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# **GENERAL TERMS AND CONDITIONS OF PURCHASE (GTCP) NTS**

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Status Q2/2025  
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## 1. SCOPE OF THE GTCP

- 1.1 These GTCP are applicable to all contracts for the delivery of goods, provision of licenses and subscriptions, and/or the provision of services and work by the Supplier to the Client, and all orders placed by the Client with the Supplier for this purpose or offers made by the Supplier to the Client for this purpose. The GTCP also apply to all future deliveries of goods, services, and work performed by the Supplier for the Client (including all related orders and offers), even if no express reference is made to them in each case. If, as part of improvements or maintenance, the Client is provided with additions (e.g. patches, additions to the user manual, etc.) or a new edition of the goods (e.g. updates or upgrades) which, for example, replace the previously provided goods (old software), these are also subject to the GTCP.
- 1.2 These GTCP supersede all other agreements or conditions regarding the delivery of goods and/or the provision of services and work by the Supplier to the Client that have not been expressly agreed to in writing by the Client. The version of these General Terms and Conditions of Purchase applicable at the time the contract is concluded shall prevail.
- 1.3 Any deviating terms and conditions of business or delivery of the Supplier shall not apply unless the Client has expressly accepted their inclusion in the contractual relationship with the Supplier in writing. This shall also apply if the Supplier provides the Client with its own terms and conditions and the Client then places an order or does not object to the Supplier's terms and conditions upon receipt after placing an order.
- 1.4 Amendments and supplements to these GTCP and to the contract concluded between the Client and the Supplier must be made in writing to be valid; any waiver of this requirement must also be made in writing.

## 2. DEFINITIONS

- 2.1 "Working day" means any working day from Monday to Friday, except for public holidays applicable at the Client's place of business.
- 2.2 "Affiliated companies" of the Client are any company that controls, is controlled by, or is under common control with the Client, where control in this context means a direct or indirect majority company (at least fifty percent) or the power to nominate at least half of the administrative, management, or supervisory body, or the power to otherwise determine the policies of a company or organization.
- 2.3 "Goods" refers to the respective subject matter of the contract for any contract aimed at achieving a specific result (e.g., delivery or provision of hardware or software, programming of custom software, etc.), i.e., hardware, software, source code, etc.
- 2.4 "Supplier" refers to a contractual partner who provides goods or services.
- 2.5 "Customer" means the entity that has entered into the Contract governed by these General Terms and Conditions of Purchase with the Supplier, identified as the respective ordering NTS company ( NTS Netzwerk Telekom Service AG Parkring 4, 8074 Grambach; NTS Deutschland GmbH, Goerdelerring 9, 04109 Leipzig, Germany; NTS Italy GmbH/SRL, [Schlachthofstraße, 30, 39100 Bolzano, Italy](#))
- 2.6 "Contract" means the purchase contract concluded between the Customer and the Supplier for the purchase of Goods, governed by the General Terms and Conditions of Purchase and the Purchase Order.

- 2.7 "Purchase Order" means the document issued, dated, and signed by the Customer, in which the Customer makes a Contract proposal to the Supplier, specifying the subject of the supply and the goods or services to be purchased.

### 3. ORDERS AND CONCLUSION OF THE CONTRACT

- 3.1 Offers submitted by the Supplier to the Client are legally binding and can be effectively accepted by the Client within a reasonable period of time, not less than 20 working days from receipt of the offer. Acceptance must be made in writing to be effective. The Supplier is obliged to send an order confirmation within 4 working days.
- 3.2 If the Client submits an order to the Supplier without a prior offer from the Supplier, this order constitutes a legally binding offer to conclude a contract for the services ordered. Orders must be in writing to be valid. If the Supplier does not immediately object to a valid order in writing, in any case within four working days of the order date, in one of the forms specified in Section 3.3, the contract between the Client and the Supplier shall be validly concluded under the terms defined in the order.
- 3.3 To the extent that this Section 3 of the General Terms and Conditions of Purchase requires written form, this requirement shall also be met by transmission by fax, email or other electronic means, whereby in the case of electronic transmission, a signature by the Client is not required.
- 3.4 If an offer or order on the basis of which a valid contract has been concluded between the Client and the Supplier contains provisions that deviate from the rules of these GTCP, these provisions shall take precedence over the GTCP.

### 4. DELIVERY, DELIVERY DATE, DELAY IN DELIVERY

- 4.1 The delivery of goods must be made in accordance with the contractual agreements to the place of performance relevant for the respective services.
- 4.2 Each delivery must be accompanied by a separate delivery note, which must include the order number and the Client's contact person .
- 4.3 Fulfillment of a contract concerning the delivery of goods in partial deliveries is only permitted after express written agreement. The delivery date stipulated in the contract may not be exceeded, even in the case of fulfillment in partial deliveries. Partial deliveries can either be invoiced directly after prior consultation or otherwise with a total invoice. In this case, the due date or the start of the payment period commences on the invoice date, but no earlier than the date of acceptance of the last partial delivery by the Client at the respective place of performance. The Client is entitled to reject partial deliveries that have not been agreed upon or that are late or do not meet the deadline; this shall also apply if one or more partial deliveries have already been accepted.
- 4.4 For goods to be delivered physically (i.e., not merely by electronic means), the Supplier shall take out adequate transport insurance at its own expense.
- 4.5 The delivery/performance times and dates or deadlines specified by the Supplier are binding, unless the Supplier has expressly objected to them in writing or the Client has agreed different dates or deadlines with the Supplier in writing. If the Supplier is unable to meet the agreed delivery or acceptance date, it must notify the Client immediately at , stating the reasons and the expected duration of the delay. **Upon receipt of this notification, the Client shall be entitled to the rights listed in the following points of this section 4 (as in the case of a delivery delay that has**

- already occurred**). The Supplier shall be liable to the Client in particular for all disadvantages and damages caused by the delay.
- 4.6 In the event of a delay in delivery, the Client shall be entitled, at its discretion, to continue to insist on performance of the contract or to withdraw from the contract after setting a reasonable grace period, but not exceeding 14 days. In any case, all further claims of the Client in connection with the delay in delivery, in particular claims for damages, remain unaffected. The Client's right of withdrawal shall not be forfeited if the Client does not assert it immediately after the delay in delivery has occurred.
- 4.7 In the event of a justified withdrawal, the Client is entitled to purchase the ordered goods or equivalent goods from another Supplier. The associated additional costs shall be borne by the Supplier if he is at fault for the delay in delivery that caused the withdrawal.
- 4.8 In the event of culpable delay by the Supplier, the Client shall be entitled to claim a contractual penalty of 3% of the order value for each week of delay commenced. The order value used as the basis for calculating the contractual penalty shall be the agreed total price for the contractual services, including sales tax. However, the total amount of contractual penalties payable under this provision shall not exceed 15% of the total remuneration. Contractual penalties shall be offset against claims for damages.
- 4.9 The Client reserves the right to claim damages in excess of the contractual penalty, including lost profits or other disadvantages suffered by the Client, e.g., due to claims by third parties as a result of non-compliance with obligations assumed towards them. The disadvantages to be compensated also include frustrated expenses, such as for advertising the Client's products or services, which cannot be offered (in time) due to the Supplier's delay, and costs arising from any competition law claims by the Client for such reasons.
- 4.10 All required freight documents, such as customs documents, delivery notes, approvals, certificates, warranty certificates, etc. ("delivery documents") must be enclosed with each physical shipment of goods. Deliveries without enclosed delivery documents may be rejected by the Client. In the event that, due to incorrect or incomplete delivery documents, the delivery cannot be accepted at the agreed place of performance in the agreed form and on time, the Client shall not be liable in any way whatsoever. In such cases, the Client is entitled to assert the rights to which it is entitled in the event of a delay in delivery by the Supplier.
- 4.11 The use of a subcontractor requires the written consent of the Client. In the event of subcontracting, the Supplier remains solely and exclusively responsible for the performance of the services and for compliance with the contractual obligations towards the Client. Subcontractors act as vicarious agents within the meaning of the Supplier's legal obligations.

## 5. PRICES, INVOICING, AND PAYMENT

- 5.1 Unless expressly stated otherwise in the respective offer or order, the agreed prices are fixed prices in euros excluding VAT and including processing fees, packaging, transport, transport insurance, customs clearance costs, and other charges levied on the goods. Subsequent unilateral price adjustments by the Supplier are expressly excluded.
- 5.2 Price increases resulting from exchange rate fluctuations shall be borne by the Supplier, unless otherwise agreed in writing between the contracting parties.
- 5.3 The payment term for all fees owed by the Client under a contract is 30 days net from the date of invoicing. Invoices may only be issued after the Supplier has fulfilled the contract in full. Partial invoices are not permitted. The parties may agree otherwise in writing. Each invoice shall be sent

to the billing address stated in the underlying order or in the contract, including the delivery address for the goods concerned. The invoice shall contain the delivery address, order number, and any other legally required information, in particular in accordance with the relevant VAT regulations. In the event of errors or omissions, the due date of the invoiced amounts and the start of the payment period shall not be triggered.

- 5.4 From the date of default, default interest of 4% above the base rate shall be charged.

## 6. SUPPLIER'S INFORMATION OBLIGATIONS

- 6.1 If the Supplier is in crisis or subject to reorganization, it must notify the Client of this in writing (email or fax is sufficient) when submitting its legally binding offer or before accepting the Client's legally binding offer. For the purposes of these GTCP, the Supplier is in crisis if it (a) is insolvent or threatened with insolvency, (b) is over-indebted, or (c) the company's equity ratio is less than 8% and the notional debt repayment period is more than 15 years.
- 6.2 The Supplier is obliged to notify the Client immediately in writing (email or fax is sufficient) if circumstances arise that could give rise to justified concerns about the Supplier's creditworthiness or its ability to properly meet its obligations to the Client when due. In this sense, the Supplier shall inform the Client in particular of (a) any deterioration in its creditworthiness or probability of default (as assessed by a recognized credit agency or creditor protection association), (b) mathematical over-indebtedness, (c) (imminent) insolvency, (d) payment delays, (e) applications (by the Supplier itself or by third parties) to initiate insolvency, restructuring, and/or reorganization proceedings against the Supplier's assets, and (f) any refusals to open insolvency proceedings against the Supplier's assets due to lack of assets or restructuring proceedings.
- 6.3 The Supplier shall be liable to the Client for all damages and disadvantages incurred by the Client as a result of the Supplier's breach of its duty to provide information .

## 7. WARRANTY

- 7.1 The warranty for delivered goods or work or services rendered shall be governed by the relevant statutory provisions, unless otherwise specified below. For the purposes of applying these GTCP and any contract concluded thereunder, the time of delivery of the goods within the meaning of the statutory provisions shall be deemed to be the time at which the risk passes to the Client.
- 7.2 The Supplier guarantees that the goods have the contractually agreed characteristics, in particular that they meet the agreed and/or specified specifications and functionalities, are suitable for the intended use (in particular in accordance with the provisions of the GDPR and national data protection regulations) and also have all other properties that are normally expected. With regard to software, the Supplier also warrants that the software can be used without functional restrictions in the Client's system environment as notified to the Supplier by the Client or otherwise made known to the Supplier.
- 7.3 Statutory obligations of the Client to inspect and report defects or comparable legal provisions, such as the exclusion of warranty for obvious defects, are hereby mutually excluded.
- 7.4 The Supplier shall be deemed to be in default in remedying a defect if the Supplier does not remedy the respective defect within a maximum of 21 days from the Client's request to do so
- 7.5 In the case of cross-border delivery, the Supplier further guarantees that the respective goods have been legally imported into the country of destination, have been properly cleared through

customs and taxed, and, at the time of acceptance by the Client at the respective place of performance, comply with all relevant national and EU standards and legal regulations, in particular all applicable labeling and safety regulations, and that all delivery documents (see point 4.9 ) are complete and correct.

- 7.6 The Supplier shall compensate the Client for all damages, costs, and other disadvantages incurred by the Client as a result of the defectiveness of the delivered goods. This includes, in particular, indemnifying and holding the Client harmless for all claims made by third parties due to the defectiveness of the goods, the costs of any necessary inspection of other stock, returns, tests, assessments, additional costs of procuring replacement goods, reasonable legal costs and expert costs, etc.
- 7.7 In the event of a replacement delivery, the Supplier shall also take back the defective goods at its own expense.
- 7.8 To determine the cause and remedy defects, the Client shall grant the Supplier access to the respective goods, at the Client's reasonable discretion, either directly and/or via remote data transmission. As far as possible, any investigation into the cause and remedy of defects by the Supplier shall be carried out remotely. If dial-up costs are incurred in the case of remote data transmission, these shall be borne by the Supplier. If the Client grants the Supplier direct (physical) access to the goods, the location, date, and duration shall be agreed in advance between the parties.

## 8. SUPPLIER WARRANTY STATEMENTS, THIRD-PARTY PROPERTY RIGHTS

- 8.1 The Supplier guarantees the Client that the delivered goods are free from third-party intellectual property rights (such as, in particular, patent, trademark, design, or copyrights).
- 8.2 If the goods bear a trademark, the Supplier further guarantees that the delivered goods are genuine and have been placed on the market in the EEA either by the trademark owner or with the consent of that trademark owner. The Supplier also guarantees the Client the unrestricted legality of placing the goods on the market and distributing them using the trademark in the respective country of destination of the goods, in accordance with the relevant contract .
- 8.3 The Supplier further guarantees to the Client that the goods distributed by him are lawfully distributed or sold by him and that he is the holder of all necessary authorizations for this purpose.
- 8.4 The Supplier guarantees that it complies with all applicable legal provisions within the scope of the fulfillment of the respective contract with the Client (in particular all applicable employee protection regulations and other corporate duties of care within the respective supply chain) and will fully indemnify and hold the Client harmless in this regard.
- 8.5 The Supplier undertakes to indemnify and hold the Client harmless for all damages, costs, and disadvantages arising from the non-fulfillment of contractual warranty commitments within the scope of the GTCP, without prejudice to other or further rights. This includes, in particular, damages, costs, and disadvantages arising from claims against the Client by third parties. Furthermore, the Supplier's obligation also extends to the reimbursement of fines imposed on the Client or its customers or on organs or employees of the Client or its customers.

## 9. OFFSETING

- 9.1 The Client may offset claims by the Supplier not only against claims to which it is entitled against the Supplier, but also against claims by the Client's affiliated companies.
- 9.2 Offsetting the Supplier's claims against the Client's claims is not permitted and is invalid without the express written consent of the Client, unless the claims to be offset have been recognized by the Client or have been legally established by a court of law.

## 10. FORCE MAJEURE

- 10.1 Neither party shall be liable to the other for any delay or failure to perform any obligation under the respective contract if and for as long as the delay or failure is due to an event of force majeure, i.e., an event that is unforeseeable and beyond the reasonable control of the respective party (including failures of the Internet or a public telecommunications network, hacker attacks, denial-of-service attacks, viruses or other malicious platform attacks or infections, power failures, changes in law, disasters, epidemics, pandemics, explosions, fires, floods, riots, terrorist attacks and wars, strikes, etc.). Agreed delivery or service deadlines and dates shall be extended or postponed accordingly. The party affected by a force majeure event shall take all reasonable measures and make every reasonable effort to mitigate the effects of the respective force majeure event as far as possible and to return to proper performance of the contract without culpable delay; this includes, in particular, the conclusion of reasonable hedging transactions. If one or more events of force majeure that impair the fulfillment of a party's obligations under the respective contract last for a total of more than 60 days, the other party shall be entitled to withdraw from the affected contract or to terminate it with immediate effect by means of a corresponding written notification, without the party affected by the event of force majeure being entitled to any claims arising therefrom.

## 11. COOPERATION OBLIGATIONS OF THE CLIENT

- 11.1 If, in addition to the delivery of the ordered goods or the commissioned work or service, further services by the Supplier are necessary for the proper fulfillment of the respective contract (e.g., assembly, installation, etc.), the Client shall cooperate in this to the extent that this is necessary and economically reasonable for him in order to enable the Supplier to fulfill his performance obligations.
- 11.2 Insofar as applicable to the respective contract between the Supplier and the Client, the Client's obligation to cooperate shall apply with the proviso that, if the Client fails to cooperate, the Supplier shall grant the Client a grace period of at least 4 weeks for the fulfillment of its respective obligations to cooperate.
- 11.3 The Client is not obliged to fulfill any obligations to cooperate outside normal business hours or on a public holiday at the Client's place of business.

## 12. CONFIDENTIALITY

- 12.1 The Supplier undertakes to treat all confidential information obtained in the course of the contract negotiations and execution of the contract as confidential for a period of 5 years from the disclosure of the confidential information and to treat trade secrets within the meaning of the law

as confidential for an unlimited period of time and to use them only for the purposes of executing the respective contract. The Client's trade secrets include all information subject to confidentiality in accordance with the applicable legal provisions, in particular, in addition to the respective subject matter of the contract, the services provided in accordance with these GTCP and knowledge obtained through remote access.

- 12.2 The Supplier shall only make confidential information available to its employees and other third parties to the extent that this is absolutely necessary for the performance of the respective contract. In the course of performing the contract, the Supplier is responsible for ensuring that its employees comply with the confidentiality obligations in question and all other relevant legal provisions, in particular those of the applicable data protection law. The Supplier undertakes to impose corresponding obligations on the persons entrusted with the execution of the contract in a verifiable manner. The obligation to maintain confidentiality does not apply to information that was already known to the Supplier or the general public at the time it was obtained by the Supplier, or that later became generally known without the Supplier's involvement and without any breach of contract on its part. The obligations also do not apply to authorities or courts, unless there is a legal right to refuse disclosure.
- 12.3 Affiliated companies of the Client are not "third parties" within the meaning of this section 12 .
- 12.4 The provisions of any confidentiality agreements concluded separately between the parties - remain unaffected

## 13. DATA PROTECTION

- 13.1 If personal data is disclosed to the Supplier, the Supplier undertakes to process it only in accordance with the EU General Data Protection Regulation ("GDPR") and to protect the rights of the persons concerned. If the Supplier processes personal data as a processor on behalf of the Client, a data processing agreement (DPA) must be concluded between the parties.
- 13.2 If the parties have concluded a data processing agreement within the meaning of Article 28 GDPR, this shall remain unaffected by the provisions set out here.
- 13.3 In the event of a breach of this point 13, the Client shall be entitled – regardless of any fault on the part of the Supplier – to claim a penalty of 10% of the annual order value (gross) or at least EUR 25,000.00, whereby the assertion of further damages shall not be excluded.

## 14. TERMINATION AND CONTRACT TERMINATION

- 14.1 The parties have the right to terminate all contracts in writing with a notice period of 3 (three) months to the end of the month, unless they are terminated earlier by one of the parties in accordance with clause 14.2. The Supplier waives the right to ordinary termination within the first year of the contract.
- 14.2 All contracts that are of a continuing nature may be terminated by the Client in writing or by email without notice and without a deadline for good cause.
- 14.3 Important reasons entitling the Client to extraordinary termination include, in particular:
- 14.3.1 if the Supplier breaches its contractual obligations at least three times within a continuous period of three months and does not remedy the respective breach of obligation within a maximum of 14 days of receiving a complaint from the Client;

- 14.3.2 if the Supplier violates applicable confidentiality agreements;
- 14.3.3 if the use of the delivered goods is not possible in accordance with the GDPR or national data protection law, or if the Supplier's services otherwise violate applicable data protection law.

## 15. LIABILITY PROVISIONS, ASSERTION OF CLAIMS BY AFFILIATED COMPANIES

- 15.1 In all cases of contractual and non-contractual liability, the Supplier shall pay damages on the basis of the statutory provisions.
- 15.2 The provision that the Supplier is entitled to reasonable compensation if the service cannot be provided on time or at all due to circumstances on the part of the Client is excluded if the Client is not at fault or only slightly at fault for the respective loss of time.
- 15.3 If an affiliated company of the Client (directly or indirectly) suffers damage caused by a breach of this contract by the Supplier or by tortious conduct on the part of the Supplier, the Client shall be entitled to claim damages from the Supplier under the respective contract as if the Client had suffered the damage in question directly and personally.

## 16. COMPETITION LAW

- 16.1 The Supplier undertakes to indemnify the Client in the event of any dispute arising in connection with the award and execution of the respective contract
  - 16.1.1 or other action aimed at restricting competition, such as, in particular, a violation of the applicable antitrust provisions;
  - 16.1.2 Committing a criminal offense, particularly in connection with property crimes (such as fraud and embezzlement) as well as corruption and bribery offenses (such as, in particular, bribery, accepting benefits, accepting benefits to exert influence, bribery, granting benefits, granting benefits to exert influence, prohibited intervention, acceptance of gifts, and bribery of employees or agents);
  - 16.1.3 fulfillment of a criminal offense (such as violation of a trade or business secret, spying on a trade or business secret, spying on a trade or business secret for the benefit of a foreign country) as well as the offenses specified in the applicable legal regulations on unfair business practices (violation of trade or business secrets, misuse of entrusted documents);

in which the Supplier, its organs, representatives, or other persons acting on behalf of the Supplier, regardless of the form of participation (direct perpetration, determination, and contributory perpetration) were or are involved, a contractual penalty independent of the occurrence and proof of damage and independent of fault in the amount of 15% in the case of points 16.1.1, 16.1.2, and 16.1.3 if the misconduct was committed by a managing director, board member, or other representative body of the Supplier, authorized signatories or authorized representatives, and 5% if the misconduct was committed by other employees or subcontractors or other persons working for the Supplier, of the respective net order value (including the net value of all additional and supplementary orders), but in any case at least EUR 10,000.

## 17. PROHIBITION OF CORRUPTION AND CARTELS

- 17.1 The Supplier undertakes to avoid corruption and bribery. The Supplier is therefore prohibited from offering, promising, or guaranteeing money or monetary benefits (gifts, invitations, etc.) to the employees or management of the Client or to persons close to the Client through its employees, management, or third parties ("prohibition of corruption").
- 17.2 In the event of any violation of the prohibition of corruption, the Client is entitled, after a prior written warning, to terminate all existing and not yet fully fulfilled contracts with the Supplier immediately and without notice by withdrawal (in the case of obligations to perform at a specific time) or termination (in the case of continuing obligations).
- 17.3 The Supplier undertakes to comply with European and national antitrust regulations and to take all necessary and appropriate measures to prevent antitrust violations by its employees and agents.
- 17.4 In the event that the Supplier, its employees, agents, or third parties commissioned by it repeatedly violate antitrust law, the Client shall be entitled to terminate all existing and not yet fully fulfilled contracts with the Supplier prematurely for good cause without observing withdrawal or termination periods and/or dates. In the event that the antitrust violation is a so-called hard-core violation, the Client is entitled to terminate all existing contracts with the Supplier immediately for good cause in the event of a first-time violation, even without prior written warning and without observing withdrawal or termination periods and/or dates.
- 17.5 In the event that the Supplier violates this prohibition of corruption, it shall be liable to the Client for an amount equal to one quarter (25%) of the invoiced order volume per violation. Any further claims for compensation by the Client – such as claims for damages, compensation, injunctive relief and/or removal, as well as lost profits and/or intangible damages – shall remain unaffected in any case.

## 18. USE OF COMPANY MARKS

- 18.1 The use of all company identifiers (trademarks, quotations, logos, company names, and all registered and unregistered identifiers) of the Client is only permitted with the express prior written consent of the Client; this applies in particular to the naming of the Client in a reference customer list of the Supplier.

## 19. APPLICABLE LAW AND JURISDICTION

- 19.1 The contractual relationship between the Supplier and the Client, including the assessment of the conclusion of such a relationship, and these GTCP (including all special conditions contained herein) shall be governed exclusively by the law of the country in which the NTS company concluding the contract has its registered office. The application of conflict of law rules is excluded. The UN Convention on contracts for the International Sale of Goods (CISG) shall not apply.
- 19.2 The exclusive place of jurisdiction for all disputes arising from or in connection with contracts concluded between the Client and the Supplier, including those relating to their conclusion, shall be the competent court at the registered office of the contracting NTS company. However, the Client shall also be entitled, at its discretion, to bring legal action against the Supplier at the Supplier's general place of jurisdiction.

## 20. SEVERABILITY CLAUSE, MISCELLANEOUS

- 20.1 Should any provision of these GTCP be or become invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be automatically replaced by a provision that comes closest to the meaning and purpose of the invalid provision in a legally effective manner.
- 20.2 Unless otherwise agreed in these GTCP, the statutory provisions agreed in section 19.1 shall apply. Furthermore, the rights of the Client set out in these GTCP do not exclude the assertion of other or additional statutory or contractual rights of the Client.
- 20.3 Any amendments or additions to the agreement must be made in writing. This requirement for written form can only be waived by a written agreement. Verbal additions to the agreement are excluded. The necessary additional documents and/or appendices must be numbered consecutively and attached to the main agreement.



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WE CARE**

# **SPECIAL TERMS AND CONDITIONS OF PURCHASE FOR THE DELIVERY AND PROVISION OF SOFTWARE AND HARDWARE (BEB) NTS**

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Status Q3/2025  
Valid from: October 1, 2025

Unless otherwise specified, references to "points" herein refer to the clauses of these Special Terms and Conditions of Purchase (BEB).

## 1. DEFINITIONS

- 1.1 **"Software"** refers to computer programs that are sold as standard or developed or adapted individually for the Client, including cloud solutions for the use, operation, or control of electronic devices and systems, including any documentation provided for this purpose.
- 1.2 **"Standard software"** is any software that covers a clearly defined area of application and is purchased as a ready-made product, i.e., it was not developed specifically for the Client.
- 1.3 **"Custom software"** is any software that has been developed individually for the Client.
- 1.4 **"Provisional handover"** is the physical handover of the software in the form of a program copy on a data carrier or the provision of the software for free retrieval by the Client on the Internet or another network to which both contracting parties have access.
- 1.5 **"Productive launch"** is the transition of the software into the Client's productive operation through the commissioning of the software.
- 1.6 **"Debugging"** means any search for a malfunction of the software, whether in the course of productive operation or at a later point in time, e.g., due to a complaint by the Client.
- 1.7 **"Major update"** means the general change of a product to a higher-value configuration or version.
- 1.8 **"Proof of Concept (PoC)"** is a feasibility study that confirms the functionality of the software in the Client's system environment.
- 1.9 **"Service pack"** represents a complete maintenance package, including software support for updating the software.
- 1.10 **"Hardware"** refers to data processing equipment (e.g., computers including computer accessories such as printers, smartphones with accessories, etc.) and their terms of use.
- 1.11 **"Actual handover"** is the physical transfer of the hardware to the Client at the respective place of performance.
- 1.12 **"Maintenance"** includes all services provided by the contractor that are necessary to keep the contractual software in a condition that complies with the contract during the agreed term.
- 1.13 "Supplier" refers to a contractual partner who provides goods or services.
- 1.14 "Customer" means the entity that has entered into the Contract governed by these General Terms and Conditions of Purchase with the Supplier, identified as the respective ordering NTS company ( NTS Netzwerk Telekom Service AG Parkring 4, 8074 Grambach; NTS Deutschland GmbH, Goerdelerring 9, 04109 Leipzig, Germany; NTS Italy GmbH/SRL, [Schlachthofstraße, 30, 39100 Bolzano, Italy](#))

## 2. SCOPE OF THE LICENSE GRANT

- 2.1 By purchasing software, the Supplier undertakes to fully inform the Client, before using the software, whether a separate license agreement is required with the software manufacturer. If this is the case, the Client, in turn, undertakes to conclude a separate license agreement with the software manufacturer, which specifically defines the precise scope of the usage rights.
- 2.2 The number of installations (number of servers, Clients) also depends on the number of licensed workstations or users according to the license agreement. If no license number is specified in the license agreement, the software may be installed as often as desired by the Client and by affiliated companies of the Client for whose benefit the Client has acquired licenses.
- 2.3 Upon conclusion of a license agreement, this also includes updates that comprise adaptation to changed legal provisions, additions, improvements, and enhancements to the software, provided that this does not fundamentally change the original function of the software; The updates shall be provided to the Client free of charge either by making them available for download from the Internet or another network to which the Client has access, or, at the Client's request, on a machine-readable, permanent data carrier.

The Supplier shall provide the Client with instructions of an appropriate scope and level of detail for the installation and operation of the ordered goods together with the goods; this shall also apply – without separate request by the Client– to all innovations (e.g., updates or major updates within the meaning of the respective Special Conditions of these GTCP).

## 3. DELIVERY, PLACE OF PERFORMANCE, ACCEPTANCE, TRANSFER OF RISK

- 3.1 Compliance with agreed delivery deadlines or dates shall be determined by the Client's acceptance of the hardware at the delivery address, which shall also determine the transfer of risk. Any change to the place of performance by the Supplier requires the express written consent of the Client. The transport risk shall be borne exclusively by the Supplier.
- 3.2 The Supplier shall deliver the software by either (i) providing the Client with a copy of the software on a machine-readable, durable data carrier and a copy of the application documentation free of charge, or (ii) making the software available on the Internet or another network to which the Client has access and notifying the Client thereof, depending on the agreement reached with the Client. Depending on the agreement, this may also be done by means of web hosting, in which case the parties shall conclude a corresponding hosting agreement.
- 3.3 The Client shall test and check customsoftware prior to its use to ensure that it is free of defects and can be used in the Client's existing hardware and software configuration. For this purpose, the Supplier shall enable acceptance tests free of charge at the Client's request. The Client's obligation to cooperate in the acceptance process shall be measured against reasonable and individual business criteria of the Client.
- 3.4 Should the Client discover any software defects during this review, the defects shall be recorded in the acceptance report, which must be prepared in any case and signed by both parties upon acceptance; neither party may refuse to sign the acceptance report without good reason. Failure to sign the acceptance report by both parties shall not restrict the Client's rights with regard to the software in question in any way. The Client shall list the defects in the software identified during the acceptance tests in order of severity, marking all significant defects accordingly. In the event of significant defects, the Client has the right to refuse acceptance of the software. In this case, the

Supplier must immediately remedy all defects in the software identified by the Client and marked as significant in the respective acceptance report before making it available again for acceptance by the Client. Acceptance of the software does not release the Supplier from its warranty obligations with regard to defects in the software, regardless of whether these were detected during the acceptance tests or remained undetected, and does not constitute any waiver by the Client of its corresponding rights vis-à-vis the Supplier.

- 3.5 Compliance with agreed delivery periods or dates is
  - for standard software, the date of provisional handover shall be decisive
  - for custom software, the date of positive acceptance by the Client in an acceptance report signed by both parties shall be decisive.
- 3.6 The place of performance of the contract is the registered office of the Client. Any change in the place of performance by the Supplier requires the express written consent of the Client. The transport risk shall be borne exclusively by the Supplier.
- 3.7 The transfer of risk takes place upon delivery of standard software with the go-live and upon delivery of customized software with the positive acceptance by the Client in an acceptance report signed by both parties.

## 4. INVOICING

- 4.1 In addition to the agreed general requirements, the invoices issued by the Supplier must also state the term of any maintenance agreement that may have been concluded. In the case of time-limited licenses, the term of the licenses must also be stated.

## 5. WARRANTY

- 5.1 The length of the warranty period is determined on the basis of the statutory provisions.
- 5.2 For standard software, the warranty period begins when the software goes live; for custom software, it begins when the Client signs a mutually agreed acceptance report. Each "major update" is to be considered a separate delivery of software, and the updated software is again subject to the warranty to the agreed extent.
- 5.3 If troubleshooting is necessary to determine the cause of a defect and if this takes longer than three working days, the Supplier is obliged to provide a sufficient number of its own personnel free of charge to determine the cause of the defect immediately and conclusively.

## 6. GUARANTEE

- 6.1 The Supplier guarantees the Client the availability of technical support services for the contractual software products for at least 3 years from provisional handover (in the case of standard software) or from positive acceptance by the Client (in the case of custom software), regardless of whether the Supplier provides the service directly or has it provided by a third party. In addition, the Supplier guarantees that the contractual software products will run without defects for at least 5 years in a consistent IT environment (same basic systems) from the conclusion of the contract, even without updates.

- 6.2 For hardware products, the Supplier also guarantees the availability of spare parts for at least 3 years from the date of the last delivery of the hardware product to the Client. In addition, the Supplier guarantees that a comparable successor product will be available if the production or distribution of the respective hardware product is discontinued. Advance notice of the discontinuation of the manufacture or distribution of a hardware product must be given at least 6 months before the respective discontinuation date.
- 6.3 The Supplier guarantees the Client that it will comply with the relevant country-specific laws on recycling and electrical equipment in their currently valid version and will fully indemnify and hold the Client harmless in the event of violations.

## 7. BACKUP COPIES

- 7.1 The Client is permitted to make copies of the software for archiving and data backup purposes. If the software bears a copyright notice or copyright mark, this notice must also be included on the copies made by the Client.

## 8. TRAINING IN THE SOFTWARE

- 8.1 Upon request, the Supplier shall provide the Client with free training of appropriate duration, including advice on the installation, use, and application possibilities of the software, in order to enable optimal use of the delivered software. The Supplier shall also provide the Client, free of charge, with written application documentation (e.g., an operating manual) in the Client's national language, or at least in English, which shall contain all essential application instructions and descriptions for the proper use of the software in an appropriate level of detail.

## 9. SPECIAL PROVISIONS FOR THE DEPOSIT OF THE SOURCE CODE

- 9.1 If the contracting parties agree on the security deposit of the source code, the provisions of this section shall apply in addition.
- 9.2 The Supplier shall provide the Client with the current version of the source code for the application software created on CD or another suitable, physical, permanent data carrier or equivalent medium without any further warranty in sealed form exclusively for security deposit purposes. New release versions shall be created and released on an ongoing basis and handed over again on a suitable, physical, permanent data carrier no later than two months after creation. Older versions of the source code shall be reliably destroyed by the Client. The Supplier warrants that the source codes and release versions are free of damage, defects, and malfunctions, as well as from property rights and third-party rights. The costs for the update and the expenses associated with the update and deposit shall be borne by the Client.
- 9.3 The Client has the right to check the completeness of the source codes provided exclusively in the presence of the Supplier. The Supplier shall then seal the source code provided and hand it over to the Client for safe storage in accordance with point **Error! Reference source not found.** All employees who have access to the source code must be informed and obliged to comply accordingly. The Client shall protect the source code appropriately against third parties.

- 9.4 In particular, the Client is not entitled to use the source code in any form before the contractually agreed terms of use have been received, make all source code programs available to third parties in either their original or modified form, commission third parties to edit the source code, or make copies of the original or modified form and pass these on to third parties.
- 9.5 The Client has the right to use the source code provided for its own purposes if
- 9.5.1 the Supplier ceases its business operations without naming a legal successor,
  - 9.5.2 a successor company does not assume the rights and obligations of the existing agreement,
  - 9.5.3 the Supplier fails to provide a further development of the software commissioned by the Client within a reasonable period of time appropriate to the scope of the order and despite two written reminders (simple text form sufficient), or
  - 9.5.4 the Supplier agrees in writing to the use of the source code.
- In the cases 9.5.2 and 9.5.3, the Client is also entitled to withdraw from the contract in writing with immediate effect or to terminate it for good cause without notice. The Supplier is not entitled to any claims for damages. The Client is not permitted to market or pass on the source code in its original or modified form. The development tool required to edit the source code is not part of the source code.
- 9.6 The agreement on the security deposit of the source code may be terminated by the Client with a notice period of 3 months. After termination of the agreement, all versions and copies of the source code handed over to the Client must be reliably destroyed.

## 10. SPECIAL PROVISIONS FOR LICENSE CHECKS

- 10.1 License audits based on separate agreements, such as license agreements, must be announced to the Client in writing by the Supplier at least 4 weeks before the actual license audit; with regard to on-site license audits at the Client's business premises, Section 12 of the GTCP applies accordingly.
- 10.2 If the license audit is not carried out by the Client itself or by the Supplier itself, the license audit must be carried out by an independent auditor from an internationally recognized auditing company who is subject to a confidentiality obligation. The Client shall select the independent auditor and bear the costs thereof. The independent auditor shall also give a written assurance that no conflict of interest exists or will arise as a result of the audit. Upon notification of a license audit, the Client may require the Supplier or third parties commissioned by the Supplier to sign a corresponding confidentiality agreement.
- 10.3 Unless otherwise agreed in the contract, a license audit is permitted no more than once per contract year.

## 11. SPECIAL PROVISIONS FOR MAINTENANCE, CARE, AND SUPPORT

- 11.1 Technical support and software updates (including major updates) are governed by a separately concluded maintenance agreement (service level agreement or similar). All maintenance services are covered by the maintenance fee agreed between the parties. Regardless of whether updates or service packs are downloaded from the Internet by the Client or transmitted on a data carrier,

no additional costs are incurred. On-site maintenance services are included in the agreed maintenance fee in any case. This is a flat rate including all travel and personnel costs plus VAT.

- 11.2 The respective maintenance contract can be terminated by the Client at any time without cause, subject to a 2-month notice period to the end of a calendar month, unless expressly agreed otherwise in writing in the maintenance contract. If the maintenance contract is concluded for a fixed term and is not terminated in writing by the Client, it shall be automatically extended for a further year, unless expressly agreed otherwise in writing in the maintenance contract.
- 11.3 If an error or malfunction occurs in the software, the Supplier is obliged, depending on the severity of the error, to respond to an error report within the following time limits and to ensure at least a temporary correction of the error:

Type of error	Maximum response time	Maximum repair time
<b>Minor errors</b> (Hardware or software operation is hardly restricted; also: errors in the documentation or general usage questions)	Within one week	During the next update
<b>Moderate errors</b> (Work with hardware or software is restricted, but the error can be quickly remedied with little effort)	Within 1 working day	Within 3 business days
<b>Severe errors</b> (Most or critical functions of the hardware or software are unusable; work is no longer possible or only possible with great difficulty; it is not possible to work around the error)	Within 2 hours on working days	Within 1 working day

In the event of a temporary error correction, the Supplier is obliged to immediately provide a permanent and final solution. The agreed response and rectification times must be strictly adhered to in all cases and cannot be extended, in particular not under warranty law provisions (e.g., "reasonable grace period"). The Supplier is therefore directly and immediately liable for any culpable exceeding of the agreed deadlines.

- 11.4 If the Supplier fails to comply with the applicable response and rectification times, the Client shall be entitled to demand a contractual penalty of 0.1% of the annual remuneration for each calendar day commenced in excess of the specified deadlines, up to a maximum of 1% of the total annual remuneration per case of delay. The total amount of contractual penalties payable per contract year under this provision shall not exceed 5% of the total annual remuneration per contract year. In any case, the assertion of any additional actual damages shall not be excluded.
- 11.5 Maintenance contracts shall be fulfilled by the Supplier with reasonable care. The services provided must correspond to the current state of the art. Unless expressly agreed otherwise in writing, the agreed maintenance obligations shall be qualified as performance obligations of the Supplier, unless this would be incompatible with the nature of the respective service.
- 11.6 Warranty provisions are not limited by the conclusion of maintenance contracts, but rather apply in parallel.
- 11.7 In the event that a maintenance service provided by the Supplier falls on a public holiday in the country in which the Supplier has its registered office or branch, the Supplier shall notify the Client of this in good time, at the latest 1 week before the intended service date.