



## **GENERAL TERMS AND CONDITIONS OF THE COMPANY**

**VisionCraft s.r.o.**, ID No. 07400942

with registered seat at Výstaviště 405/1, Pisárky, 603 00 Brno

Text effective from 12/14/2023.

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## 1. GENERAL PROVISIONS

- 1.1 These General Terms and Conditions ("GTC") govern the rights and obligations between the Parties of purchase agreement or contract for the supply of services (together referred to as "Contracts" and each individually referred to as "Contract"), which are concluded by VisionCraft s.r.o., ID No. 07400942, Tax ID No. CZ07400942, with registered seat at Výstaviště 405/1, Pisárky, 603 00 Brno, registered in the Commercial Register maintained by the Regional Court in Brno under file No. C 107988, as seller or service provider ("Provider") on the one side, with other legal entities, as buyers or customers of the respective services ("Customer") on the other side (Provider and Customer together referred to as "Parties" or separately as "Party").
- 1.2 These GTC shall govern the legal relations of the Parties arising from or in any way related to the relevant Contract, even if the Customer refers to other terms and conditions in the course of the negotiations leading to the conclusion of the Contract.
- 1.3 If the Contract concluded between the Provider and the Customer contains provisions different from these GTC, the provisions specified in the Contract shall prevail.
- 1.4 As part of the Contract, these GTC become an essential and integral part of all Contracts concluded with reference to these GTC.
- 1.5 The Customer shall not be entitled to exclude the effectiveness of these GTC without the prior and express written consent of the Provider, to amend or modify the provisions of these GTC (including any part thereof), even if only in a manner that does not materially change the terms of the GTC or the Contract, or in a manner that expresses the same terms only in different words. Any reference by the Customer to its own terms and conditions or those of third parties shall have no legal effect and the Parties expressly exclude the application of the provisions of section 1751(2) of the Civil Code.
- 1.6 The Provider is entitled to unilaterally change these GTC at any time. Any changes to these GTC made by the Provider shall be notified to the Customer in writing. The Customer shall have the right to reject the notified changes to these GTC and to terminate the Contract for this reason within 30 (thirty) days of their notification by the Provider; if the changes to the GTC are not rejected within the specified period, the Customer shall be deemed to have accepted the notified changes to the GTC. In the event of rejection of the notified changes to the GTC, the notice period shall be 3 (three) months and shall commence upon delivery of the Customer's written notification of rejection of the changes to the GTC to the Provider.

## 2. DEFINITIONS OF TERMS

- 2.1 For the purposes of these GTC, the following capitalized terms have the meanings set out below:
  - (a) **Copyright Act** – Act No. 121/2000 Coll., on Copyright, as amended;
  - (b) **Work** – has the meaning set out in Article 4.1 of these GTC;
  - (c) **Availability** – the state when the Services are available to the Customer to the extent and quality agreed in the Contract;
  - (d) **CZK** – Czech crown, the official currency of the Czech Republic;

- (e) **Contact Persons** – has the meaning set out in Article 15.1 of these GTC;
- (f) **Offer** – has the meaning set out in Article 3.2 of these GTC;
- (g) **Civil Code** – means Act No. 89/2012 Coll., the Civil Code, as amended;
- (h) **Customer** – has the meaning set out in Article 1.1 of these GTC;
- (i) **Order** – has the meaning set out in Article 3.2 of these GTC;
- (j) **Substantial Defect** – is a defect that makes it impossible to use the Service or Goods;
- (k) **Provider** – has the meaning set out in Article 1.1 of these GTC;
- (l) **Request** – means a request by the Customer for a change or modification that is not a Defect;
- (m) **Service** – the Provider's activity aimed at solving Defects specified in Article 13.5 of these GTC;
- (n) **SLA or Service Level Agreement** – an agreement between the Parties on the parameters of the Services, as well as on other conditions of their provision;
- (o) **Services** – performance and activities of the Provider provided to the Customer on the basis of the concluded Contract, for example, infrastructure services, Service services and others;
- (p) **Contract** – has the meaning set out in Article 1.1 of these GTC;
- (q) **Party or Parties** – has the meaning set out in Article 1.1 of these GTC;
- (r) **Software** – one or more programs capable of running on a controller, processor or other hardware product, the delivery of which is part of the subject matter of the Contract; software is either a separate product or is contained in another hardware product (bundled software) or is a fixed part of a particular device and is not removable during normal operation (firmware);
- (s) **System** – information system of the Customer;
- (t) **User –Customer** and any other person whom the Customer has allowed to use the Service for any legal reason;
- (u) **Defect** – a condition where the Goods or Services do not achieve the agreed characteristics and parameters, including a situation where the Services are not available at all, or their availability or quality has been reduced compared to the agreed characteristics and parameters;
- (v) **GTC** – these General Terms and Conditions, as follows from Article 1 above;
- (w) **VAT Act** – Act No. 235/2004 Coll., on Value Added Tax, as amended;
- (x) **Warranty Period** – has the meaning set out in Article 12.1.1 of these GTC;

- (y) **Goods** – a movable item specified individually or in quantity, the delivery of which is the subject of the Contract.

2.2 Unless the context otherwise requires, in the Contract and these GTC:

- (a) references to any law, regulation or provision of law shall be construed as references to the same law, regulation or provision of law as it may have been or may be amended, changed, extended or re-enacted from time to time;
- (b) references to "days" are to calendar days;
- (c) references to "business days" means references to any day other than Saturdays and Sundays and days on which a public holiday falls under the applicable laws of the Czech Republic;
- (d) terms defined in the Contract and/or these GTC in the plural have the same meaning in the singular and vice versa.

2.3 The headings used in the Contract and these GTC are inserted for convenience only and shall not be considered in interpreting the Contract or these GTC.

### 3. **FORMATION OF THE CONTRACT**

3.1 Individual Contracts may be concluded in the form of:

- (a) delivery of the Customer's written order and its written acceptance by the Provider, or
- (b) by entering into a written Contract with the signatures of the Parties on the same page.

3.2 If the Contract is concluded on the basis of the Customer's order ("Order") and the Provider's acceptance of the Order (i.e., in the manner specified in Article 3.1(a) of these GTC), the following rules shall apply:

- (a) The Order is issued on the basis of the Provider's offer, by which the Provider offers the Customer to deliver specific Goods and/or provide specific Services under specified conditions ("Offer");
- (b) The Offer must be in writing and must be sent to the Customer by letter or e-mail; if the Offer is sent as an attachment to an electronic message (e-mail), it does not have to be signed separately by the Provider; the provisions of Section 561(1) of the Civil Code do not apply;
- (c) The Order must be in writing and must be sent to the Provider by letter or e-mail to the contact details provided in the Offer; an attachment to the Order shall be an electronic copy (scan) of the valid Offer or a link to such Offer; the Order so issued by the Customer and delivered to the Provider shall be deemed binding;
- (d) these GTC become an automatically part of the Offer and Order;
- (e) by issuing the Order, the Customer confirms that he/she has read these GTC and considers them to be part of the Contract concluded between the Customer and the Provider;

- (f) by issuing an Order, the Customer agrees that these GTC are the only ones that apply to the Contract;
- (g) The Order must contain at least the following general requirements:
  - (i) the business name and registered seat (place of business) of the Customer;
  - (ii) Contact person of the Customer, his/her e-mail and telephone number;
  - (iii) ID No., Tax ID No., if the Customer is registered as a VAT payer; and
  - (iv) specification of the Goods or Services (as they are specified in the Offer), including the identification and quantity of the Goods (equipment) to be supplied, if any, or the quantity of the required Software licenses, if they are the subject of the Contract, or only a reference to the valid Offer of the Provider (in case the Offer contains different variants, the reference shall also include a specification of which variant the Customer has chosen);
- (h) for the purpose of concluding the Contract, an e-mail message shall be deemed to have been delivered at the moment of its receipt by the external e-mail server of the other Party according to the records from the e-mail system of the Party that sent the e-mail, provided that the e-mail message may be sent to any e-mail address of the other Party specified in the Offer or Order or otherwise communicated in writing to the other Party when concluding a specific business case.

3.3 The conclusion of the Contract simultaneously cancels all previous Contracts of the Parties related to its (identical) object of performance.

3.4 The Contract may be amended only by agreement of the Parties in the form of numbered written amendments. This is without prejudice to the Provider's authority to amend these GTC pursuant to Article 1.6 of these GTC.

#### **4. SUBJECT OF PERFORMANCE**

4.1 The subject of the Contract concluded by any of the methods specified in Article 3 of these GTC is the Provider's obligation to deliver to the Customer the ordered Goods and/or to provide the Customer with certain performance (Services) on a one-off or repeated basis, and to transfer to the Customer the ownership right to the Goods, or to the work if it is the result of the provision of Services ("Work"). The subject of the Contract is also the Customer's obligation to take over the Goods and/or the Service from the Provider and to pay the Provider the agreed remuneration (price). Further terms and conditions are set out in the specific Contract and these GTC.

4.2 The Provider undertakes to deliver the Goods and/or provide the Service to the Customer at its own risk, properly and on time, i.e., in the quantity, quality and design specified in the specific Contract, or these GTC, and within the agreed time.

4.3 The Provider's obligation to deliver the Goods and/or provide the Service is fulfilled by the proper performance of all of the Provider's activities pursuant to the Contract and these GTC, in particular by delivering the Goods and/or providing the Service without defects and deficiencies, including the delivery of all related documentation to the Customer specified in the Offer, within the agreed time and at the agreed place of performance.

- 4.4 The Provider is entitled to entrust the delivery of the Goods or the provision of the Services under the Contract (in whole or in part) to another person (subcontractor), even without the consent of the Customer. In such a case, the Provider is obliged to instruct this person on the relevant obligations arising from the Contract and these GTC, in particular the obligations arising from the handling of the Customer's data and the obligation of confidentiality. However, the Provider shall be liable for the performance as if it had provided it to the Customer itself.
- 4.5 The Provider's subject of performance may also include mediation of the conclusion of a contract with a third party for the provision of specific services for the Customer, necessary for the performance of the ordered Services. In such a case, the Provider is only an intermediary for the conclusion of such a contract; the relevant contract is concluded between the Customer and the relevant provider of such services. The Provider shall not be liable for any defects or damages arising from such mediated relationship but shall nevertheless provide assistance in resolving such defects upon Contract with the Customer.
- 4.6 The Provider's subject of performance may also include mediating the conclusion of a contract for the provision of rights to use the Software necessary for the provision of a specific Service (license). In such a case, the Provider is only an intermediary for concluding such a contract; the relevant contract is concluded between the Customer and the relevant licensor. The Provider shall not be liable for any infringement of the license rights by the Customer.

## **5. PLACE OF PERFORMANCE**

- 5.1 Delivery of the Goods or provision of the Services to the Customer shall take place by delivery at the Place of performance agreed in the specific Contract.
- 5.2 Unless otherwise specified in the Contract, the Place of performance shall be deemed to be:
- (a) in the case of delivery of the Goods - the address of the Customer's registered seat registered in the Commercial Register on the date of delivery of the Goods;
  - (b) in the case of provision of Services - the place or places of performance specified by the Customer;

## **6. DUTY TO COOPERATE**

- 6.1 The Customer is obliged to provide the Provider, at the Provider's request, with all assistance necessary for the proper and efficient provision of the Services.
- 6.2 Prior to commencement of performance, the Customer shall also provide the Provider, at the Provider's request, with all information and documents necessary for the proper and timely performance of the object of performance to the Contract and shall provide the Provider with all necessary assistance.
- 6.3 Each of the Parties is also obliged to provide the other Party with the necessary cooperation and information and documents necessary for the proper performance of the subject of the Contract within the mutually agreed deadlines.

## **7. HANDOVER OF GOODS AND SERVICES**

- 7.1 The Provider shall invite the Customer to handover and takeover the Goods by a written request, in the form of a letter or e-mail, delivered to the Customer no later than one business day before the planned handover date. The same shall apply to the delivery of the Services if their proper performance requires handover and acceptance by the Customer.
- 7.2 Delivery of the Goods and/or Services shall be deemed to have been fulfilled:
- (a) signing of the delivery note by the Customer;
  - (b) signing of the acceptance protocol by the Customer; or
  - (c) by mutual confirmation via email.
- 7.3 The Customer is obliged to accept the Goods and/or Services from the Provider if they are delivered in the agreed quantity, quality and design and no Substantial defects or other deficiencies preventing the proper use of the Goods or the use of the Services provided are found at the time of acceptance.
- 7.4 The Customer is obliged to take delivery of the Goods in part. The same applies to the delivery note of the partial provision of Services if the partial performance corresponds to the concluded Contract.
- 7.5 The Goods and/or Services shall be accepted by the Contact Person specified in the Contract or by another person notified by the Customer to the Provider.
- 7.6 The Parties shall sign a acceptance protocol or delivery note on the acceptance of the Goods and/or Services provided; the Parties may also confirm the delivery note and acceptance of the Goods or Services in their mutual e-mail communication after delivery of the Goods or provision of the Services. This confirmation shall also include the identification of any Defects that do not prevent the proper delivery of the Goods or Services pursuant to Article 7.3 of these GTC, including measures and deadlines for their possible removal.
- 7.7 Any further Defects arising and/or detected after the signing of the handover report shall be dealt with in accordance with the provisions of Article 12 of these GTC, or within the scope of the Service.

## **8. COPYRIGHT PROTECTION**

- 8.1 If the subject of the Contract, or the result of the provision of the agreed Services, is the creation of a specific Work, the Customer shall acquire the right to exercise the right to use the Work (licence) upon acceptance of the Work, including the Software, documentation and know-how that is part of the subject of the Work. The right to use shall mean the right to use the Work without interference in accordance with the limitations set forth by law, these GTC and any license terms of the manufacturer of the relevant Software. The right of use is granted as a non-exclusive, perpetual, non-transferable and territorially limited right to territory of the Customer's registered seat, unless the Contract provides otherwise.
- 8.2 If standard Software is part of the Work, the Customer is obliged to comply with the license conditions set by the Software manufacturer, which are delivered with the Software or are directly part of it and a condition of installation.



- 8.3 Components of the Work that meet the characteristics of a copyright work (e.g. Software, documentation), which is created by the Provider, may not be distributed, copied or modified without the prior written consent of the Provider. The terms of Copyright protection are governed by applicable law (especially the Copyright Act) and the Provider's license terms.
- 8.4 Unless otherwise provided in the Contract, the fee for granting the license is included in the price of the Goods or Services.

## **9. PRICE AND PAYMENT TERMS**

- 9.1 The Customer undertakes to pay the Provider the remuneration (price) for delivery of the Goods or provision of the Services in the agreed amount.
- 9.2 Unless otherwise expressly agreed in the Contract, the price for the delivery of the Goods or provision of the Services is agreed as fixed and final, which includes all costs of the Provider related to the performance of the Contract, in particular all taxes, duties, fees and expenses for auxiliary and consumable materials, packaging, documents, transport, insurance, costs associated with obtaining all permits and approvals, as well as other things necessary for the delivery of the Goods or provision of the Services to the Customer.
- 9.3 Prices are quoted by the Provider without VAT, which will be added to the price by the Provider according to the applicable legislation.
- 9.4 In the event of changes in the exchange rate of the currency for which the Provider purchases the equipment to be delivered under the Contract against CZK by more than 3% on the invoice date compared to the exchange rate on the date of sending the Offer (or confirmation of the Order) to the Customer, the Provider is entitled to change the invoiced price accordingly, provided that the price is set in CZK. For the calculation of exchange rate changes, the relevant exchange rate is the exchange rate announced by the Czech National Bank on the date of the taxable performance according to the relevant invoice.
- 9.5 The Provider is entitled to unilaterally increase the regular prices of the Services by the annual average inflation rate announced by the Czech Statistical Office ([www.czso.cz/csu/czso/mira\\_inflace](http://www.czso.cz/csu/czso/mira_inflace)), starting from 1 March of the following year.
- 9.6 In the case of continuous delivery of Services, the relevant invoice will be issued by the Provider on the first day of the billing period for which the Services are provided. This invoice shall be payable within 14 (fourteen) days of the date of issue. The Provider shall communicate the length of the billing period to the User prior to the commencement of the provision of the Services.
- 9.7 By accepting these GTC, the Customer gives the Provider consent to electronic invoicing pursuant to Section 26(3) of the VAT Act.
- 9.8 The Customer is obliged to pay the invoiced amount so that it is credited to the Provider's account on the invoice due date.
- 9.9 The price for delivery of the Goods or provision of Services is payable regardless of whether the Customer has had the opportunity to sufficiently inspect (test) the delivered Goods or provided Services and assess their characteristics; the provisions of Section 2119 of the Civil Code shall not apply.

- 9.10 Ownership of the Goods shall pass to the Customer only at the moment of full payment of the price for the Goods to the Provider. However, the risk of damage to the Goods shall pass to the Customer at the moment of its receipt; the Customer shall, until the moment of full payment of the purchase price, take care of the Goods with due care and in accordance with the Provider's instructions. If the Contract is withdrawn due to the Customer's default in payment of the purchase price, the Customer shall allow the Provider to enter the Place of performance, dismantle and remove the Goods at the Customer's expense.
- 9.11 The invoice - tax document must contain the requirements of the VAT Act and other generally binding legal regulations, in particular it must meet all the requirements of a tax document, and it will be the basis for payment of the price under the Contract. If the invoice delivered to the Customer does not contain any of the prescribed particulars or contains incorrect data, the Customer is entitled to return such invoice to the Provider within 5 (five) business days of its delivery. In such case, the due date shall not run, and the new due date shall start only from the delivery of the corrected or supplemented invoice to the Customer; this shall not apply if the Customer fails to comply with the deadline for returning the incorrectly issued invoice pursuant to the preceding sentence.
- 9.12 In the event that the Customer is obliged to declare and pay value added tax (VAT) on the price for the Goods or Services provided, the Customer shall declare and pay it. The Provider shall take this fact into account in the tax documents issued by the Provider, in particular in accordance with Section 92a of the VAT Act, if this provision is applicable due to the nature of the Goods or Services (or other relevant provisions of law, in particular if the said provision of law is amended).
- 9.13 If the Customer is in default with the payment of the invoice, the Customer shall pay the Provider interest on late payment in the amount of 0.1% of the amount due for each day of delay until payment.
- 9.14 In the event of delay in payment of invoices, the Provider is entitled to interrupt the delivery of Goods or provision of Services until the day when the full amount due, including interest on delay, is credited to the Provider's account. During this period, the Provider shall not be in default of delivery of the Goods or provision of the Services under the Contract.

## **10. CONFIDENTIAL INFORMATION**

- 10.1 The Parties shall be obliged to maintain the confidentiality of all material facts obtained in the course of their activities under or in connection with the Contract, in particular those which constitute their business secrets and confidential information.
- 10.2 Confidential information shall be deemed to be those facts of an operational or commercial nature which come to the knowledge of either Party in connection with activities under the Contract which are not publicly available and are designated as confidential by the Party.
- 10.3 The term Confidential information also includes trade secrets, which, within the meaning of Section 504 of the Civil Code, means competitively significant, identifiable, valued and normally unavailable in the relevant business circles, related to the business establishment, the owner of which ensures its confidentiality in an appropriate manner in his interest. Trade secrets shall also mean the Customer's data processed by the Software.
- 10.4 A breach of confidential information shall be defined as an act by which one of the Parties wrongfully discloses, makes available to another person, uses for itself or for another,

confidential information obtained in the course of its activities from the other Party, if this is contrary to the interests of the other Party, and does so without its consent.

10.5 It is not a breach of the duty of confidentiality:

- (a) disclosure of confidential information to the extent necessary to the authorities or persons legally entitled to such information and to inspect the activities of the Parties;
- (b) disclosure of confidential information to persons legally bound by confidentiality obligations (e.g. notary, lawyer, tax advisor);
- (c) the use of confidential information in accordance with the Contract or its successor contracts in connection with the performance of its obligations under the Contract;
- (d) providing the Customer's data or allowing access to such data to third parties for the purpose of resolving Defects;
- (e) other use of confidential Information with the prior written consent of the other Party.

10.6 The Parties shall be bound by this obligation of confidentiality for the duration of the facts giving rise to this obligation of confidentiality unless the confidentiality is waived or the information in question becomes publicly available.

10.7 The Parties shall maintain confidentiality with respect to all confidential information after the termination of the Contract.

10.8 In the event of a breach of the obligation of confidentiality under this Article 10 of the GTC, the Party that has breached such obligation shall pay to the other Party a contractual penalty in the amount of CZK 100,000(one hundred thousand Czech crowns) for each individual breach. The contractual penalty shall be payable upon written demand by the entitled Party within 14 (fourteen) days of the delivery of the relevant demand.

## **11. DURATION AND TERMINATION OF THE CONTRACT**

11.1 Contracts, the subject of which is the repeated or continuous provision of performance by the Provider, are concluded for the period specified in the Contract, namely for a definite or indefinite period.

11.2 The Contract may be terminated by written agreement of the Parties.

11.3 A contract concluded for an indefinite period of time may be terminated without giving any reason by written notice from either of the Parties. The notice period shall be 3 (three) months and shall commence on the first day of the calendar month following the delivery of the notice to the other Party.

11.4 A contract concluded for a definite period of time may be terminated before the end of the agreed period by written notice from either of the Parties, also without giving any reason. In such a case, the notice period shall be 1 (one) month for termination by the Customer and 3 (three) months for termination by the Provider. The period of notice shall commence on the first day of the calendar month following delivery of the notice to the other Party. In the

event of early termination of the Contract for a definite period of time by notice from the Customer or as a result of withdrawal from the Contract due to breach of the Contract on the part of the Customer, the Provider shall invoice the Customer for the Services for the remaining months until the originally agreed expiry date of the Contract. If neither Party notifies the other Party no later than three (3) months prior to the end of the Contract term that it requires termination of the Contract on the date of termination of the Contract for a definite term, the Contract shall automatically become an indefinite term Contract.

11.5 Party to the Contract is also entitled to terminate individual partial performances of the Contract under the same conditions as in Article 11.3 and 11.4 of these GTC.

11.6 Either Party shall be entitled to withdraw from the Contract in the event of a material breach of the terms and conditions by the other Party under the following conditions. A material breach of the Contract shall be deemed to be:

- (a) delay of the Provider in the proper delivery of the Goods and/or provision of the Services for more than 30 (thirty) days,
- (b) failure of the Provider to remedy Substantial Defects in the Goods within a reasonable time;
- (c) the occurrence of Defects that prevent the proper use of the Services and which have not been removed by the Provider within the agreed time limit,
- (d) delay by the Customer in payment of any invoice of the Provider for a period of more than 30 (thirty) days,
- (e) failure to provide the necessary cooperation according to Article 6 of these GTC,
- (f) breach of the Confidentiality obligation under Article 10 of these GTC.

11.7 Before withdrawing for material breach of the Contract, the Party intending to withdraw from the Contract shall first give written notice to the other Party to remedy the breach and a reasonable additional period of time, which shall not be less than five (5) business days from the receipt of the notice. If the breach of the Contract is not remedied even within such additional period of time, the Party shall be entitled to withdraw from the Contract by written withdrawal, which shall take effect upon delivery to the other Party.

11.8 If the Party becomes bankrupt, or if insolvency proceedings are initiated in respect of the Party within the meaning of Act No. 182/2006 Sb., on Bankruptcy and the Methods of its Resolution (Insolvency Act), as amended, in liquidation or under receivership, or if it is unable to meet its financial obligations, the other Party may withdraw from the Contract immediately with effect from the date of delivery of a written notice of withdrawal to the other Party.

## **12. LIABILITY FOR DEFECTS AND COMPENSATION FOR DAMAGE**

### **12.1 Liability for Defects in Goods**

12.1.1 Unless otherwise specified in the Contract or these GTC, the Provider provides a warranty for the delivered Goods for the length of the quality as specified by the specific manufacturer of the equipment ("Warranty Period").

12.1.2 If Defects occur in the Goods during the Warranty Period, the Customer shall be entitled to:

- (a) require the removal of Defects by supplying replacement Goods in exchange for the defective Goods;
- (b) require delivery of the missing Goods;
- (c) require the removal of Defects by repairing the Goods if the Defects are repairable;
- (d) demand a reasonable discount on the price of the Goods; or
- (e) withdraw from the Contract (subject to the conditions set out in clause 11.6 b) of these GTC).

12.1.3 The choice between the claims listed in Article 12.1.2 of these GTC is the Provider's. The Provider shall inform the Customer of the chosen method of remedying the Defects without delay after notification of the Defect.

12.1.4 The Customer is obliged to inspect the Goods on receipt and to check the packaging and quantity of the Goods delivered and subsequently, as soon as possible, to ascertain their characteristics.

12.1.5 The exercise of claims arising from defects in the Goods delivered shall not be grounds for withholding the price for the Goods or any part thereof; the provisions of Section 2108 of the Civil Code shall be excluded.

## 12.2 Liability for Defects in the Services

12.2.1 The Provider shall be liable for Defects if it fails to provide the Services, which are the subject of the Contract, to the Customer in a proper and timely manner.

12.2.2 The Provider shall not be liable for Defects in the Services if caused by the Customer, third parties, third party software or other circumstances arising independently of the Provider's will, for example:

- (a) infiltration of viruses into the Customer's information system, or other similar attack that was not caused by the Provider;
- (b) obstacles caused by a strike of the Customer's employees, i.e. as a result of a partial or complete interruption of work by employees;
- (c) a natural disaster (force majeure); or
- (d) by a targeted cyber-attack.

In such cases, the Provider is not liable for any damage caused as a result.

## 12.3 Legal defects

12.3.1 The Provider is obliged to ensure that the Customer is not liable or co-labile for any legal defects of the Goods delivered or Services provided, including the Software used by the

Customer on the basis of the Contract, or for unauthorized interference with the copyright and other rights of third parties.

12.3.2 In the event that the exercise of the Customer's rights under the Contract is prevented or hindered by the exercise of a third party's rights in respect of the Goods or Services (system) supplied, or the Customer becomes aware that a third party is exercising its right and/or the third party considers the Customer's use of the Goods or Services to be a breach of its rights, the Customer shall:

- (a) immediately inform the Provider of this fact;
- (b) to allow the Provider to take all steps to resolve the matter with settlement;
- (c) cooperate with the Provider and provide the Provider with its cooperation in order to reach an agreement with the third party as soon as possible and to protect the rights of the Provider and the Customer;
- (d) follow the instructions of the Provider issued to it in order to protect the rights of the Customer and/or the Provider.

12.3.3 The Customer shall not be entitled to enter into a settlement, settlement agreement or similar agreement relating to third party claims on the grounds of legal defect or to take any action recognizing such third party claims without the express consent of the Provider. The Provider undertakes to provide the necessary cooperation in the course of negotiating any agreement or settlement.

#### 12.4 Liability for damages

12.4.1 The Provider shall be liable for damage caused to the Customer by a breach of the Provider's obligations under the Contract (including these GTC) and the law if the Customer proves that the damage was caused by a breach of the Provider's obligations.

12.4.2 The Provider is obliged to compensate the actual damage (not the lost profit), up to the amount of 35% of the price (excluding VAT) of the Goods and/or Services paid by the Customer for the last three months prior to the damage. This limitation also applies to compensation for non-pecuniary damage which the Provider would be legally obliged to pay and to compensation for damages in special cases pursuant to Section 2920 et seq. of the Civil Code. The limitation on the amount of compensation for damages under this paragraph shall not apply to damage caused to a person's natural rights or damage caused intentionally or through gross negligence.

12.4.3 The Provider shall be exempted from liability for damage and shall not be obliged to compensate for damage if it proves that the damage were caused by (a) an extraordinary unforeseeable and insurmountable obstacle independent of the Provider's will (force majeure), or (b) the actions of the Customer or another third party beyond the Provider's control, or (c) as a result of insufficient cooperation to which the Customer was obliged. Furthermore, the Provider shall not be obliged to reimburse the Customer or any third party for damages if any of the events listed in Article 12.2.2 of these GTC have occurred.

12.4.4 The Provider and the Customer further confirm that the obligations under the Contract are for their own interest only and neither party shall be liable for damages to any third party arising from a breach of the obligations under the Contract.

12.4.5 The Provider shall not be liable to the Customer or any third party for any indirect, incidental, consequential or incidental damages, such as loss of contractual relationships or business opportunities, loss of profits, loss of data or any other claim made by a third party against the Customer.

12.4.6 The parties are obliged to notify each other of a force majeure event (Article 12.4.3 of the GTC) in writing or by e-mail without unreasonable delay. For the duration of the force majeure, the failure of the Party to the Contract to fulfil its contractual obligations as a result of the force majeure shall not be considered a breach of the Contract. In the absence of force majeure for which performance of the Contract has been interrupted, the Parties undertake to notify each other of this fact without delay and to discuss further action together.

### **13. TERMS FOR THE PROVISION OF SERVICES**

#### **13.1 Common provisions**

13.1.1 Services are provided in a proper and timely manner if, inter alia, the level of quality of their provision agreed upon is met in the specific Contract, i.e. in particular the required level of Availability and time limits for the resolution of Defects.

13.1.2 Within the provision of Services, the Provider continuously monitors and evaluates the quality and behaviour of individual Services and proposes solutions to the Customer in order to improve the achieved levels of Availability and prevent any deterioration in the level of Availability.

13.1.3 The Provider is not obliged to comply with the Customer's request to allow a third party specified by the Customer to access the infrastructure that the Provider manages for the Customer on the basis of the Contract.

13.1.4 The Provider is entitled to provide services under the Contract to the Customer also via remote access.

13.1.5 Further details and definitions regarding the Services provided by may be contained in Contract and/or the SLA.

#### **13.2 Obligations of Users**

13.2.1 Unless otherwise provided in the Contract, the User may not in any way:

- (a) tamper with the Provider's System and data, nor perform activities that would change the settings or function of the Customer's Services, nor interfere with the Provider's System in any way other than as agreed in the Contract;
- (b) to use the Provider's Services to store or transmit data whose content is contrary to the applicable law of the Czech Republic or to international treaties to which the Czech Republic is bound by;
- (c) use the Provider's Services for the activity of sending unsolicited e-mail messages (spam);

- (d) store information on the Services that is strikingly similar to third party services or applications for the purpose of confusing or misleading Internet users (phishing);
- (e) spread computer viruses within the Services;
- (f) undertake activities that would result in an unreasonable load on the Provider's network or any other part of the Provider's System included in the Services.

13.2.2 The Customer is responsible for the content operated within the Services in accordance with Article 13.3 of these GTC.

13.2.3 By default, the User is granted access to the data outputs provided by the Service under a public URL address, which is secured by an access name and password. Alternatively, at the User's request, the data outputs provided by the Service can also be accessed:

- (a) under a public URL without the need to enter access credentials,
- (b) by connecting to the API to the Customer's system,
- (c) by connecting to the API to the Provider's system.

13.2.4 The User is obliged to maintain confidentiality regarding the information necessary to access the Services and acknowledges that the Provider is not liable for any breach of this obligation by the User. If the User loses or forgets his/her access data, he/she shall immediately notify the Provider, who shall provide him/her with new login data after appropriate identity verification.

13.2.5 The Provider is not responsible for the public dissemination of the outputs provided by the Service, if these outputs are disseminated through the User's access.

13.2.6 The Customer is obliged to ensure that all Users are informed about the rules of use of the Services and that all Users respect them.

13.2.7 The provisions of Articles 13.2.1 to 13.2.6 of these GTC above shall apply to all Services, as well as any other systems and Services supplied or provided by the Provider to the Customer, *mutatis mutandis*.

### 13.3 Responsibility for content

13.3.1 The Provider does not participate in any way in the creation of content operated by the Customer within the Services and is not obliged to supervise the content of information stored on its servers by the Customer. The Provider is also not obliged to search for facts and circumstances indicating the illegal content of such information.

13.3.2 The Customer is obliged to ensure the safety of the content operated within the Services. For the purposes of these Terms, unlawful content means in particular,

- (a) dissemination of pornography, in particular sexual practices that fulfil the offence of dissemination of pornography (e.g. child pornography, zoophilia, etc.);



- (b) which would fulfil the factual essence of a criminal offence or which would infringe copyright (e.g. operation of download servers, warez, gamez, crack servers, making available or distributing illegal MP3s, making available or distributing photographs and other works used without the author's consent) or industrial rights (e.g. trademark) or which would encourage or aid such infringement;
- (c) which aids or abets the circumvention of technical means of copyright protection;
- (d) committing incitement to or approval of criminal activity, defamation of a nation, ethnic group, race or beliefs, or the promotion of movements aimed at suppressing human rights and freedoms, in particular by disseminating the views of the extreme right or extreme left;
- (e) unlawfully interfering with the personality rights of third parties or the reputation of a legal entity;
- (f) through which the User commits an unfair competitive act;
- (g) which disseminates or promotes any other illegal or criminal activities.

13.3.3 The Customer acknowledges that the Provider is not responsible for the content of the information stored by the User within the Services. The Customer further acknowledges that the Provider shall not be liable for any unlawful acts of the User made within the Services.

#### 13.4 Provider's right to suspend the provision of Services

13.4.1 The Provider shall have the right to immediately suspend the provision of Services in the event of a breach of the Contract, these GTC by the Customer, in the event that the Customer fails to correct such defective condition even upon a previous written request by the Provider, within 24 hours of receipt of such request.

13.4.2 The Provider shall be entitled to prevent the dissemination of data that the Customer disseminates in violation of the Contract and these GTC, with immediate effect upon becoming aware of illegal content (i.e. content in violation of Article 13.3 of these GTC) that is stored or operated by the User within the Services. However, the Provider shall notify the Customer of the measures taken without unreasonable delay.

#### 13.5 Service and method of resolving Defects

13.5.1 The Customer is obliged to notify the Provider of the Defect without unreasonable delay after its discovery.

13.5.2 Only the Contact Persons are authorized to notify the Customer of Defects and to submit Requests to the Provider. A Defect is remedied by the Provider at the time when the Provider:

- (a) remove the defect that caused the Defect or otherwise make the non-functioning Service operational, if it is a Service for which the Provider is responsible, or

- (b) locate and notify the Customer of the cause of the Defect if it is a Service that is not provided by the Provider under the Contract or the Provider is not responsible for the Defect, or
- (c) proves to the Customer that the cause of the Defect is not the failure of the agreed Service, even the Service for which the Customer is responsible, and offers the Customer further assistance in locating the cause of the Defect and its elimination, or
- (d) provide the Customer, until the final resolution of the Defect, with instructions on how to use the Service in such a way that the Defect does not manifest itself without limiting the full use of the Service and without this solution representing a significant increase in costs for the Customer or increasing the risk of further Defects.

13.5.3 In the event that the Customer makes an unauthorized notification of a Defect in the Services in the relevant calendar month (i.e. if it is determined that the Defect does not exist or the Defect occurred due to circumstances for which the Provider is not responsible), the Provider may require the Customer to compensate for the increased costs associated with the qualification and resolution of the Defect.

#### **14. ASSIGNMENT OF CLAIMS**

14.1 Neither Party shall be entitled to assign claims arising under the Contract concluded in accordance with these GTC, to allow a third party to assume the debt, or to transfer its rights and obligations under the Contract (assign the Contract) without the prior written consent of the other Party. Any assignments and transfers made without the prior written consent of the other Party shall be deemed null and void and ineffective against the other Party to the Contract. This provision shall not be construed as authorizing the Provider to use a subcontractor to fulfil its obligation. This provision does not apply to factoring.

#### **15. COMMUNICATION BETWEEN THE PARTIES AND DELIVERY**

15.1 Unless expressly stated otherwise in the Contract, only the statutory bodies of the Parties, their employees to the extent customary in relation to their employment or function pursuant to Section 166 of the Civil Code and/or representatives of the Parties authorised to do so on the basis of a written power of attorney ("Authorised Representatives") may enter into the Contract (sign the Offer or Order), take legal actions aimed at terminating the Contract, as well as make any other notifications, calls and other actions in relation to the Contract. If the relevant legal act is performed by a representative of a Party under a power of attorney, the relevant power of attorney must be attached to the first legal act performed by the relevant person. In other matters (e.g. handover and acceptance of the Work, resolution of technical issues related to the implementation of a specific business case, reporting of defects, etc.), the Parties shall also be represented by the Contact persons in Contract (or in the Offer or Order) listed hereafter ("Contact Persons").

15.2 The Parties are obliged to notify the other Party in writing without unreasonable delay of changes in the persons referred to in Article 15.1 of these GTC and their contact details. The Parties accept notification of Defects (including their subsequent resolution) by e-mail communication by the Contact Person in this context.

- 15.3 If the Contract or these GTC require that a particular legal act of the Parties be made in writing, a Party to the Contract shall fulfil this obligation by delivering a written notice to the other Party in person, by registered post with postage prepaid or by a recognised courier service to the registered office address of the other Party registered in the commercial or other public register at the time of dispatch of the document and, if there is no such address, to the address of the Party specified in the Contract.
- 15.4 A document shall be deemed to have been served if it has been delivered by any of the above methods to the address of the other Party, even if the addressee of the document has not been informed of this and/or is not present at the address.
- 15.5 If the Contract and/or these GTC allow for certain legal actions of the Parties to be performed by electronic means (e-mail), it shall be sufficient if the electronic message was sent from the e-mail address of the Authorised Representative of the respective Party to the address of the Authorised Representative of the other Party, without the requirement of a guaranteed electronic signature; the provisions of Section 562(1) of the Civil Code shall not apply.

## **16. PROHIBITION OF CORRUPT PRACTICES AND MEASURES AGAINST CONFLICTS OF INTEREST**

- 16.1 The Customer undertakes to avoid any actions that would jeopardize the interests of the Provider, including fraudulent conduct, bribery or corruption, or any other conduct contrary to the law. The Customer undertakes to refuse and not to provide any gift or business courtesy that might influence the conduct of business relationships or business decisions of persons cooperating with or influencing the provision of Services under the Contract. The Customer shall prevent conflicts of interest and report to the Provider any such situations if they arise. The Customer undertakes to inform the Provider of any conduct that is contrary to the principles set out in this Article 16 of the GTC. The Customer shall ensure that its employees and other persons used by the Customer for the performance of the Customer's tasks act in accordance with these principles. In the case of the Customer - a legal entity, the Customer is aware of its criminal liability arising from Act No. 418/2011 Coll., on Criminal Liability of Legal Persons, as amended.

## **17. SEPARABILITY**

- 17.1 In the event that any provision of the Contract or these GTC is or hereafter becomes invalid for any reason, it shall not invalidate the remaining portions of the Contract or these GTC. The Parties pledge to promptly replace such provision by mutual agreement with another provision that corresponds in content to the purpose of the invalid provision.

## **18. APPLICABLE LAW AND DISPUTE RESOLUTION**

- 18.1 The contractual relationship arising from the Contract is governed by Czech law, in particular the Civil Code and the Copyright Act. When interpreting the Contract, the provisions of the law shall prevail over commercial practices generally and in the specific industry.
- 18.2 The Parties undertake to use their best endeavours to eliminate and resolve any disputes arising under or in connection with the Contract, in particular through negotiations between their authorised representatives.

18.3 All disputes arising out of and in connection with the Contract which the Parties fail to resolve pursuant to Article 18.2 of these GTC shall be resolved by a court of competent jurisdiction in the Czech Republic, locally competent according to the Provider's general court of first instance, unless the law provides for exclusive local jurisdiction.

## **19. EFFECTIVITY**

19.1 These GTC shall come into force on 12/14/2023.