or hardware parts of the Fulfillment; and/or (viii) service promptness; and/or (ix) solving and eliminating any other defects, errors, problems, deficiencies in the Fulfillment and malfunctions in the Fulfillment, etc.;
- 1.20. **Off Site** – the Provider's work from the Provider's seat;

- 1.21. **On Site** – work of the Provider from the End customer's seat or from the seat of NESS;
- 1.22. **Controlling person** – a person who has a majority share of voting rights in the Party because it has a contribution in the Party or shares of the Party with which the majority of voting rights are associated, or because, based on an agreement with other authorized persons, it can exercise the majority of voting rights regardless of the validity or invalidity of such agreement;
- 1.23. **Controlled person** – a person in which the Party has a majority share in voting rights because it has a contribution in this person or the shares of this person, with which the majority of voting rights are associated, or because, based on an agreement with other authorized persons, it can exercise the majority of voting rights without regardless of the validity or invalidity of such agreement;
- 1.24. **Fulfillment** – goods and/or services to be delivered by the Provider to NESS or to the End customer according to the Contract, Purchase order or other agreement of the Parties and to which the Contract applies. Documentation is an integral part of the Fulfillment. Depending on the subject of the Contract or the order, the Fulfillment can mainly be: movable property (goods) or immovable property; and/or service; and/or the work (in particular the construction, assembly, maintenance and/or execution of the agreed repair/adjustment of a certain thing or the materially captured result of another activity); and/or the Copyright and the grant of a license thereto; and/or the thing through which the Author's Work is expressed (in particular compact disc (CD), installation media); and/or storage or custody of a certain thing; and/or facility of a certain business matter; and/or mediating the conclusion of a contract with a third party; and/or transportation/procurement of transportation of cargo or a certain thing; which, on the basis of the Contract or Purchase order, is to be delivered, provided, performed, developed, created and/or arranged by the Partner for NESS;
- 1.25. **Change request** – a written document containing, in particular, a proposed change/changes to the scope of the subject matter and/or content of the Contract and/or Purchase order agreed by the Parties, and/or to the specifications of the subject matter of the Contract and/or Purchase order agreed by the Parties, and/or to the content and scope of documents agreed by the Parties, which are to be created and delivered on the basis of the Contract and/or Purchase order, and/or a proposal for changes in the agreed time of fulfillment of the subject of the Contract and/or Purchase order, and/or a proposal for other changes in the subject of the Contract and/or Purchase order. The change request mainly contains a precise and detailed description of the relevant change proposal, background material specifying in more detail the meaning of the relevant change proposal, the possible need to change the price and time of execution of the Contract and/or Purchase order and other necessary information and data. A request for change may propose several alternatives for the implementation of the relevant change proposal;
- 1.26. **Working day** – every day except Saturdays and non-working days of the Slovak Republic;
- 1.27. **Working time** – time from 8:00 a.m. to 6:00 p.m. on a working day;
- 1.28. **Presentation** – the first personal, telephone, written or other introduction of the Provider to the End customer;
- 1.29. **Program modifications** – results of development work;
- 1.30. **Project** – a set of activities and procedures leading to the proper implementation and delivery of the subject of the Agreement and/or Purchase order;
- 1.31. **Project manager of the Provider** – is a person appointed by the Provider who is responsible for securing the resources and capacities of the Provider necessary for the proper implementation of the Project. He is responsible for detailed planning, coordination and control of all activities carried out within the framework of the Project implementation;
- 1.32. **Project manager of NESS** – is a person appointed by NESS who manages the work on the Project. He is responsible for the active cooperation of NESS employees in joint work teams;
- 1.33. **Response time** - the time within which the Provider must confirm to NESS to the NESS contact details the receipt of the Defect Report and start removing the Defect;
- 1.34. **Repair time** – the period within which the Provider must eliminate the Defect, namely (i) by delivering/providing new Fulfillment; or (ii) by delivering/providing the missing Fulfillment; or (iii) by repairing the Fulfillment, if the Defect is repairable (in particular, by putting a non-functional or improperly functioning Fulfillment (Partial Fulfillment) into a functional and correct state, by repairing a damaged Partial Fulfillment); (iv) by providing a reasonable price discount; (v) by removing the Legal Defect, or (vi) by delivering a replacement Solution;
- 1.35. **Steering committee** – is the highest decision-making and management body of the Project. The members of the Steering Committee are defined directly in the Contract or in the project plan;
- 1.36. **Solution** – removal of the Defect or, in the event that the removal of the Defect is not objectively possible, the implementation procedure proposed by the Provider and agreed by NESS, as well as the actual implementation of a solution to the Defect other than the removal of the Defect;
- 1.37. **Support services** – operation and Fulfillment support services specified in the Contract, Purchase order and/or in these GTC. Support services mainly include the provision of support, advisory, assistance, consultation, or other requested professional services (i) when using the Fulfillment (Partial Fulfillment), especially in the event of a suspected Defect; and/or (ii) in determining and verifying the causes that caused the suspicion of the Defect; and/or (iii) when using any and all features, functions and options of the Fulfillment (Partial Fulfillment); and/or (iv) in solving any (including recurring, exceptional and/or difficult to define) problems related to the Fulfillment (Partial Fulfillment); and/or (v) when installing, implementing, customizing new versions of the Fulfillment (Partial Fulfillment); and/or (vi) when creating an alternative solution for removing the Defect, if such a solution is objectively possible under reasonable conditions; and/or (vii) when developing a Defect Report;
- 1.38. **Software** – a set of commands and instructions used directly or indirectly in a computer. Commands and instructions can be written or expressed in source code or machine code. An integral part of the Software is also the background material necessary for its preparation and use and the Documentation. Software mainly includes computer program, operating software (software), application software (software), software module. The source and/or machine codes of the Software are also an integral part of the Software;
- 1.39. **Subcontractor** – a natural or legal person other than the Provider whom the Provider has authorized in accordance with these GTC and the Agreement and/or the Purchase order to supply/provide the NESS Fulfillment;

- 1.40. **System** – the End customer's information system;
- 1.41. **Defect** – any defect, error, fault condition, defect, deficiency, malfunction or any other problem of the Fulfillment (Partial Fulfillment) preventing its proper and/or error-free use (including legal defects of the Fulfillment (Partial Fulfillment), and/or causing its partial or complete non-functionality, and/or causing partial or total restriction of its use/operation;
- 1.42. **Project management** – is the Project Manager of the Provider and the Project Manager of NESS;
- 1.43. **Statement of work** – a written document by which the Contact Persons of the Parties confirm without delay, after it has happened, the proper, timely, error-free and complete delivery/provision of the Fulfillment by the Provider in accordance, to the extent, in the quality, in the manner and under the other conditions specified in these GTC, the Agreement and Purchase order and at the same time confirm the scope of the provided Fulfillment (number of Man-Days or number of Man-Hours). If the Fulfillment is accepted by signing the Statement of Work, the Fulfillment is considered accepted and there is no need to draw up an Acceptance or Acceptance Protocol;
- 1.44. **End customer** – client of NESS, for which Fulfillment is provided;
- 1.45. **Warranty period** – the period during which the Provider is obliged to remove Fulfillment Defects free of charge, at its own expense, regardless of whether they arose before the signing of the Acceptance Protocol/handover protocol or statement of works by the Parties or during this period;
- 1.46. **Contract** – the contract concluded between the Parties, to which these GTC are an annex and an integral part, including any and all of its annexes and amendments, and the content of which is the regulation of the rights and obligations of the Parties related to the fulfillment of the subject of the Contract. If the term Contract appears in these GTC, it also means the Purchase order in all cases where it is relevant.

2. PURCHASE ORDER

- 2.1. Unless otherwise stated in the Contract, the Provider shall notify NESS in writing by e-mail to the NESS contact details, or in person to the NESS Contact Person without delay, but no later than within 3 working days after receiving the Purchase order (a) consent,; or (b) rejection of the Purchase order. The Purchase order is considered to be rejected even if the time limit has expired in vain according to the first sentence of this point, unless the Parties expressly agree otherwise in writing. The Purchase order is concluded by the delivery of the written notification of the Provider on the approval of the Purchase order according to the previous sentence. If the nature of the specific case does not explicitly indicate otherwise, the provisions of these GTS shall apply to the Purchase order. Approval of the Purchase order by the Provider, which contains any additions, reservations, restrictions or other changes to the Purchase order, shall be considered as a rejection of the Purchase order and as a new offer by the Provider. Approval of the Purchase order by the Provider is, however, the Provider's notification of the approval of the Purchase order, which defines the content of the proposed Purchase order in other words, if such a notification by the Provider does not result in a change in the content of the proposed Purchase order.

3. PAYMENT CONDITIONS

- 3.1. The price is agreed by the Parties in the Contract and/or in the Purchase order in accordance with the generally binding legal regulations of the Slovak Republic on prices in the current version. The price is agreed in the Contract and/or in the Purchase order (a) in the form of a fixed price for the delivery/provision of the Fulfillment; or (b) in the form of a price determined as a multiple of the unit rate for 1 (one) Man-Day or 1 (one) Man-Hour and the total number of Man-Days or Man-Hours during which the Provider provided NESS Fulfillment according to the Contract and/or Purchase order.
- 3.2. The price includes all and any duties, tariffs and other fees established by relevant, generally binding legal regulations as well as all and any costs and expenses of the Provider related to the delivery/provision of the NESS Fulfillment, including costs and expenses for insurance premiums, transport, travel, meals, pocket money, per diems, travel time, waiting time and any other costs and expenses of the Provider.
- 3.3. NESS shall pay the Provider the Price after the proper, timely and complete delivery/provision of the Fulfillment by NESS in accordance with, in the scope, in the quality, in the manner and under the other conditions specified in these GTC and the Agreement and/or in the Purchase order, on the basis of the invoice drawn up by the Provider.
- 3.4. If NESS delivers the Fulfillments delivered by the Provider to its End customer, or the Fulfillments delivered by the Provider are part of the performance delivered by NESS to the End customer, NESS is not obliged to pay the invoice to the Provider before the End customer pays NESS the remuneration for the Fulfillment delivered by the Provider. NESS is not obliged to pay the invoice even if the due date of the invoice issued by the Provider has already passed. In such a case, the due date of the invoice is automatically extended and will expire by up to 10 working days from the day the End customer paid NESS the remuneration for the Fulfillment delivered by the Provider. Each of the contracting parties declares that for the application of this procedure, all legal conditions according to § 340a par. 1 of the Commercial Code.
- 3.5. NESS is not obliged to pay the invoice to the Provider if it has signed the Acceptance Protocol or Acceptance Protocol with reservations, until the moment the Provider removes the deficiencies that were stated in these reservations.
- 3.6. The Provider shall deliver the invoice to NESS without delay, but no later than within 5 (five) days from the date of its issuance.
- 3.7. The due date of the invoice is 30 (thirty) days from the date of its delivery to the Party obliged to pay, unless otherwise stated in the Contract or Purchase order or these GTC.
- 3.8. The price is invoiced and paid in the currency in which it was agreed in the Contract or in the Purchase order.

- 3.9. The sum of money stated on the invoice is paid by non-cash transfer through a bank to the current account of the authorized Party specified in the Contract and/or on the invoice and/or notified in advance in writing to the Party obliged to pay. The amount of money indicated on the invoice is considered paid on the day it is credited to the above-mentioned current account of the authorized Party.
- 3.10. The Provider will deliver the relevant invoice to NESS to the address specified in the NESS contact details provided in the Contract or Purchase order.
- 3.11. The invoice must contain all the details according to the current legislation of the Slovak Republic, in particular:
- identification data of the Parties,
 - invoice number;
 - Purchase order number;
 - reference to the Contract and/or Purchase order and number of the Contract and/or Purchase order;
 - type, quantity, name, specification/description and Price (without/with VAT) of the Fulfillment;
 - other requirements established by the generally binding legal regulations of the Slovak Republic on VAT in the current version;
 - date and place of the invoice;
 - name, surname, function and contact details of the person who drew up the invoice.
- 3.12. Unless otherwise agreed by the Parties in the Contract or Purchase order, an inseparable attachment to the invoice is a copy of the Acceptance Protocol/Takeover Protocol or Statement of Works and, in the event that the Fulfillment was delivered/provided by the NESS Provider based on the Purchase order, also a copy of this Purchase order.
- 3.13. If the invoice does not contain the prescribed details or does not contain the correct data, NESS is entitled to return it with missing details or incorrect data. In such a case, the due date will be interrupted and a new due date will begin upon delivery of the corrected invoice to NESS.
- 3.14. NESS is entitled to withhold part of the price in the amount corresponding to the value added tax in the event that the Provider has reasons for canceling the registration for value added tax and/or the Financial Directorate of the Slovak Republic publishes the Provider in the list of persons with reasons for canceling the registration for value added tax maintained on the portal of the Financial Administration of the Slovak Republic, until the time when the Provider verifiably proves to NESS that these reasons have disappeared for him.

4. RIGHTS AND OBLIGATION OF THE PARTIES

- 4.1. The Parties shall cooperate with each other and to provide each other with all the information necessary for the proper and timely fulfillment of their duties and obligations arising from the Contract and/or Purchase order and from these GTC. The Party is obliged to immediately inform the other Party of any fact and/or circumstance that is/may be important and/or essential for the proper and timely performance of the Contract and/or Purchase order and/or which is/could be eligible, whether directly or indirectly, to frustrate or significantly complicate the performance of the Contract and/or Purchase order.
- 4.2. The Parties shall fulfill their duties and obligations arising from the Contract and/or Purchase order and from these GTC in such a way that there is no delay in their fulfillment within the time specified in these GTC and/or agreed in the Contract and/or Purchase order.
- 4.3. The Project Managers of the Parties shall confirm by signing the Acceptance Protocol/Acceptance Protocol or the Statement of Works the proper, timely, error-free and complete delivery/provision of the Fulfillment by the Provider to NESS in accordance, in scope, quality, manner and under other conditions specified in these GTC and the Agreement and/or the Purchase order, immediately after it has happened.
- 4.4. The Provider is obliged to implement the Fulfillment according to the instructions of NESS. NESS is entitled to give the Provider instructions for providing the Fulfillment in the following manner:
- a) assignment of specific tasks will be carried out in written form: e-mail, NESS internal records (used for assignment of tasks);
 - b) the assignment contains: the subject (what specific Fulfillment is to be delivered), the delivery date of the specific Fulfillment, an estimate of the capacities (Man-hours) required for the provision or execution of the specific Fulfillment, other additional information if necessary.
- 4.5. The Provider undertakes by the fulfillment of the Contract and the Purchase order, in particular:
- a) to provide the Fulfillment for NESS duly and on time;
 - b) proceed with the fulfillment of the Contract and/or Purchase order with professional care;
 - c) observe, preserve and respect, in addition to the generally binding legal regulations of the Slovak Republic, all, known to the Provider, internal regulations, NESS standards and procedures, End customer regulations and regulations on safety and health protection at work and fire protection;
 - d) proceed in such a way that there is no damage to the health (whether of employees of the Provider, Subcontractor or third parties, including NESS employees), property, nature, or the environment. NESS is not responsible for work-related or other injuries of the Provider, the Provider's employees, or Subcontractors participating in the fulfillment of the subject of the Contract and/or Purchase order, which occurred on the premises of NESS or the End customer;
 - e) to observe, preserve and respect the operating conditions of NESS and/or the End customer;

- f) maintain order and cleanliness in the premises of the fulfillment of the Contract and/or Purchase order and ensure the removal and removal of packaging and other material related to the fulfillment of the subject of the Contract and/or Purchase order from the premises of NESS and/or the End customer at their own expense;
 - g) comply with the provisions of Act no. 18/2018 Coll. on the protection of personal data when dealing with personal data that was provided to him, transferred, notified, made available and/or obtained in any other way on the basis of and/or in any connection with the Agreement and/or the Purchase order;
 - h) at the request of NESS, submit the Statement of Work in both paper and digital versions. The digital version can be filled out via the Internet interface / intranet based on the NESS request. In the event that NESS asks the Provider to submit a statement also via SAP - timesheet, the Provider undertakes to respect this request and is obliged to accept and implement it;
 - i) secure/obtain at its own risk and expense all and any necessary export permits, transit permits, certificates of approval or any other necessary official permits/licenses required by the law of the relevant country and at the same time undertake to comply with any and all customs and other similar obligations necessary for the proper and timely fulfillment of the subject of the Contract and the Purchase order;
 - j) based on NESS's request, deliver/provide Fulfillment in accordance with, in the scope, quality, manner and under the price and other conditions specified in these GTC, Contract or Purchase order to Controlled persons of NESS, or other related persons of NESS;
 - k) be available by phone and electronic means (e-mail, other electronic means agreed with the Contact Person) on working days at least from 8:00 a.m. to 4:00 p.m. The above can be changed after agreement with the NESS Contact Person;
 - l) to provide the Defect Elimination service and/or Support Services mainly via telephone, e-mail, Internet and/or in person (On Site) directly at the place of use of the Fulfillment;
 - m) to provide Fulfillment at its headquarters (Off Site) or at NESS premises or End customer (On Site), if requested by NESS or the End customer. In the event that the Provider will provide the Fulfillment on NESS premises, and it is necessary for the fulfillment of the Fulfillment, NESS will allow the Provider access to NESS's internal networks.
- 4.6. NESS undertakes, to the extent necessary for the proper and timely fulfillment of the subject of the Contract and/or Purchase order, to provide the Provider with the necessary cooperation at his written request by answering questions and providing consultations, additional information, opinions, guidelines and other statements related to the subject of the Contract and/or Purchase order based on the Provider's request, as well as by providing additional, reasonably requested cooperation based on the Provider's request, if its provision is necessary for the proper and timely fulfillment of the subject of the Contract and/or Purchase order. The cooperation of NESS necessary for the proper and timely fulfillment of the subject of the Contract and/or Purchase order may be specified in more detail in the Contract and/or Purchase order.
- 4.7. Unless otherwise agreed by the Parties in the Contract or Purchase order, the Provider is not entitled to entrust the delivery/provision of the Fulfillment to a third party. However, if the Parties agree in the Contract or Purchase order that the Provider is entitled to entrust the delivery/provision of the Fulfillment to a third party - a Subcontractor, the NESS Provider is responsible for the delivery/provision of the Fulfillment in full as if the Fulfillment would be delivered/provided by the Provider himself and all obligations, the obligations, guarantees and responsibilities of the Provider contained in and resulting from these GTC, the Contract and/or the Purchase order remain preserved in full. The Provider is contractually obliged to ensure compliance with and maintenance of these obligations, obligations, guarantees and responsibilities by the Subcontractor at least to the same extent as the Provider is bound to NESS.
- 4.8. The Provider undertakes, during the validity of the Agreement, not to provide Fulfillments according to Annex no. 1 of the Agreement to third parties. Consent to the provision of the mentioned Fulfillments is granted by the NESS Contact Person. In the application for permission to provide Fulfillment According to Annex no. 1 to third parties, the Provider shall state which Fulfillments and to whom it wishes to provide.
- 4.9. The Provider undertakes, in the period of 12 months following its Presentation to the End customer, and/or in the period up to 12 months after the completion of NESS projects at the End customer, that it will not establish cooperation with the End customer without the written consent of NESS, not even through any other natural or legal persons. The establishment of cooperation with the End customer is understood to submit a price offer to the End customer, conclude a contract with the End customer, perform performance for the End customer based on an order or any other action based on which there is no doubt that the Provider performs a certain performance for the End customer.
- 4.10. The Provider undertakes that, without the written consent of NESS, he will not conclude an employment relationship, or a similar employment relationship based on which he will employ an employee of NESS for a period of 12 months from the end of cooperation based on the Contract and Purchase orders. The Provider undertakes that, without the written consent of NESS, he will not enter into a business-legal, civil-law relationship or any other relationship on the basis of which an employee of NESS will perform services for him or deliver services and will be remunerated for this activity in any way and form for a period of 12 months from the termination of cooperation based on the Contract and Purchase orders.
- 4.11. NESS is entitled to further deliver any Fulfillment delivered by the Provider to its End customers or third parties, separately or as part of another performance. By signing the Contract, the Provider agrees to the above. If the Fulfillment delivered by NESS is further delivered by NESS to the End customer or third parties, the Provider undertakes to remove defects or deficiencies in the Fulfillment at the place of residence of the End customer or a third party, or at the place where the Fulfillment will be located (performed).
- 4.12. If the Fulfillment is provided to the End customer and the End customer has claimed against NESS the right to pay a contractual penalty as a result of a delay in the delivery of the Provider's Fulfillment, the Provider is obliged to pay NESS a contractual penalty in the same amount as the End customer has claimed it against NESS.

- 4.13. The Provider undertakes to test the Fulfillment at its own expense, and subsequently to submit to NESS a statement that it has performed the testing of the Fulfillment in accordance with the assignment or the target concept. The statement will mainly contain information about the results of the testing and about the quality of the Fulfillment or Partial Fulfillment.
- 4.14. The Provider is not entitled to assign the claim or any of the rights and obligations arising from the Contract to another person (whether legal or physical), because of which the institution of assignment of claims by the Provider is excluded. For the purposes of § 151d of the Civil Code, all rights of the Provider from the Contract are non-transferable. Any such assignment/transfer in violation of this T&C Article shall be deemed null and void from the time it is made.
- 4.15. By handing over the Fulfillment delivered according to the Contract or the Purchase order, NESS acquires the ownership right to it.
- 4.16. The risk of damage to the Fulfillment passes from the Provider to NESS upon handing over the Fulfillment to NESS and the signing of the Acceptance / Acceptance Protocol or Statement of Work by the Parties.
- 4.17. NESS is entitled to perform an inspection at the Provider's headquarters, and the Provider is obliged to allow NESS access to its premises to verify compliance with information security rules, as NESS holds the ISO/IEC 27001 certificate.

5. DELIVERY AND ACCEPTANCE OF THE FULFILLMENT

- 5.1. Unless otherwise stipulated in the Contract or Purchase order, the Fulfillments will be accepted in the following manner:
 - 5.1.1. In the case of provision of consulting services, NESS will be submitted for Acceptance of the Statement of Work after delivery of the Fulfillment, but at least once a month. In the event that NESS disagrees with the submitted Statement of Work (mainly but not only due to Defects and/or Fulfillment deficiencies, formal errors in the Statement of Work), it will deliver a Defect Report to the Provider. After the removal of defects, performance deficiencies or other errors, the Provider shall resubmit the Statement of Works for Acceptance, while in the case of non-acceptance again, the appropriate procedure shall be followed, according to the previous sentence. If NESS has no objections to the Statement of Work, it will confirm its acceptance in writing.
 - 5.1.2. In the case of providing programming services, the Fulfillments or their part will be submitted to NESS for Acceptance and testing. If NESS has reservations about the delivered Fulfillment (mainly but not only due to a Defect and/or deficiencies in the Fulfillment), it will deliver a Defect Report to the Provider. After the removal of defects, deficiencies in the Fulfillment or other errors, the Provider shall resubmit the Fulfillment for Acceptance and testing, while in the case of non-acceptance again, the appropriate procedure shall be followed, according to the previous sentence. If NESS has no reservations about the delivered Fulfillment, it will confirm the Acceptance of the Fulfillment in the Acceptance Protocol. Successful testing and confirmation of the Acceptance Protocol does not release the Provider from the obligation to remove all Fulfillment Defects within the period specified in the Acceptance Protocol.
 - 5.1.3. In the case of delivery of the Fulfillment, which has the nature of a movable object, the Fulfillments or Partial Fulfillments will be handed over to NESS for acceptance. If NESS has reservations about the delivered Fulfillment (mainly but not only due to an obvious Defect and/or obvious shortcomings of the Fulfillment), it will not accept the Fulfillment and will deliver a Defect Report to the Provider. After the removal of defects, shortcomings of the Fulfillment or other errors, the Provider shall resubmit the Fulfillment for acceptance, while in the case of non-acceptance again, the procedure shall be appropriate, according to the previous sentence. If NESS has no reservations about the delivered Fulfillment, it will confirm the acceptance of the Fulfillment in writing in the acceptance protocol.
 - 5.1.4. If the Fulfillment will consist in the provision of other Fulfillments than mentioned above, the Acceptance or takeover will take place appropriately according to 5.1.1., 5.1.2. or 5.1.3., depending on the nature of the Fulfillment. The final decision according to which letter of this point such Fulfillment will be accepted or taken over belongs to NESS.
 - 5.1.5. If NESS delivers the Fulfillments delivered by the Provider to its End customer, or the Fulfillments delivered by the Provider are part of the performance delivered by NESS to the End customer; NESS is not obliged to approve the Statement of Work, or to confirm the Acceptance of the Fulfillment in the Acceptance Protocol or the acceptance of the Fulfillment in the acceptance protocol before the delivery of the Fulfillment is agreed (accepted) by the End customer without reservations. In such a case, NESS is not obliged to approve the Statement of Works, or to confirm the Acceptance of the Fulfillment in the Acceptance Protocol or the delivery of the Fulfillment in the acceptance protocol, even if the Fulfillment delivered by the NESS Provider does not show any Defects or Deficiencies in the Fulfillment, and otherwise NESS would have no reason not to accept the Fulfillment.
 - 5.1.6. If the Provider provides such services or goods that require a quality certificate, he shall attach to the acceptance protocol documents certifying their quality and completeness (e.g.: list of completed sub-activities of the services performed, list of supplies and equipment, certificate of quality and completeness, assembly instructions and operation, certificates, reports on the performance of professional inspections and tests /if necessary/, test results, tests, certificates, certificates on the performed tests of used materials and products, documents on the method of waste disposal).

6. CHANGE REQUESTS

- 6.1. As part of the change procedure, the Party may propose to the other Party in the form of a Change Request a change in the subject of the Contract and/or Purchase order.
- 6.2. The request for change shall be made by the Party proposing the requested change, and the other Party shall comment on the Request for Change immediately after its delivery in the form of an opinion on the Request for Change. The request for change will then be accepted or rejected in writing based on the opinion on the Request for Change and upon agreement between the Provider and NESS.

7. WARRANTY AND WARRANTY PERIOD

- 7.1. The Provider provides a guarantee for Fulfillment for a duration of 24 months, if no other guarantee period is agreed upon by the Parties in the Contract and/or Purchase order.
- 7.2. The warranty period for the Fulfillment starts from the day of Acceptance of the Fulfillment and, if the Fulfillment is accepted in parts, from the day of acceptance of the last Partial Fulfillment. If the Fulfillment is delivered to the End customer, the warranty period does not begin to run before the Fulfillment has been handed over to the End customer and accepted by the End customer.
- 7.3. The Provider undertakes that the Fulfillment will not have any Defects during the warranty period, will be fully functional and will have the characteristics specified in the Contract and/or in the Fulfillment Documentation, as well as the characteristics that can be expected from the Fulfillment due to the nature of the Fulfillment.
- 7.4. The Provider undertakes that the Fulfillment, including the Documentation, will be delivered/provided to NESS new and unused (with the exception of use for functionality testing) and in accordance, to the extent, in the quality, in the manner and under the other conditions specified in these GTC and the Agreement and/or Purchase order , with all professional care, with professionally competent and qualified persons and according to generally applicable, customary and observed rules, principles and customs for the delivery/provision of the same or similar type of Fulfillment. At the same time, the Provider undertakes that the functionality and use of the Fulfillment will fully correspond to the functional characteristics and specifications of the Fulfillment and the Documentation, and that the Fulfillment will not have Defects.
- 7.5. In the event of notification of any NESS Defect to the Provider during the warranty period, regardless of whether the Defect arose before the signing of the Acceptance Protocol/Takeover Protocol or the Statement of Work by the Parties or during the warranty period, the Provider undertakes to repair it free of charge, at its own expense, both during the Reaction Period confirm to NESS to NESS's contact details the receipt of the Defect Report and begin to remove the Defect as well as remove the Defect during the Repair Period, namely (a) by delivering/providing new Fulfillment; or (b) by delivering/providing the missing Fulfillment; or (c) by repairing the Fulfillment, if the Defect is repairable (in particular by bringing a non-functional or improperly functioning Fulfillment (part of the Fulfillment) into a functional and correct state, by repairing a damaged Partial Fulfillment); or (d) by providing a reasonable price discount; or (e) by removing a legal Defect, whereby the choice between the aforementioned claims belongs exclusively to NESS, which, however, may change the choice notified to the Provider only with the Provider's consent.
- 7.6. If the Provider does not remove the Defects of the Work within the period specified in the Contract, NESS is entitled to ensure the removal of the Defects itself or through a third party at the Provider's expense.
- 7.7. In the event that, during the Warranty Period, NESS sells or, on the basis of any title, transfers the Fulfillment to a third party, the Provider undertakes to provide NESS, or to this third party, performance according to this article of the GTC and further until the expiry of the Warranty period in accordance with, to the extent, in quality, in the manner and under other conditions specified in these GTC and the Contract and/or Purchase order.
- 7.8. In the event that NESS asks the Provider in writing, the Provider undertakes to provide performance according to this article of the GTC in accordance with, in the scope, quality, manner and under other conditions specified in these GTC and the Contract and/or Purchase order even after the expiry of the Warranty Period, on the basis of a separate contract concluded by the Parties for that purpose.
- 7.9. The provisions of this article also apply appropriately to the removal of Defects in the Fulfillment delivered according to the Purchase order.

8. DEFECTS, RESPONSE TIME AND REPAIR TIME

- 8.1. Unless otherwise agreed, Defects are divided into 3 (three) categories:
 - 8.1.1. **Defects of category A** - Defects causing non-functionality/unusability/inability to operate the entire Fulfillment, or its essential part, or The inconsistency can significantly damage the functionality in case of deployment (e.g. Fulfillment does not respond to user commands, reports errors when entering data, does not allow to enter admissible data,). Defects of category A mainly include:
 - 8.1.1.1. Accidental Defects - Defects causing the failure of the entire Fulfillment;
 - 8.1.1.2. Very serious Defects - Defects causing destabilization of the Fulfillment, including databases;
 - 8.1.1.3. Serious Defects - Defects causing the generation of incorrect or incomplete outputs limiting mainly the execution of business activities or the adoption of business decisions;
 - 8.1.1.4. Legal Defects - The performance is encumbered by the right of a third party, or its use by NESS or the End customer constitutes a violation of the rights of a third party.

- 8.1.2. **Defects category B** - Defects causing non-functionality/unusability/inability to operate the Partial Fulfillment, while the other Partial Fulfillments are proper, error-free and fully functional/usable/operable (e.g. some function generates incorrect output to accounting or reports, the response to some functions is seriously long, etc.), or Defects cause significant problems, but the process can be continued by applying a substitute solution, or Defects causing a substantial limitation of the functionality/usability/ability to operate the Partial Fulfillment, or Defects causing Fulfillment activity that is not in accordance with the Documentation (e.g. layout of fields on the screen, format of output data does not correspond to the requirement, incorrect reports, etc.). Category B defects mainly include:
- 8.1.2.1. Defects seriously limiting performance - Filling works correctly, but the response time of Filling is unreasonably long;
 - 8.1.2.2. Less serious Defects - Defects causing some outputs to be incorrect, or the Fulfillment does not work according to the Documentation.
 - 8.1.2.3. Loss of non-critical functionality
- 8.1.3. **Defects of category C** – Defects without impact on the functionality of the work itself, but which may cause discomfort for the user during its operation. respectively Defects of a formal or cosmetic nature, or any Defects other than Defects of category A and B. Defects of category C mainly include:
- 8.1.3.1. Defects slightly limiting performance - Filling works correctly, but the response time of Filling is slightly longer than expected
 - 8.1.3.2. Defects of a cosmetic nature – spelling, font format,...
- 8.1.4. The category of Defects (A,B,C) is determined by NESS.
- 8.2. The reaction time is 24 hours from the delivery of the NESS Defect Report to the Provider, unless a different time is agreed upon by the Parties in the Contract or in the Purchase order.
- 8.3. The repair time depends on the nature and category. Unless otherwise agreed, the Defect repair time is determined as follows:
- 8.3.1.1. Defect category A - within 48 hours from the delivery of the Defect Report to the Provider
 - 8.3.1.2. Defect category B - within 5 working days from the delivery of the Defect to the Provider
 - 8.3.1.3. Defect category C - upon agreement of both parties, but usually in the next planned deployment of the new functionality of the work
- 8.4. Regardless of the categorization of defects stated in these GTC, the Provider undertakes to remove any Defect that the End customer requests to be removed from NESS. The Provider undertakes to reimburse NESS for all costs incurred by NESS in connection with the removal of Defects for which the Provider is responsible.
- 8.5. In the event that the Provider does not remove the Fulfillment Defects during the Repair Period, NESS is entitled to ensure the removal of the Defects by a third party at the Provider's expense; the above also applies to Defects that occur before the start of the warranty period according to these GTC. Violation of the Provider's obligation to remove Defects in the Repair Good will be considered a breach of the Contract by the Provider and NESS is entitled to withdraw from the Contract or Purchase order, at the same time NESS is entitled to compensation for costs and/or damages caused by such a breach.
- 8.6. The Provider undertakes to carry out control tests after the Defect has been removed and at the same time whenever the End customer requests it from NESS. The Provider undertakes to carry out testing repeatedly until the Defect is removed, i.e. when the End customer does not object to the Defect.

9. COPYRIGHT, INDUSTRIAL AND OTHER INTELLECTUAL PROPERTY RIGHTS

- 9.1. If, as part of the fulfillment of the subject matter of the Agreement and/or Purchase order, NESS will create, deliver and/or make it possible to use a Fulfillment that is or includes an Author's work or a computer program (hereinafter referred to as "Author's work"), the Parties agree that the Provider grants NESS upon the entry into force and effect of the Agreement and/or the Purchase order, if the Fulfillment was supplied on the basis of the Purchase order, and/or by signing the Acceptance Protocol/Takeover Protocol and/or Statement of Works by the Parties exclusive, territorially and time-limited (the license is limited in time only by the duration of property copyrights to Fulfillment) and a freely transferable license to any Copyright work as a whole and its individual parts, to an unlimited extent (without limitation of the number of users and without limitation of the method of use), which includes in particular the right of NESS or its End customer, to whom NESS transfers this right, without any further consent of the Provider:
- 9.1.1. To use the author's work, in all ways known as of the effective date of the Agreement and/or Purchase order, and/or by signing the Acceptance Protocol/Acceptance Protocol and/or Statement of Works, especially for its direct use by NESS and End customers,
 - 9.1.2. make copies of the Author's Work,
 - 9.1.3. to publicly distribute the original Author's work and/or its copies by sale or other form of ownership transfer (including free transfer), by rental or loan and processing,
 - 9.1.4. carry out the translation and adaptation of the Author's Work,
 - 9.1.5. make the source code of the Author's work available to third parties for the purpose of its analysis for the needs of modification, linking or related activities
 - 9.1.6. modify the source codes of the Author's work or entrust the modification to a third party and, based on the modification, use the modified Author's work to an unlimited extent,

- 9.1.7. To further process, modify and create derivative works from the Author's work, as well as the right to grant consent to third parties to perform these activities and to further use the Author's work processed, modified or derived in this way to an unlimited extent;
 - 9.1.8. to grant the rights to use the Author's Work to the extent of the rights granted by the Provider under these GTC to any third party and assign these rights to the third party;
 - 9.1.9. the right to combine the Author's work with another work according to § 7 AZ;
 - 9.1.10. the right to include the Author's Work in a collective work;
 - 9.1.11. the right to public exhibition, performance and transmission of the work.
- 9.2. The remuneration for the granting of a license and the granting of consent for the granting of a sublicense, the granting of consent for the assignment of a license as well as other claims of the Provider from industrial and other intellectual property rights are included in the Price.
- 9.3. The Provider declares and, by signing the Contract or Purchase order, guarantees that the individual Fulfillments (including any of their components, including mainly Software) supplied, provided, performed and/or created by the Provider, Subcontractor or third parties for NESS at least to the extent necessary to fulfill its obligations under Contracts and/or Purchase orders (a) has and/or exercises copyright and/or industrial and/or other intellectual property rights; and/or (b) has and/or exercises the right to use them based on licenses granted to him by third parties who have and/or exercise copyright and/or industrial and/or other intellectual property rights. At the same time, the Provider grants NESS to the delivered Fulfillments (including any of their components, including mainly Software), for which the Provider has and/or performs according to letter (b) of the previous sentence, the right to use them based on licenses granted to it by third parties, the right to use them by NESS and its End customers in accordance, to the extent, in the manner and under other conditions under which these Fulfillments were delivered/provided to the Provider by third parties.
- 9.4. In the event that any third party, including employees of the Provider and/or Subcontractors, asserts any claim against NESS and/or its End customer for infringement of copyright and/or industrial and/or other intellectual property rights of such third party or any other claims in any connection with the Contract or the Purchase order, the Provider undertakes:
- 9.4.1. immediately obtain, at its own costs and expenses, from such a third party consent to use individual Fulfillments delivered, provided, performed and/or created by the Provider, Subcontractor or third parties for NESS and/or its End customer, or modify individual Fulfillment(s) delivered, provided, performed and/or created by the Provider, Subcontractor or third parties for NESS and/or its End customer, so that they no longer infringe the copyright and/or industrial and/or other intellectual property rights of a third party, or replace the individual Fulfillment(s) delivered, provided, performed and/or created by the Provider, Subcontractor or third parties for NESS and/or its End customer with the same or at least those Fulfillments that have at least substantially similar qualitative, operational and technical parameters and functionality; and
 - 9.4.2. provide NESS and/or the End customer with any and all effective assistance and cover any and all costs and expenses incurred/to be incurred by NESS and/or its End customer in connection with the exercise of the above third-party claim; and
 - 9.4.3. compensate NESS and/or the End customer for any and all damages incurred by NESS and/or the End customer as a result of the above third-party claim, in full and without any limitation.
- 9.5. The parties have agreed that if the result of the provision of Fulfillment according to the Agreement or the Purchase order is an Author's work that is Software, the Provider undertakes to supply NESS with the source codes for all versions of the Author's work in question.
- 9.6. The Provider in accordance with the provisions of § 70 par. 2 of the Copyright Act may not grant a license to a third party for the method of use of the Author's Work delivered as part of the delivery of the Fulfillment according to the Contract or the Purchase order, granted by the exclusive license of NESS according to the Contract, the Purchase order and the GTC, and is obliged to refrain from using the Author's Work in any way specified in the GTC, other than for the purpose of fulfilling their obligations towards NESS.
- 9.7. The Provider grants NESS consent for NESS to use and present its business name and/or logo in all ways of using the Author's Work, delivered as part of the delivery of the Fulfillment according to the Contract and/or the Purchase order agreed in the GTC in connection with the Author's Work.
- 9.8. Without the written consent of NESS, the Provider is not entitled to mention or present its business name and/or logo in any way in connection with the Author's Work delivered as part of the delivery of the Fulfillment according to the Contract and/or the Purchase order.
- 9.9. The rights of NESS according to the Contract, Purchase order and GTC to the Author's Work delivered as part of the delivery of the Fulfillment according to the Contract and/or Purchase order also apply to all versions, functional or linguistic, that arise from the modification of the delivered Author's Work.
- 9.10. If the Fulfillment is delivered for the End customer and NESS is obliged under the contract with the End customer to grant him a license to the Fulfillment created by the Provider or its Subcontractor, the Provider hereby grants NESS a license or a sublicense to use the Fulfillment as an author's work to the extent that NESS is obliged to grant it to the End customer according to the contract between the End customer and NESS. The Provider undertakes to ensure that, in the event of the creation of a copyright work by its Subcontractors, it will have a license from these Subcontractors for the use of the work in accordance with § 19 of the Copyright Act, as well as the consent of these Subcontractors for the further granting of a license to the extent of its acquisition (sublicense). The Provider is obliged to demonstrate this fact to the End customer through a license agreement with its Subcontractors no later than the date of signing this Agreement or Purchase orders.

- 9.11. If the subject of fulfillment or partial fulfillment is Off the shelf software, points 9.1., 9.5., 9.10. of this article of the GTC do not apply and the license conditions that the Provider sends or makes available to NESS before signing the Contract or Purchase order apply.

10. ANTI-CORRUPTION PROVISIONS

- 10.1. Each Party declares and guarantees by its signature on the Contract that:
- 10.1.1. is (i) a legal entity duly and validly established and registered and validly existing; or (ii) a natural person - an entrepreneur duly and validly registered and validly existing according to the generally binding legal regulations of the state in which it was incorporated;
 - 10.1.2. has proper authorization to carry out business activities, which it carries out within the scope of the subject of its activities as they are entered in the relevant commercial register and that it will have such authorization for the entire period of validity of the Agreement;
 - 10.1.3. is entitled to conclude the Contract and the Purchase order and every related document to which it is a party/contracting party in connection with the Contract and/or the Purchase order and to fulfill all obligations and duties according to and on the basis of the Contract and/or the Purchase order;
 - 10.1.4. The Agreement and the Purchase order, and every document related to them, to which it is a participant/contracting party in connection with the Agreement and/or the Purchase order is valid and binding for it.
 - 10.1.5. The Provider hereby declares, undertakes, expresses and gives the following statements and guarantees:
 - 10.1.6. The Provider shall act in accordance with all applicable anti-bribery and anti-corruption laws and ordinances;
 - 10.1.7. to the best of the Provider's knowledge, employees, executives, directors, shareholders, intermediaries, sister companies, associations and any of the other representatives of the Provider, has never been convicted or found guilty of any crime or misdemeanor caused by embezzlement, corruption, or moral turpitude.
- 10.2. Any breach of the above obligations shall be considered a material breach of the Agreement or any business relationship between the Provider and NESS and shall entitle NESS to terminate the Agreement and/or Purchase order or any business relationship due to such breach. With respect to such breach, such right to terminate the Agreement or any business relationship due to breach of obligations shall be in addition to and notwithstanding the existence of other rights, claims and remedies that NESS may have under the Agreement, the Purchase order and/or at law.
- 10.3. The Provider warrants to NESS that its employees, executives, directors, shareholders, agents and affiliates do not commit and will not commit, directly or through any third party, any of the following acts: They do not initiate, or authorize, or offer, or they do not promise any reward, gift, loan, subsidy, service, benefit or other valuable thing, whether in cash or in the form of a material gift or service, to any official or worker or executive of any government office or any administrative body or its organizational group (including, but not limited to, any federal, regional or local authority or any administrative body or business owned or controlled by any of the above) (hereafter individually or collectively referred to as "Public Authorities"), or to any politician or political party or to its senior official or candidate for political office or to any dignitary or employee or representative of any third party entity for the purpose and/or with the possibility:
- 10.3.1. influencing any action or decision of such a person who has official competence, including not performing his official functions within such Public Authority/political party/third-party entity (depending on the specific case); and/or
 - 10.3.2. persuading such a person to use their influence within a given Public Authority or political party or third-party entity (depending on the specific case) to change a document or to influence some proceeding or the resulting decision; and/or secured some impermissible advantage.

11. CONFIDENTIAL INFORMATION AND CONFIDENTIALITY

- 11.1. Confidential information provided, transferred, communicated, made available and/or obtained in any other way by one Contracting Party from the other Contracting Party on the basis of and/or in any connection with the Contract or Purchase order may be used exclusively for the purpose of fulfilling the subject of the Contract or Purchase order and in accordance with regulations which govern the handling of such data. The Parties undertake to keep confidential information, as well as all information provided, transmitted, communicated, made available and/or in any other way obtained by the Parties on the basis of the Contract or the Purchase order and/or in any connection with the Contract or the Purchase order, strictly confidential, to maintain confidentiality and protect them from abuse, damage, destruction, impairment, loss and theft, even after the Agreement or Purchase order has expired. The Contracting Party is not authorized without the prior written consent of the other Contracting Party to provide, transfer, notify, make available, publish, expand, divulge or use confidential information other than for the purpose of fulfilling the subject of the Contract or the Purchase order, even after the termination of the validity and effectiveness of the Contract or Purchase orders, except in the case of their provision/delivery/notification/making available:
- 11.1.1. professional advisers of the Contracting Party (including legal, accounting, tax and other advisers, or auditors), who are either bound by a general professional duty of confidentiality established or imposed by law or are obliged to maintain confidentiality based on a written agreement with the Contracting Party,

- 11.1.2. (i) To a Controlled Person of NESS; (ii) NESS Controlling Person; (iii) to a person in relation to whom the NESS Controlling Person has the status of a Controlled Person or a similar status; and (iv) to a person in which the NESS Controlling Person has the status of a Controlling Person or similar status, provided that such persons will be bound by the same obligations in relation to confidential information as the Parties,
- 11.1.3. To the End customer of NESS to the extent necessary to fulfill the obligations of NESS in terms of the contract with the End customer.
- 11.2. The obligation of the Parties to maintain confidentiality of confidential information does not apply to information that:
- 11.2.1. were already published before the signing of the Contract or Purchase order, which must be proven on the basis of the provided documents that prove this fact;
- 11.2.2. become generally and publicly available after the signing of the Contract or the Purchase order for a reason other than the breach of obligations under the Contract or the Purchase order, which must be proven on the basis of the provided documents that prove this fact;
- 11.2.3. they are to be made available on the basis of an obligation established by law, a decision of a court, prosecutor's office or other authorized public authority, in which case the Contracting Party, which is obliged to make the information available, shall immediately deliver to the other Contracting Party a written notice of this fact before making this information available;
- 11.2.4. were obtained by the Contracting Party from a third party who legitimately acquired or developed them and who has no obligation that would limit their disclosure;
- 11.2.5. were developed by the Contracting Party independently of information obtained from the other Contracting Party, were obtained by the Contracting Party from a third party that legitimately obtained or developed them and that has no obligation that would limit their disclosure.
- 11.3. The contracting parties are obliged to ensure the proper and timely secrecy of confidential information and the preservation of the obligation of confidentiality about confidential information in accordance with generally applicable, customary and maintained rules, principles and customs for the secrecy and preservation of the obligation of confidentiality about such information.
- 11.4. The contracting parties are obliged to ensure the proper and timely secrecy of confidential information and the preservation of the obligation of confidentiality regarding confidential information also among their employees, statutory bodies, members of statutory bodies, supervisory bodies, members of supervisory bodies, representatives, proxies, subcontractors as well as other cooperating third parties, as long as such confidential information has been provided, transferred, communicated and/or made available to them in accordance with these GTC, the Purchase order and the Agreement.
- 11.5. The obligation of the Parties to ensure the confidentiality of obtained confidential information applies regardless of the termination of the validity and effectiveness of the Agreement. In the event of termination of the validity of some contractual provisions, the provisions of the GTC on the protection of confidential information are not affected, unless the Parties agree otherwise.
- 11.6. The Parties declare that they have obtained or will obtain the consent of their workers involved in the fulfillment of their personal data processing by the other Contracting Party pursuant to Act No. 18/2018 Coll. on the protection of personal data as amended. The parties to the contract undertake to process the personal data provided in this way in accordance with the aforementioned law and to store them only for the time necessary to fulfill the obligations under the contract. After the end of the purpose for which the personal data was provided, the Parties are obliged to destroy the provided personal data.

12. CORRESPONDENCE

- 12.1. Unless otherwise stated or agreed upon, any notices, requests, requests, proposals, consent/disagreement, approval/denial of approval, or any other communication contemplated, required or permitted by the Contract and/or Purchase order must be in writing and must be delivered to the Contracting Party by mail, express courier service, electronic mail to the Contact details of the Contracting Party, or delivered personally to the Contact Person of the Contracting Party and will be considered delivered (a) on the day of delivery of the shipment, or on the day of refusal to accept the shipment, if the shipment was delivered personally or by express courier service; or (b) on the day of delivery of the shipment, but no later than 10:00 a.m. on the third Business Day following the day on which the consignment is submitted for carriage, if the consignment was sent by post (including if the addressee of the consignment was unreachable or if the consignment was returned as undeliverable or if collection of the consignment was refused), (c) at 10:00 a.m. on the following Business Day on, if the shipment was sent by e-mail. Termination of the Contract and/or Purchase order, withdrawal from the Contract and/or Purchase order, change to the Contract and/or Purchase order, Statement of Work, Acceptance or acceptance protocol, invoice can only be delivered by post, in person, or by express courier service.
- 12.2. If, according to the Contract and/or the Purchase order, any document is to be prepared in electronic form, it will be prepared in electronic (digital) form as a document of the word processor Microsoft Word version 97 or higher, or as a document of the spreadsheet processor Microsoft Excel version 97 or higher, if it is not contractual expressly agreed otherwise by the parties in the Contract or Purchase order.

13. PENALTIES

- 13.1. In case of delay by the Provider in delivering/providing the Fulfillment to NESS under the Contract, NESS is entitled to demand from the Provider the payment of a contractual fine in the amount of 0.05% (five hundredths of a percent) of the total price of the Fulfillment under the Contract or Purchase orders for each day of delay in delivery/provision of

Fulfillment to NESS. This does not affect NESS's right to compensation for damages caused by its breach of this obligation of the Provider, which is subject to this contractual penalty.

- 13.2. If the Fulfillment is provided to the End customer and the End customer has claimed against NESS the right to pay a contractual penalty as a result of a delay in the delivery of the Provider's Fulfillment, NESS is entitled to demand from the Provider the payment of a contractual penalty in the same amount as the End customer claimed it against NESS.
- 13.3. In case of delay by the Provider in removing the Defect during the Repair Period, NESS is entitled to demand from the Provider the payment of a contractual penalty in the amount of 0.05% (five hundredths of a percent) of the total price of the Fulfillment according to the Contract or Purchase orders, at least €20 per day for each, including the started day of delay with the removal of the Defect during the Repair Period. This does not affect NESS's right to compensation for damage caused to it by breach of this obligation of the Provider, which is subject to this contractual penalty.
- 13.4. In case of delay by NESS with the payment of the invoice, the Provider is entitled to demand from NESS the payment of interest due to the delay in the amount of 0.05% (five hundredths of a percent) of the owed amount for each day of delay, including the beginning.
- 13.5. In the event of a delay by the Contracting Party obliged to pay with the payment of an invoice duly drawn up and delivered in accordance with the Agreement and/or Purchase order, the other Contracting Party is entitled to demand from the Contracting Party obliged to pay, on the basis of a separately drawn up invoice, the payment of interest on the delay in the amount according to the applicable legal regulations, but no more than 30% of the owed amount.
- 13.6. In case of violation of the obligation according to Article 4 point 4.8., 4.9., 4.10., Article 9 point 9.4., 9.5. or Article 10 and 11 of these GTC on the part of the Provider, NESS is entitled to demand from the Provider the payment of a contractual fine in the amount of EUR 25,000 (in other words, twenty-five thousand EUR) for each individual violation of any of the stated obligations. This does not affect NESS's claim to compensation for damage caused by its breach of the Provider's obligations.

14. TERMINATION OF THE CONTRACT AND PURCHASE ORDER

14.1. The Contract or the Purchase order terminates:

- 14.1.1. by fulfilling the rights and obligations according to the Contract and/or Purchase order; or
- 14.1.2. by the expiration of the time for which it was concluded; or
- 14.1.3. by a written agreement of the Parties, the subject of which will be mainly the settlement of the mutual obligations of the Parties arising from the Contract or the Purchase order; or
- 14.1.4. by written withdrawal from the Contract or Purchase order; or
- 14.1.5. by written termination of the Contract and/or Purchase order, or part thereof, even without giving a reason (termination by convenience).

14.2. In case of termination by NESS, the notice period is one month, unless otherwise agreed. The notice period begins on the first day of the calendar month following the calendar month in which the written notice of termination of the Contract and/or Purchase order was delivered to the Provider. Upon expiration of the notice period, the Contract or Purchase order shall expire.

14.3. In case of termination by the Provider, the notice period is two months, unless otherwise agreed. The notice period begins on the first day of the calendar month following the calendar month in which the written notice of termination of the Agreement and/or Purchase order was delivered to NESS. Upon expiration of the notice period, the Contract or Purchase order shall expire.

14.4. NESS is entitled to withdraw from the Contract and/or Purchase order if:

- a) the contract (or part of it) or the contractual relationship between NESS and the End customer to whom NESS delivered Fulfillments delivered by the Provider pursuant to the Contract and/or Purchase order was terminated/expired;
- b) the circumstance excluding liability, as defined by the Commercial Code, lasts longer than 6 (six) months;
- c) The Provider and/or any of its Controlled Persons declares or acknowledges to any of its creditors or any other person its inability to pay its owed amounts when due;
- d) The Provider and/or any of its Controlled Persons submits a proposal to declare bankruptcy for its assets, for restructuring or to initiate other similar proceedings in any state, or a proposal to declare bankruptcy for the assets of the Provider and/or its Controlled Persons, for settlement or for the commencement of another similar proceeding in any state by any other person;
- e) against the Provider and/or any of its Controlled persons, a proposal for execution, for the execution of a decision or for similar proceedings, the purpose of which is to force the execution of a valid decision, will be filed;
- f) if the Provider violates any of its obligations, or the guarantees pursuant to Article 11 of the GTC are not fulfilled, or any of the Provider's statements pursuant to Article 11 of the GTC turns out to be false, even partially;
- g) the performance of the Provider's obligations under the Contract and/or Purchase order or any other related document to which it is a party/contracting party in connection with the Contract or Purchase order is in conflict or will be in conflict with the generally binding legal regulations of the Slovak Republic;
- h) The Provider violates any obligation arising from these GTC or from the Contract and/or Purchase order or from another related document to which he is a party/contracting party in connection with the Contract or Purchase order; and the Provider does not remove/correct the fact mentioned in letter g) and h) of this point within 10 (ten) days from the date of delivery of a written request by NESS to do so.

- 14.5. The Provider may unilaterally withdraw from the Contract even if NESS is in arrears with the payment of the price for the Fulfillment more than 30 days after the due date and does not pay the invoice even within 30 days of the delivery of the Provider's written request to fulfill the obligation.
- 14.6. Withdrawal from the Contract or Purchase order will be effective, and the Contract and/or Purchase order will expire on the date of delivery of the written notice of withdrawal from the Contract and/or Purchase order to the Provider. In case of withdrawal from the Contract or Purchase order, NESS is entitled to retain the Fulfillment or Partial Fulfillment that was delivered to it under the Contract and/or Purchase order, while NESS is also granted licenses for such Fulfillments pursuant to Art. 9 GTC. In such a case, NESS is obliged to pay the Provider for the Fulfillment or Partial Fulfillment (which it will retain) the price agreed in the Contract and/or Purchase order, unless the Parties agree otherwise in writing. The Provider is entitled to payment of the price for partial performance in accordance with the Contract or Purchase order thus taken over. If NESS does not retain any of the already delivered Fulfillments, the Provider is obliged to return to NESS the full price paid for the Partial Fulfillment under the Contract without delay, no later than within 5 working days from the termination of the Agreement. In the event that NESS keeps only some of the delivered Fulfillments, the Provider is obliged to return to NESS the price for that part of the Fulfillment that was paid to him, but NESS decided not to keep it, without delay, at the latest within 5 working days from the termination of the Agreement.
- 14.7. In the event that an Purchase order is concluded on the basis of the Agreement, the termination of the Agreement also terminates the Purchase order concluded on the basis of the Agreement, unless NESS notifies the Provider in writing within 10 days of the termination of the Agreement that it insists on the Fulfillment according to the Purchase order. Such notification may also be made by e-mail.

15. FINAL PROVISIONS

- 15.1. The Agreement contains the complete and entire agreement and convention of the Parties on the subject matter and content of the Agreement and supersedes any and all prior oral as well as written agreements, conventions, declarations and negotiations of the Parties on the subject matter and content of the Agreement, expressed either directly or indirectly, if they were also carried out.
- 15.2. The individual provisions of the Contract, the Purchase order and these GTC are enforceable independently of each other, and the invalidity and/or unenforceability of any of them will have no effect on the validity and/or enforceability of the other provisions of the Contract, the Purchase order and these GTC, except in cases where it is mainly due to importance of the nature or other circumstance regarding such a provision of the Contract, the Purchase order and these GTC, it is clear that the given provision of the Contract, the Purchase order and these GTC cannot be separated from the other relevant provisions of the Contract, the Purchase order and these GTC.
- 15.3. Failure to exercise any right under, based on and/or in connection with the Contract or Purchase order by the Contracting Party or delay in exercising it shall not constitute a waiver of such right. Any waiver of rights under, based on and/or in connection with the Contract or Purchase order by a Contracting Party shall not be effective unless made in writing and delivered to the other Contracting Party. Any waiver of a right under, based on and/or in connection with a Contract or Purchase order by a Contracting Party shall not constitute a waiver of any further right under, based on and/or in connection with the Contract or Purchase order by a Contracting Party.
- 15.4. The Provider expressly agrees that NESS may at any time set off its due claim it has against the Provider under the Contract or the Purchase order or any other related document to which it is a party/contracting party in connection with the Contract or the Purchase order against any claim the Provider has against NESS, regardless of whether this claim of the Provider against NESS is due or not at the time of set-off.
- 15.5. In the event that any of the provisions of the Contract, Purchase order or these GTC become invalid and/or unenforceable according to the generally binding legal regulations of the Slovak Republic, the validity and/or enforceability of the other provisions of the Contract, Purchase order and these GTC remain unaffected and the Parties undertake to immediately start negotiate in good faith and agree on the replacement of such a provision with a new provision that will have effects as similar as possible to the effects of the original provision, taking into account in particular the context and overall legal and economic purpose of the given provision as well as the Contract, the Purchase order and these GTC.
- 15.6. Those provisions of the Agreement and GTC, which by their nature should remain in force even after the termination of the Agreement, remain in force even after the termination of the Agreement, the Parties consider Articles 10 and 12 of the GTC to be such provisions.
- 15.7. Unless otherwise agreed in the Contract or Purchase order, any changes, modifications and/or additions to the Contract and Purchase order can only be made based on the agreement of the Parties in the form of written and numbered amendments to the Contract and Purchase order, signed by the Parties. The Parties may notify each other in writing of a change in Contact Persons without the need to conclude an addendum to the Contract or Purchase order.
- 15.8. The contract, its interpretation and the relations that arose on its basis are governed by the generally binding legal regulations of the Slovak Republic, with the fact that the Parties have agreed that the use of any provision of any generally binding legal regulation of the Slovak Republic, which is not mandatory, is expressly excluded in to the extent that its use could change (whether in whole or in part) the meaning, purpose and/or interpretation of any provision of the Contract and/or Purchase order and/or these GTC. If the Provider has its seat or place of business outside the territory of the Slovak Republic, the Agreement and the relations related to it shall be governed by the law of the Slovak Republic. The contracting parties have expressly agreed to exclude the application of any international agreements to the Contract and the relations related to it, which would result in the application of other than Slovak law.

- 15.9. Any dispute, discrepancy and/or contradiction between the Parties arising out of the Contract and/or Purchase order or in any connection with the Contract and/or Purchase order (including all disputes relating to its conclusion, validity, effectiveness, existence and/or termination) will be resolved primarily by mutual negotiations between the Parties conducted in good faith and with good intentions. If such a dispute, inconsistency and/or contradiction cannot be resolved even by mutual negotiations between the Parties within 30 (thirty) days of their initiation at the latest, any Contracting Party is entitled to request that it be decided with finality by the competent general court of the Slovak Republic.
- 15.10. Any reference to any legislation means a reference to (i) the text of such legislation itself, as amended and otherwise amended; (ii) the actual text of all its annexes as amended and other changes; (iii) any implementing legislation adopted on the basis of such legislation and necessary for the application of the provision(s) of such legislation as amended or otherwise amended; and (iv) any law that supersedes such law.