



## **General Terms and Conditions for the Supply and Services in the Area of Information Technology ("GTC") issued in line with Section 1751 of Act No. 89/2012 Coll., the Civil Code, as amended ("Civil Code")**

### **A. Subject Matter of the GTC**

#### **I. Introductory provisions**

1. These GTC set out basic organisational and commercial conditions for the Supply of goods and the provision of Services in the area of information technology to NET4GAS, s.r.o., with its registered office at Na Hřebenech II 1718/8, Prague 4, Post Code 140 21, entered in the Commercial Register maintained by the Municipal Court in Prague, Section C, Insert 108316, ID No. 272 60 364, Tax ID No. CZ27260364 ("**Customer**").

2. The term Seller means every person that agreed to supply the Customer with technical means (goods and equipment) or the Hardware. The term Provider means a person that agreed to provide the Customer with exclusive or non-exclusive authorisation to use the Software (licence) or every person that agreed to provide the Service, Consultancy, Maintenance, Services, Help Desk etc. to the Customer. The term Contractor means every person that agreed to develop for the Customer and as per the Customer's specifications the Information System or to complete for the Customer a certain work (for the purposes of these GTC these three categories of persons are referred to jointly as the "**Supplier**"). The term Supplier then means every person that has concluded the relevant Agreement with the Customer in accordance with these GTC.

- Part E: Completion of the Software as a Work per Order;
- Part F: Special Provisions for the Supply of Hardware;
- Part G: Special Provisions for Support, and Hardware & Software Maintenance; and
- Part H: Special Provisions on Consultancy.

2. Special provisions are in each instance complementary to the general provisions for the respective Consideration and shall take priority over the general provisions.

3. In case of any conflict between these GTC and the provision of the respective Agreement the provisions of the respective Agreement shall take priority.

#### **II. Structure of the GTC**

1. These GTC consist of the following parts:
- Part A: Subject Matter of the GTC;
  - Part B: General Provisions Applicable to All Types of Agreements;
  - Part C: Special Provisions on Software Licences;
  - Part D: Special Provisions on the Supply of Standard Software;



## B. General Provisions Applicable to All Types of Agreements

### I. Definition of terms

- **Application Software** means programmes and routines of the Information System and the related documentation and the subsequent updated versions of these programmes (Upgrades) and documentation in the printed and machine-readable form;
- **Manday** means 8 (eight) hours of work carried out by (1) person;
- **Response Time** means the time that elapses from receipt by the Supplier (the Help Desk) of a Problem/Accident Report sent by fax or e-mail, etc. until the commencement of a remedial action with respect to such a Problem or Accident; if multiple reporting methods are employed at the same time, this period commences from the first receipt the Report;
- **Resolution Time** means the time that elapses from reporting the Problem or Accident to the Supplier until their full remedying by the Supplier. The Resolution Time shall not include the time during which the Customer does not provide the assistance necessary for remedying the Problem or Accident and also the time during which the Supplier's work was interrupted with the Customer's consent or upon the Customer's instruction;
- **Supply** means the supply of (i) movables or (ii) the Software with the exception of a work completed in the framework of the provision of the Services including the supply of goods payable in instalments or the rental of goods or the lease of goods with the right to subsequent purchase, provided that the Supply shall include the putting of the concerned goods into operation if this is agreed in the Agreement (the Hardware Supply is further governed by the description as per Part F, Section I.1);
- **Application Software Functionality** is a functionality of the Application Software specified in the Project Documentation;
- **Hardware** means the Computer System, communication equipment and peripherals;
- **Accident** means a condition preventing the use of the Information System/HW;
- **Help Desk** is the Supplier's or the Customer's unit dedicated to the provision of a hot-line Service or the provision of other information related to the subject matter of the Consideration, to the receipt of the Customer's notices concerning claims and Defects, to the remedying of Problems / Accidents, and informing the users on the person responsible for resolution and on the method of the resolution of Problems / Accidents and/or to ensuring the distribution of updated version of the Information System and other operational requirements of the Customer;
- **Report** is a form for recording Problems or Accidents or, as the case may be, for recording the Customer's requirements;
- **Hot Phase** means a period of the Supplier's enhanced support after launching and going live with a new version of the Software. A fault-free completion of the Hot Phase shall be deemed to be a situation where for a period of at least 3 weeks preceding the actual completion of the Hot Phase no Substantial Defect is reported and, at the same time, at the completion of the Hot Phase a maximum of 10 Unsubstantial Defects are reported. If the conditions for fault-free completion of the Hot Phase are not met, the Hot Phase shall be extended by the period necessary for the fulfilment of these conditions;
- **System Implementation** means an aggregate of activities aimed at putting into operation the Application Software in accordance with the defined rules. The System Implementation includes installation of the Application Software including management of the whole Project, Supply of the Information System, Verification Operation, Test Operation, handover for the Routine Operation and the necessary training;
- **Information System** is a software (software product) or a set of programmes enabling data processing;
- **System Integration** means substantive and functional interconnection between the subject matter of the Consideration and other software as per the Customer's specifications to the extent and in the manner set out in the Agreement;
- **Critical Defect** is a defect preventing all users of the Software or the Service from work or threatening the Customer's business or operations; Typically, an accident of the



Information System results in its non-usability and causes or may cause serious corruption of data (e.g. corruption of database consistency or general integrity or confidentiality of data). Due to the Defect it is impossible in this situation to run, by means of the Information System, any of the important business processes for which the system was supplied. A Critical Defect is deemed to include the slowing of the Information System's response in performing the respective functionalities by more than 50% as compared with the fault-free condition. For assessing the response time of a particular functionality the fault-free condition shall be deemed to be the condition after the completion of the Hot Phase or the condition in the previous calendar month depending on the condition in which the response time of a particular functionality was faster (faster response time = fault-free condition). The above-described cases of the Critical Defect may threaten regular operations or cause large financial or other damage to the Customer;

- **Alternative Solution or W/A** is a solution which in the event of a Defect does not directly remedy the Defect, but bypasses it and eliminates its current manifestations and effects on the operation of the Information System;
- **Unauthorised Interference** is a proven interference with the Information System which is in contradiction with the Project Documentation or other binding documentation, unless carried out at the Supplier's written instruction (including a proven instruction provided through the hot-line). An Unauthorised Interference includes also a failure to distribute an updated version of the Application Software (its Update or Upgrade) or distribution carried out in contradiction with underlying documentation for the distribution;
- **Unsubstantial Defect** is a Defect which does not match the category of Critical Defect or Material Defect;
- **Order** means a written document entitled "Order" and issued by the Customer which is an offer of the relevant Agreement concerning the subject matter of performance and delivered to the Supplier in writing or electronically as a scanned copy of the Order signed by the Customer.
- **Remedying an Accident** means either the restoration of the full use of the Information System as per the last valid data backup or the implementation of a functional Alternative Solution allowing either for the modified use of the Information System as per the Project Documentation or reclassification of an event from Accident to Problem;
- **Verification Operation** is the operation of the Information System in selected organisational segments for the purpose of verifying the functionality and obtaining information for the implementation in all of the Customer's organisational segments;
- **Consideration** means the Supply or the Consideration;
- **Computer System** is a functional unit consisting of one or multiple pieces of technical equipment and the agreed system software;
- **Business Days** means all days except for Saturdays, Sundays or public holidays in the Czech Republic;
- **Working Hours** means the period from 7.00 a.m. to 5.00 p.m. on Business Days;
- **Substantial Defect** means Critical Defects or Material Defects;
- **Consultancy** means the provision of professional consultancy concerning the subject matter of the Consideration or as a special subject matter of the Consideration;
- **Problem** means a condition of the Information System which allows only for limited use of the Information System or a part thereof for the purpose for which it was created; a condition other than the full operability within the meaning of the Project Documentation. A suggestion for a change in the Application Software Functionality handed over for the Routine Operation in a condition corresponding with the Project Documentation shall not be considered to constitute a Problem;
- **Software Product** means the software including documentation and/or data or other performance, as appropriate (such as the Service consisting of on-line data or software updates) supplied by the Supplier;
- **Project** is a set of all activities leading to the implementation of the work as per the Agreement;
- **Project Documentation** is a set of documents capturing the results of the individual phases of the creation of the



Application Software including the description of linkages to the settings of the Information System. It serves as documentation for the System Implementation and for taking over the Application Software for use and for the operation and use of the Application Software and for the Application Software Development. The Project Documentation includes the User Documentation and the underlying documentation for distribution. The Project Documentation includes also documents that reflect the structure of the Application Software from the point of view of its break-down into the individual Information Systems. If the supply of the Application Software includes Source Codes, the Project Documentation includes also the description of these Source Codes;

- **Protocol** is a proof of Consideration (delivery note, maintenance protocol, acceptance protocol, time sheet etc.), but it is not a confirmation of acceptance of the Consideration without Defects;
- **Handover Protocol** (a handover/acceptance report) are documents by the signing of which the Customer confirms the take-over of the Consideration from the Supplier supplied in accordance with the handover conditions specified in the Agreement;
- **Framework Order** means a written document entitled "Framework Order" and issued by the Customer which (i) is an offer of the relevant Agreement concerning the pre-defined subject matter of performance to be concluded for a definite period of time, (ii) sets out in particular the quantity, price, payment and delivery terms, and (iii) is delivered to the Supplier in writing or electronically as a scanned copy of the Framework Order signed by the Customer. The Framework Order is governed by the provisions of these GTC applicable to the Order (unless otherwise stipulated).
- **Framework Agreement** means a written agreement containing the Parties' expressions of will in one document accepted or concluded in the manner set out for the conclusion of the Agreement. The provisions of these GTC applicable to the Agreement shall apply accordingly to Framework Agreement (unless otherwise stipulated) with the difference that the Customer's duty to order any Consideration or the Supplier's duty to provide any Consideration is not

implied by the Framework Agreement alone. The individual rights and duties arise for both Parties only from the respective Agreement concluded on the basis of the Framework Agreement and in accordance therewith;

- **Application Software Development** means modification and additions to the Application Software exceeding in scope the subject matter of the Agreement and the functionalities of the Application Software as per the Project Documentation;
- **Routine Operation** means the launch of a fully functional Information System or a module thereof in all organisation segments on the basis of handover of the Consideration as per the Agreement to the Customer after the termination of the Test Operation and the signing of the Handover Protocol;
- **Problem / Accident Resolution** means a sequence of activities leading to the remedying of a Problem / Accident: 1. Identification of the Problem / Accident, 2. Identification of causes of the Problem / Accident, 3. Remedying the Problem / Accident, 4. Amendment of documents and operating procedures (the manner of use of the Application Software), 5. Signing the Handover Protocol or other document proving the completion of the above-stated activities by persons appointed by the Supplier and Customer;
- **Service** means the remedying of the Application Software Defects, the Supply of new versions of the Application Software for the purpose of improving its performance (Updates/Upgrades) or modifications required due to changes in legislation or error repairs;
- **Services** means activities provided by the Supplier and relating to the subject matter of the Agreement. These activities include mainly the Service, the Maintenance, software development per order, completing a work etc.;
- **Agreement** means (i) the Order or Framework Order of the Customer accepted by the Supplier in the manner set out in Part B, Section VI.6.3.a or VI.6.3.b and Part B, Section VI.6.4 of these GTC or (ii) other written agreement containing the Parties' expressions of will in a single document and concluded in the manner set out in Part B, Section VI.6.3.c of these GTC;



- **Parties** means jointly the Customer and the Supplier;
- **Software** means jointly the system software, the Application Software and software outside the scope of the Consideration to which the Customer purchases or otherwise acquires rights of use from the Supplier or from other suppliers or which are developed by the Supplier as per the Customer's specifications;
- **Maintenance** means activities carried out by the Supplier with the objective to ensure failure-free and uninterrupted operation of the (i) Information System in accordance with the Project Documentation and/or update of the Information System, and/or (ii) the Hardware;
- **Update** means the update of the Software Product due to a change in legislation (e.g. in order to secure compliance with the applicable legislation) or the correction of errors identified during its use, without enhancing the product functionality;
- **Upgrade** means a change in functionality, improving user comfort and extending, the scope of user functions, etc., of the Software Product, i.e. bringing its quality to a higher level;
- **User Documentation** means (i) a set of documents serving for controlling and using the functionalities of the Information System and/or its setting by the user, and (ii) in the case of documentation for the Hardware it means both instructions for use for users and detailed instructions for installation for technicians, always in Czech, unless otherwise provided;
- **Defect** is a deviation from the (i) Application Software Functionality declared in the Project Documentation and/or (ii) the agreed or standard functioning. A Defect may manifest as a Problem or Accident;
- **Material Defect** is a defect preventing more than one group of users of the Software or the Services from work and limiting the Customer's business activities (= the relevant functionalities of the Software or Services are not useable); Material Defect also means a defect preventing the operation of the Information System only for a certain variant of process or a report error. A Material Defect is deemed to include the slowing of the Information System's response in performing the respective functionalities by more than 30% as compared with the fault-free

condition. For assessing the response time of a particular functionality the fault-free condition shall be deemed to be the condition after the completion of the Hot Phase or the condition in the previous calendar month depending on the condition in which the response time of a particular functionality was faster (faster response time = fault-free condition). Material Defects result in downgrading the functionalities of the Information System to a degree limiting its regular operation;

- **Source Code (Source Programme)** means a programme as written by the programmer (the programmer's – author's intellectual activity);
- **Test Operation** means the operation of the Information System after the completion of the overall System Implementation in all identified organisational segments during which all functionalities of the product are verified; the Test Operation terminates when all the Defects and shortcomings identified in the course of the Test Operation are remedied.

## II. Services Provided by the Supplier

### 1. Scope of Consideration

- 1.The scope of Consideration follows from the concluded Agreement.
- 2.The Customer is not obligated to accept a partial Consideration under the Agreement from the Supplier.
- 3.Without the Customer's prior written consent the Supplier may not supply the Consideration in excess of the ordered scope of the Consideration

### 2. Location of supply/performance

Unless otherwise agreed upon in the Agreement, the location of performance is the Customer's registered office.

### 3. Date of Supply/Consideration

- 1.For the performance of the agreed Supply or for providing the Services the dates and periods agreed upon in the Agreement shall apply. The Customer is not obligated to accept any



Consideration before the agreed delivery period elapses.

#### **4. Proof of Consideration**

1. Each Supply completed or Service provided by the Supplier must be documented with a Protocol to be signed after the acceptance of the concerned Supply or Service on behalf of the Customer by the Customer's representative appointed by the Customer under the Agreement.
2. Irrespective of the binding norms, the Protocol must contain in particular:
  - identification of the Parties (business name, ID No., registered office),
  - location and date of performance,
  - identification of the Consideration as per the Agreement, and
  - number of the Customer's Agreement (Order) and serial numbers of the Hardware

#### **5. Transport costs**

1. The Consideration shall be supplied carriage free. In particular, the costs of transport, packaging, insurance and customs duty shall be paid by the Supplier. These costs form a part of the price of the Consideration.

#### **6. Risk of damage to goods or work to be completed**

1. The risk of damage to the Supply or work to be completed as a part of the provided Services passes from the Supplier to the Customer upon the acceptance of the completed work or the Supply by the Customer.

#### **7. Acquisition of ownership rights**

1. The Customer acquires an ownership right to the Supply or work completed as a part of the provided Services upon its acceptance.
2. If the subject matter of the Consideration provided as a part of the provided Services consists of the completion of the work which is an author work, the Supplier shall grant the Customer an exclusive licence for such a work without any entitlement to any further fee. The licence shall be granted for all known modes of use and without any time, territorial or quantitative limitation. The Customer shall be

authorised to grant a sub-licence or to assign the licence to any third party.

#### **8. Returning the Consideration**

1. The Supply or a work completed as part of the provided Services shall be returned at the Supplier's risk and expense. After handing over The Supply or work completed as a part of the provided Services to the first carrier for the Supplier the risk of damage to the Supply or a work completed as part of the provided Services passes onto the Supplier.

#### **9. Subcontracts**

1. The Supplier may appoint a third party to provide the Consideration or a part thereof only with the Customer's prior written consent. However, in providing the Consideration through a third party the Supplier is always fully liable as if the Supplier provided the services by itself.

#### **10. Restricted use of Hardware and Software**

1. For security reasons, in connection with the provision of its Services the Supplier may use its own Hardware and Software for or in the Customer's systems and in the Customer's networks only with the Customer's prior written consent.

#### **11. Price**

1. The Customer shall pay the price agreed upon in the Agreement. If the Customer is obligated to deduct a withholding tax from the Consideration in accordance with national legislation or international treaties on double taxation, the Customer may pay the Supplier the price agreed upon in the Agreement minus this tax. At the same time, the Customer shall pay the withholding tax to the competent tax administrator.
2. If the Supplier is a VAT payer, it shall be authorised to apply VAT in an amount pursuant to Act No. 235/2004 Coll., on Value Added Tax ("VAT Act"), in addition to the agreed price as at the date of taxable supply. If a reason exists for the rise of guarantee on the part of the Customer within the meaning of Section 109 of the VAT Act, in particular if the Supplier



specifies an account other than the published by the tax administrator the Customer shall be authorised to pay the amount of the prescribed VAT for the Supplier directly to the tax administrator's account in line with the procedure set out by Section 109a of the VAT Act. If the Customer pays the VAT in this manner for the Supplier, the Customer shall be obligated to pay the Supplier only the agreed price exclusive of VAT for the duly provided Consideration and to inform the Supplier accordingly without undue delay.

3. The Customer agrees to pay the price for the provided Consideration on the basis of a tax document which the Supplier is authorised to issue after the Customer accepts the Consideration which has been duly handed over. In the case of repeated Considerations or prices determined as a monthly fee, the Customer agrees to pay the agreed amount in arrears, always in the month following the month in which the Supplier supplied the respective Consideration to the Customer.
4. If the Parties agree so in writing, the Supplier may issue a tax document also after the Customer's acceptance of the Consideration with Unsubstantial Defects. In this connection, the Customer shall be authorised to suspend an amount of up to 50% of the agreed price as retention money until the Supplier remedies all the Defects with which the Customer accepted the Supply. The Customer shall pay the retention money within 15 Business Days of the day when the Parties execute and sign a report on the remedying of all the Defects. This shall be without prejudice to the Customer's claims arising from the Supplier's default on the Consideration.
5. If the price for the Consideration is determined on the basis of a budget, the Supplier guarantees the completeness of such a budget. The price is determined as the maximum permitted and unchangeable price. It covers all the Supplier's costs and risks associated with the preparation and provision of the Consideration.
6. The Supplier represents that it has acquired detailed knowledge of all the circumstances decisive for fulfilling the subject matter of the

Agreement and reflected them in the agreed price, in particular, that:

- the price is determined at a pricing level applicable at the date of the total handover of the Consideration and covers the expected trend in prices of input costs, the customs fee and all deteriorated conditions that can be expected during the implementation;
- the Supplier verified the clarity, scope and completeness of the documentation submitted by the Customer, clarified all ambiguities before the conclusion of the Agreement and is able to provide the Consideration;
- the price includes all work and supplies including any additional, auxiliary and supplementary work, overhead costs and equipment which form a part of the full and fault-free provision of the Consideration.

7. The Supplier assumes the risk of change in circumstances within the meaning of Section 1765 (2) and Section 2620 (2) of the Civil Code.

## **12. Issuance of tax documents**

1. After the completion of the Consideration, subject to the fulfilment of the conditions arising from these GTC and within the period defined by and in compliance with the relevant law the Supplier shall issue a tax document for the Customer for the payment of the price for the Consideration, or other accounting document if the Supplier is not a VAT payer, and to deliver this document to the Supplier's registered office.
2. The tax document must contain all the particulars prescribed in accordance the generally applicable legal regulations, in particular by the VAT Act, particulars prescribed for an accounting document; registration number of the Agreement to which it applies, the number of the purchase document stated in the Agreement or otherwise communicated to the Supplier and the number of the account to which the Customer's payment is to be credited.
3. For tax documents issued for the recurring Consideration (Service, Maintenance or other Services) assessed for a certain period, the Supplier shall clearly indicate the billing period.
4. If the tax document does not contain the prescribed or agreed particulars or if it was issued in conflict with the Agreement, the



Customer shall be authorised to return it to the Supplier before its due date for correction or additions. In this connection the Customer shall state the reason for returning the tax document. On the date when the tax document is returned the running of its maturity period shall be discontinued and a new maturity period shall commence on the date when the corrected tax document is delivered to the Customer from the Supplier.

5. The Supplier shall always attach a copy of a Protocol confirming the acceptance or provision of the Consideration by the Customer (the Handover Protocol, time sheet and a handover/acceptance report) to the tax document. In case of breach of this obligation the Customer shall not be obligated to pay the tax document until the Supplier fulfils this obligation.

### **13. Payment period with respect to the price**

1. The agreed price is payable within 60 calendar days of the day when the Customer receives a tax document duly issued in accordance with the Agreement. This is without prejudice to the Customer's claims following from Part B, Section II.11.4 (retention money) hereof.
2. The price shall be deemed paid on the date when it is debited from the Customer's account to the credit of the Supplier's account.
3. In the event of default in the payment of the price the Customer shall pay the Supplier a late payment interest in the amount of 0.1% from the overdue amount for each day of default. Retention of the retention money shall not be deemed a default on the payment of the purchase price.

### **14. No waiver of acknowledgement**

1. The payment of a tax documents shall not constitute a waiver of the rights arising from the delayed provision of the Consideration or acknowledgement that the Consideration was ordered or that the Consideration was free of Defects.

## **III. Securing the Consideration**

### **1. Insurance**

1. The Supplier agrees to maintain, for the duration of the Agreement and on the basis of written contract concluded with an insurance company, insurance of liability for damage caused by operational activities and defective products including insurance of financial damage (incurred from the operations/product), health injury, substantive and proprietary damage for an amount allowing to use this insurance for satisfying damage that the Customer may incur from the relevant Agreement.
2. The Supplier agrees to submit, at the Customer's request, a proof of the concerned insurance and its amount to the Customer within a period which must not be shorter than 5 Business Days.
3. The Supplier shall inform the Customer of any material changes or termination of the insurance policy without undue delay after such a change or termination of the insurance policy by means of a written notification delivered to the Customer's registered office.

### **2. Information and notification duty**

1. If the Supplier needs further information or documents for performing the Agreement, it shall immediately approach the Customer through its contact person specified in the Agreement with a written statement sent by post, fax or e-mail.
2. The Supplier agrees to inform the Customer also by means of a statement delivered to the Customer by mail, fax or e-mail on erroneous or logically incorrect information in the concept or other underlying materials relevant for the performance of this Agreement. An alternative solution needs to be immediately recorded in these cases. This shall apply also in cases where the information from the underlying documents important for the performance of the Agreement threatens the purpose of the Agreement.
3. If the Customer and the Supplier have agreed upon a certain schedule with respect to the provision of the Consideration, the Supplier shall provide the Customer with information on the progress of the respective Consideration





during the period until its handover to the Customer and on the fulfilment of the agreed schedule. The Supplier shall inform the Customer of any deviations within 3 days of their occurrence. At the Customer's request the Supplier shall prove to the Customer the achievement of a given milestone of the schedule.

### 3. Confidentiality duty

1. The Parties are aware that in the course of performance of the Agreement the Parties or their employees or subcontractors may gain access to the other Party's confidential information or that such information may be provided to them. The Parties agree to treat confidential information as a trade secret and, in particular, to keep it confidential and take all contractual and technical measures to prevent its abuse or disclosure. The Parties may disclose this information only to their employees who need to familiarise themselves with this information due to the performance or preparation of the performance of the subject matter of the Agreement, to their contractual partners and representatives to the extent necessary for the preparation of the performance and for the performance of the duties under the Agreement and to persons that directly or indirectly participate in the preparation and course of the proceedings concerning disputes that arise from the Agreement. The Parties agree that they will sufficiently inform the above persons about the confidential information and about the duty to keep this information confidential and that they will sufficiently secure the confidentiality of this information by contractual provisions. If a breach of this confidentiality duty is identified by one Party, the same Party shall immediately inform the other Party of this fact and both the Parties shall adopt appropriate measures in order to remedy the defective situation. Any and all confidential information shall remain the sole property of the disclosing Party. The Parties further agree not to use any confidential information pertaining to the other Party other than in connection with the performance of the Agreement.
2. Confidential information shall be understood to mean in particular information acquired by the Parties or their representatives in connection

with the Agreement, its performance and other negotiations with the other Party such as information on operating methods, procedures, working procedures, business or marketing plans, concepts, strategies or their parts, offers, contracts, agreements, understandings or other arrangements with third parties, information about financial results, about relationships with business partners and employment issues, even if such information does not constitute trade secret pursuant to the Civil Code and, know-how which means all findings of commercial, production, technical or economic nature which relate to the Party's activities, have actual or at least potential value and are not commonly accessible in the relevant business circles and are to be kept in confidentiality, and all data that become known to the Supplier in connection with the processing of the Customer's data ("**Confidential Information**").

3. This duty shall not apply to the provision of the Confidential Information for the purposes of entrepreneurial activity within a business group pursuant to the provision of Section 71 et seq. of Act 90/2012 Coll., on Corporations and Cooperatives (the Companies Act), as amended, and to the provision of the Confidential Information to legal, tax, financial or other third-party advisors with whom the Parties are obligated to agree upon similar conditions governing the confidentiality of the provided information. The Parties further agree not to use the provided Confidential Information in contradiction with its purpose for their own use.
4. Irrespective of the above, the following information shall not be regarded as the Confidential Information:
  - a) information whose provision or disclosure to a third party was approved in writing in advance by the disclosing Party;
  - b) information that the disclosing Party expressly designated as public;
  - c) information which entered the public domain without the receiving Party breaching intentionally or by omission the duties under the Agreement; and



d) information whose disclosure by the receiving Party is mandatory under Czech law.

5. The duty to treat the Confidential Information in accordance with this Section III.3 shall survive the entire term of the Agreement and the termination thereof until the Confidential Information becomes publicly known without the receiving Party breaching its duties under the Agreement.

6. In case the Supplier breaches its duty concerning the treatment of the Confidential Information, the Customer shall be entitled to a contractual penalty in the amount of CZK 1,000,000 (in words: one million Czech crowns) for each individual breach. This penalty shall have no effect on the Customer's right for compensation for the incurred damage

#### **4. Termination of the Agreement**

1. Either Party may terminate Agreements concluded for an indefinite period without stating a reason by a written notice of termination delivered to the other Party. Either Party may terminate Agreements concluded for a definite period exceeding one year without stating a reason by a written notice of termination delivered to the other Party.

2. The notice period is 3 months and commences on the first day of the month following the month in which it was delivered to the other Party.

3. The termination shall become legally effective upon the expiry of the notice period.

#### **5. Withdrawal from the Agreement**

1. Both the Supplier and the Customer are authorised to withdraw from the Agreement for reasons stipulated by the law governing the respective type of contract within which the Agreement falls.

2. In addition to the reasons stipulated by the law both the Supplier and the Customer are authorised to withdraw from the Agreement if:

a) a decision on winding up the other Party with liquidation and without a legal successor is issued,

b) an insolvency petition is petition is filed or insolvency proceedings were commenced against the other Party

c) execution proceedings are declared against the other Party's assets,

3. The Customer shall be authorised to withdraw from the Agreement if:

a) the Supplier has repeatedly failed to fulfil the information duties set out in Part B, Section III.2.3 of these GTC,

b) the Supplier defaults on the provision of the Consideration or on the provision of the Consideration on an ongoing basis (or if the Supplier defaults on proving the on-going provision of the Consideration) if a production plan or other schedule as per Part B, Section III.2.3 of these GTC, for a period exceeding 15 days.

In these cases of withdrawal the Agreement shall always be cancelled from inception.

4. The Supplier shall be further authorised to withdraw from the Agreement, if the Customer defaults on the payment of the agreed price for a period of over 30 days despite a written notice delivered to the Customer by the Supplier.

5. Withdrawal from the Agreement within the meaning of Part B, Sections III.5.1 through III.5.4 shall be notified by the Party which withdraws from the Agreement to the other Party in writing. The notice shall be delivered to the other Party at its registered office or at a different address specified in the Agreement. The withdrawal becomes legally effective upon the delivery of the notice of withdrawal to the other Party.

#### **IV. Default on the Consideration of an Obligation**



## 1. Supplier's default

- 1.If the Supplier defaults on the performance of the Agreement, it shall pay the Customer a contractual penalty in the amount of 0.1% of the agreed price for each commenced day of default. If the Supplier defaults on any partial Consideration for which a period of Consideration was agreed, it shall pay the Customer a contractual penalty in the amount of 0.5% of the agreed price of the partial Consideration for each commenced day of default.
- 2.The Supplier shall pay all contractual penalties to the Customer within 15 days of the date when the Customer requests the Supplier to do so; these penalties shall be paid by wire transfer to the credit of the Customer's account specified in the Agreement.
- 3.The provision concerning the contractual penalty shall have no effect on the Customer's right for compensation for damage incurred as a consequence of the default. The same applies to all other contractual and statutory rights which belong to the Customer in the case of default.

## 2. Liability for defects

- 1.The Supplier shall be liable for Defects in the supplied Consideration in accordance with the relevant Czech statutory provisions governing the respective type of agreement, unless the nature of the matter implies otherwise.
- 2.Unless the Supplier is released from liability, it shall remedy the identified Defect at its own expense.
- 3.The Supplier agrees to commence work to remedy the Defects concerning the Information System within periods (Response Time) as per the following classification of Defects:
  - a) The Response Time for a Critical Defect is 1 hour. The Resolution Time for a Critical Defect is 2 hours;
  - b) The Response Time for a Material Defect is 2 hours. The Resolution Time for a Material Defect is 4 hours; and

- c) The Response Time for an Unsubstantial Defect is 1 Business Day. The Resolution Time for a Unsubstantial Defect is 5 Business Days;

- 4.If an unrepairable defect is identified which constitutes a material breach of the Agreement, the Customer shall be authorised to withdraw from the Agreement subject to the fulfilment of the conditions set out in Part B, Section III.5 of these GTC.
- 5.If it is impossible to remedy the Defect immediately for objective reasons, the Supplier shall provide/implement an Alternative Solution acceptable for the Customer during the respective Resolution Time.
- 6.The Customer shall be authorised to assert a claim for the remedying of the Defect no later than 5 Business Days from the moment when the Customer identified the Defect.

## V. Legal succession / transfer of rights and duties arising from the Agreement

- 1.The Customer shall be authorised at any time to transfer its rights and duties arising from the Agreement to a third party ("assignment of rights and duties"). The Assignment of rights and duties becomes legally effective vis-à-vis the Supplier at the latest when the Customer notifies the Supplier in writing of the transfer of rights and duties arising from the Agreement.
- 2.The Supplier shall be authorised to transfer or assign its rights and duties arising from the Agreement to a third party ("assignment of rights and duties"). only with the Customer's prior written consent.

## VI. General provisions

### 1. NET4GAS' Code of Ethics

- 1.While performing the Agreement the Supplier shall comply with all statutory provisions and binding general legal regulations and NET4GAS' Code of Ethics which is freely accessible on the Customer's website.



## 2. Foreign labour

1.If for the purposes of providing the Consideration under the Agreement, the Supplier sends a national of any of the EEA countries or Switzerland to the Customer, the Supplier shall inform the Customer accordingly no later than 7 Business Days before the concerned worker starts working at the Customer and to produce, at the same time, the following: the concerned worker's identification details, address in the country of his/her permanent residence, proof of the highest education completed, place of work, type of work, position by relevant type of economic activity, proof of education required for the relevant profession and information about whether in this case this is the first work assignment of the concerned worker in the Czech Republic.

2.If for the purposes of providing the Consideration under the Agreement, the Supplier sends a national of a country other than a EEA country or Switzerland to the Customer, the Supplier shall present the Customer, in addition to the information and documents mentioned in the previous paragraph, with a proof of the Supplier's (employer's) authorisation for carrying on business in the country of its origin. In such an event the Supplier shall fulfil the duty set out in this paragraph and in the previous paragraph no later than 40 days before the expected commencement of work of the concerned worker.

3.If foreign labour is used for the Consideration under the Agreement by the Supplier having its registered office in the Czech Republic, the Supplier shall produce, on the date when the concerned worker commences to work at the latest, an affidavit confirming that the Supplier complies with all statutory requirements for the employment of foreign nationals.

## 3. Work health and safety

1.In pursuing its business the Supplier shall adhere to the "Terms and Conditions for the Provision of the Work Health Safety (WHS), Environmental Protection (EP), Fire Protection (FP) and Security – physical security" issued by the Customer in line with Section 1751 of the

Civil Code, which are publicly accessible on the Customer's website.

## 4. Choice of law

1.Legal relationships arising from the Agreement, which are not directly set out in the Agreement, shall be governed by Czech law. The Parties also agree to interpret the rights and duties arising from the Agreement in accordance with Czech law.

2.The Parties hereby exclude the application of Section 557 (*contra proferentem* principle), Section 1793 (1) (gross disparity – *laesio enormis*), Sections 1799 and 1800 (adhesion contracts) of the Civil Code.

## 5. Governing law and jurisdiction

1.Legal relationships arising from the Agreement shall be governed by Czech law and by these GTC.

2.In case of any conflict between the Agreement and these GTC the Agreement shall prevail.

3.The Parties agree to resolve any disputes arising from the Agreement first by attempting to reach an agreement at the level of their executive bodies and, if this is not possible, in accordance with the relevant provisions of Czech legal regulations.

4.The court competent for any and all disputes arising from the Agreement between the Supplier and the Customer shall be the Customer's general court or, in the case of the Customer's legal successor or a person to which the Customer's rights and duties arising from the Agreement were transferred a general court of this person unless the Parties agree in writing that the dispute shall be resolved at a court of arbitration.

## 6. Form of legal acts, change and termination of the Agreement

1.If these GTC require the written form for a certain legal act, then the written form shall include also e-mail provided that the e-mail is sent to the address of a responsible person on the part of the relevant Party. The previous sentence shall not apply (i) if these GTC



expressly provide otherwise, (ii) to all provisions or acts concerning termination of or withdrawal from the Agreement in accordance with the GTC and (iii) to concluding the Agreements in a manner other than in the form of the Order. In the case of Agreements concluded in a manner other than by accepting the Order the legal acts must be in hard copy form containing the signatures of both Parties.

2. The contractual relationship is concluded for an indefinite period unless the Agreement stipulates otherwise or unless the subject matter of the Consideration implies that the Agreement is concluded for a definite period.
3. Unless otherwise provided, the Agreement shall come into force and effect on the date when:
  - a) the Order being accepted (confirmed) in writing by the Supplier is delivered to the Customer,
  - b) on the basis of the Order and within the period set out in the Order the Supplier supplies the goods to the Customer or starts providing other Consideration specified in the Order; or
  - c) it is signed in hard copy form containing the signatures of both Parties.

Should multiple circumstances of those set out under items (a) through (c) of this paragraph occur, the Agreement shall be deemed concluded upon that of these circumstance which occurs earlier.

4. If the Order is sent to the Supplier by e-mail, the Supplier may accept the Order only in such a manner that a person authorised to represent the Supplier signs the printed Order and a scanned copy of so signed Order is sent to the Customer by e-mail to an address specified in the Order as the address of the person who placed the Order.
5. Any changes to the offer of the Agreement (Order) made by the other Party constitute a new offer of the Agreement. The acceptance of the offer of the Agreement (Order) which includes a reference to any general terms and conditions different from these GTC is deemed to be a new offer of the Agreement.

6. The Agreement may be altered only by written numbered amendments. The provision concerning the manner in which the Agreement is concluded shall apply accordingly to the conclusion of amendments. The same applies to changes to the GTC associated with an existing Agreement.

7. In case of non-acceptance of the Customer's Order by the Supplier and the Supplier's failure to supply the Consideration within the period set out in the Order the Supplier shall be deemed not to have accepted the Order (the Customer and the Supplier have not concluded the Agreement).

8. The Customer shall be authorised to withdraw the Order provided that the withdrawal will be delivered to the Supplier at same time as the Order at the latest.

9. The contractual relationship shall cease to exist upon expiry of the period for which it was agreed, by notice of termination, by withdrawal from the Agreement, by agreement between the Parties on the date set out in such an agreement, by death of an individual or dissolution of a legal entity without a legal successor.

10. The fact that the Agreement has been terminated does not release the Parties from their liability for the payment of contractual penalties or compensation for damage incurred during the term of the Agreement.

11. The termination of one Agreement shall not automatically entail the termination of other Agreements concluded between the Parties.

## **VII. Joint, transitional and final provisions**

1. These GTC enter into force on 1 April 2014 and fully supersede all previously applicable GTC issued for the Customer for the provision of the Consideration.

2. All legal relationships established between the Supplier and the Customer before the effective date of these GTC shall continue in force.



These legal relationships shall continue to be governed by the terms and conditions valid before the conclusion of the Agreement.



## **C. Special Provisions on Software Licences**

### **I. Grant of authorisation to exercise a right**

1. Provision of an authorisation for exercising the right to use the Software (a licence) includes the provision of the Customer's non-exclusive and irrevocable right to use the Software which exists for the duration of the author's proprietary rights to the Software, in particular the right for its copying, distribution and the right to lease an original or copy.

### **II. Copies and transferability**

1. Copies of the Software may be made in particular for installation or for the purposes of archiving. Copies of the relevant documentation may be made without any limitation. The Customer may not provide in full or in part the authorisation which forms a part of the licence to a third party (a sub-licence) without the Supplier's prior written consent.

### **III. No data transfer**

1. Without prior written consent the Software supplied to or developed for the Customer may not automatically transfer data to the Supplier or other third parties.

### **IV. Open Source Software**

1. If the Software to which the Customer holds a licence for full or partial use includes an Open Source Software, the Supplier shall be obligated to point out this fact in the Agreement. Should the Supplier fail to fulfil this obligation, the Customer shall be authorised to withdraw from the Agreement under which it acquired an authorisation to exercise the right to use the Software with a written notice of termination delivered to the Supplier with legal effect as at the date of conclusion of the Agreement, if the Customer does not specify a later effective date.



## **D. Special Provisions on the Supply of Standard Software**

### **I. Purchase of the Software**

1. The Supplier's making of the Software accessible to the Customer in the material form, i.e. disposing or otherwise transferring the ownership right to the original or copy of the work always includes the transfer of the ownership right to the carrier (on which the Software is uploaded) and to the documentation to the Customer and the provision of authorisation for the Customer to exercise the right to use the Software.

### **II. De-compilation**

1. Reverse transfer of a transferred runnable programme code to other code forms (de-compilation) and reverse opening of different stages of the Software production (reverse engineering) is permitted only for reasons defined in the cases of issuance of the Source Code set out in Part D, Section IV or if this serves the creation of interoperability or other purposes that are legitimate under the law.

### **III. Changes to Software**

1. Cancelling measures for the protection against copying or other similar access protection mechanisms is permitted only for reasons defined in the cases of issuance of the Source Code set out in Part D, Section IV.

### **IV. Source Code deposition**

1. The Source Codes of programmes do not form a standard part of the Supply of a Software version (application). As per the Supplier's concept Source Codes pose a separate product whose price is derived from an amount equal to ten times the price of the licences of the supplied Software work. However, the Supplier and the Customer agreed on the provision of Source Codes which may be used by the Customer in cases defined in Part D, Section IV.2. The Supplier and the Customer agree upon the following mode for handing over the Source Codes and for handling the Source Codes by the Customer:

- a) The Customer shall provide the Supplier with its dedicated computer(s) (such as client PC(s), persistent cache, production or other server) necessary for the transfer of the Source Codes and appoint a person responsible for conducting the acceptance of the Source Codes (see the procedure specified below).
  - b) The Supplier shall install all Source Codes of the application(s) in the relevant configuration and any other necessary software and transfer to the Customer a compilation of all the parts of the application(s) (such as build image, image initialisation). The Customer shall be authorised to test the compiled parts.
  - c) The Supplier shall make copies of the Source Codes and the compiled parts on carriers (DVD/CD ROM) and subsequently the Supplier shall delete all the original Source Codes and compiled parts on the designated computer(s).
  - d) A responsible person on the part of the Customer shall install the compiled parts on the respective carriers (DVD/CD ROM) and check the functionality of the application(s).
  - e) After the Customer thoroughly tested the functionality/functionality the Supplier shall delete the Source Codes and the compiled parts from the designated computer(s).
  - f) The Supplier shall ensure that the boxes with carriers (DVD/CD ROM) are sealed in a proven manner and the Customer shall ensure their appropriate storage at an agreed place. The Supplier shall receive one copy of these carriers.
  - g) This procedure shall be repeated for every Update/Upgrade of the respective Software (however, it shall not apply for the installation and Supply of patches – in this case all these steps shall be taken by the Customer at the Customer's own expense).
  - h) This procedure shall be repeated at least twice a year, unless otherwise prescribed.
2. The Customer shall be authorised to use the Source Codes when necessary if





- a) a decision on winding up the Supplier with liquidation and without a legal successor is issued;
- b) insolvency proceedings are commenced against the Supplier's assets; and
- c) bankruptcy is declared with respect to the Supplier's assets.

3. In other cases the Customer shall promptly inform the Supplier of the necessity to dispose with the Source Code without undue delay.

4. The Customer may dispose with the Source Code only in necessity if the Supplier cannot ensure the same for the Customer.

#### **V. Warranty**

1. The Supplier warrants to the Customer that the supplied Software has and will retain, at least for the warranty period, the functional properties specified in the documentation and in the Agreement and otherwise its standard properties and that the Software is not encumbered with any copyright or other third-party industrial or intellectual property rights which would limit the Customer's and/or other party's right to use the Software in accordance with the Agreement. A failure to comply with these conditions shall be deemed to constitute a Defect of the Software.

2. The warranty period is 12 months.

3. The Supplier shall remedy legal and substantive Defects claimed during the warranty period at its own expense.

4. In the case of substantive Defects the Supplier shall remedy the Defects as per the claim asserted by the Customer; the Customer may:

- a) seek the remedying of the Defects by providing alternative Consideration for the defective Consideration, seek the provision of missing parts of the Consideration and seek the remedying of the Defect, or
- b) seek the remedying of the Defects at the location of Consideration (or, as the case may be, at the location of the System Implementation), if the Defects are remediable, or

- c) seek an appropriate discount on the fee (price), or
- d) in the case of irremediable Defect, withdraw from the Agreement upon the fulfilment of the conditions set out by these GTC for the withdrawal from the Agreement.

5. The Supplier shall remedy legal Defects for which the Supplier is liable irrespective of fault either by additionally securing the necessary rights or by replacing parts of the Software encumbered with third-party rights and/or by a complete replacement of the Software from the technical, functional and ergonomic perspective with a Software being at least equal to the Software and free of any legal or other Defects.

#### **VI. Running of the warranty period**

1. The warranty period shall commence on the day when the following conditions are fulfilled:

- e) the Software and the documentation have been handed over;
- f) the Customer's employees or persons appointed by the Customer have been trained; and
- g) the trial period of 1 (one) month from the handover of the Software has elapsed provided that during this period all the detected Defects and shortcomings have been remedied, otherwise on the day when this conditions is fulfilled. This period shall be used for verifying the functionality of the developed software for completing the overall System Implementation.



## **E. Creating the Software as a work per order**

### **I. Scope of Consideration**

- 1.If other provisions, in particular a special agreement on the Project, do not provide otherwise, the completion of the Project shall include the implementation of the overall solution on the basis of a permanent relationship in a manner securing that the solution functions as agreed. The overall solution may be implemented either by implementing a new Software or by making a substantial modification of the existing Software solution.
- 2.If the subject matter the Agreement is the Supplier's obligation to develop an individual piece of Software for the Customer per order, the Parties agree to define a specific subject matter of the Agreement (Consideration), unless it is specified in the Agreement, in the form of specification of the Software to be developed, e.g. technical specifications which will become an inseparable part of the Agreement. The Supplier shall inform the Customer in an extensive and exhaustive manner about all aspects relevant for the Project, in particular about technical problems involved in the implementation of the chosen solution and about the possible alternative solutions. Unless otherwise provided, the Supplier shall be obligated to follow the Customer's instructions, in particular the Customer's Project management and Software development methodology.
- 3.A Software that is not a collective work and that has been developed by the Supplier as its author (individual) for the Customer per order shall be regarded as an employee work and the Customer shall exercise in its name and on its account the author's proprietary rights to the work created by the author. In such a case the Customer shall be regarded as an employer.
- 4.In the connection with the exercise of proprietary rights to the Software that the Supplier exercises as the author's employer the Supplier shall be deemed to have informed the author of this fact in a proven manner and to have ensured that the author consented to the publication, alterations, and processing including translation, combination with other

work or inclusion of the work in a collection works and to presenting the work under the Supplier's name.

- 5.In connection with the rights set out in Part E Section I.4 the author shall be deemed to have granted the Supplier its consent to the completion of its intangible employee work in case of the default in creating the employee work despite the request for additional Consideration or if the author's obligation to complete the work ceases to exist by the author's death or due to impossibility to provide the Consideration.
- 6.In case of the Supplier's failure to fulfil the obligations within the meaning of E (I) (4) and (5), the Work is deemed to have Defects.

### **II. Payment conditions**

- 1.The Customer shall pay the agreed price to the Supplier on the basis of a tax document which may be issued by the Supplier after the acceptance of the Software settings (acceptance of the work) by the Customer no earlier than upon the expiry of 4 weeks of the Routine Operation without any Defects.

### **III. Warranty**

- 1.The Supplier provides the Customer a warranty that the Project will possess all mandatory particulars or particulars that are usual for its preparation and a warranty irrespective of fault that the Supplier has the rights necessary for performing the Agreement, in particular rights to the Software and its Source Code and to the prepared documentation and other underlying documents and that the Supplier is authorised to transfer these rights to the Customer and/or other persons. A failure to comply with these conditions shall be deemed to constitute a Defect.

### **IV. Handover**

- 1.The Supplier shall request the Customer to hand over the work or a part thereof at least 5 Business Days in advance.
- 2.The handover of the work shall take place on the basis of the acceptance of the created work by the Customer. The handover shall be



conducted on the basis of a protocol. The acceptance of the work must be confirmed by the Parties by signing the Handover Protocol.

3. The Supplier shall be authorised to hand over the work to the Customer and the Customer shall be obligated to accept the work no earlier than after the due completion of the work, i.e. after the completion of all activities the form the subject matter of the Agreement. If the subject matter of the Agreement includes developing the Software per order the Supplier shall hand over the work to the Customer after the fault-free completion of the Hot Phase.
4. If the subject matter of the Agreement includes developing of the Software as a work per order, the Supplier shall handover to the Customer a reproducibly documented Source Code even by third parties including the User Documentation in Czech and a special list of auxiliary programmes used for developing the Software as well as programme libraries.

## V. Warranty

1. The warranty period shall be 12 months and commences on the date when the Customer accepts the work.
2. The Supplier shall remedy legal and substantive Defects claimed during the warranty period at the Supplier's own expense.
3. The Supplier shall remedy legal Defects for which the Supplier is liable irrespective of fault either by additionally securing the necessary rights or by replacing parts of the Software encumbered with third-party rights and/or by a complete replacement of the Software from the technical, functional and ergonomic perspective with a Software being at least equal to the Software and free of any legal or other Defects.

## VI. Termination

1. The Customer shall be authorised to terminate the Agreement whose subject matter is the creation of the Software by a written notice of termination delivered to the Supplier.
2. The notice of termination shall become legally effective upon its delivery to the Supplier. In this

connection the Customer shall pay the Supplier all the purposeful necessary proven costs that the Supplier incurred in completing the Project (or a part thereof) at the termination of the Agreement provided that the Supplier submitted a part of the Project being in progress (or a part thereof).

3. The Customer agrees to pay the purposeful, necessary and proven costs that the Supplier incurred in implementing the Project (or a part thereof) after the delivery of a tax document issued by the Supplier, within a period prescribed for the payment of tax documents.

## VII. Source Code deposition

1. The Supply of a Software version (application) always includes the Source Codes of the programme. The Supplier and the Customer agree upon the following mode for handing over the Source Codes and for handling the Source Codes by the Customer:
  - a) The Customer shall provide the Supplier with its dedicated computer(s) (such as client PC(s), persistent cache, production or other server) necessary for the transfer of the Source Codes and appoint a person responsible for conducting the acceptance of the Source Codes.
  - b) The Supplier shall install all Source Codes of the application(s) in the relevant configuration and any other necessary software and transfer to the Customer a compilation of all the parts of the application(s) (such as build image, image initialisation). The Customer shall be authorised to test the compiled parts.
  - c) The Supplier shall make copies of the Source Codes and the compiled parts on carriers (DVD/CD ROM) and subsequently the Supplier shall delete all the original Source Codes and compiled parts from the designated computer(s).
  - d) A responsible person on the part of the Customer shall install the compiled parts on the respective carriers (DVD/CD ROM) and check the functionality of the application(s).



- e) After the Customer thoroughly tested the functionality/functionality, the Supplier shall delete the Source Codes and the compiled parts from the designated computer(s).
- f) The Customer shall ensure that the boxes with carriers (DVD/CD ROM) are sealed and stored in its registered office. The Supplier shall receive one copy of these carriers.
- g) This procedure shall be repeated for every Update/Upgrade of the respective Software (however, it shall not apply for the installation and Supply of patches – in this case all these steps shall be taken by the Customer at the Customer's own expense).
- h) This procedure shall be repeated at least twice a year, unless otherwise prescribed.
- b) 25% for the impossibility to upload an old Software version (from a backup) during an Update/Upgrade;
- c) 15% for an interference with the production version of the Software without the Customer's approval;
- d) 5% for each commenced calendar day of default in handing over the Source Codes; and
- e) 5% for each commenced calendar day of default in handing over the Project Documentation.

2. The Customer shall be authorised to use the Source Codes when necessary, if

- a) a decision on winding up the Supplier with liquidation and without a legal successor is issued;
- b) insolvency proceedings are commenced against the Supplier's assets; and
- c) bankruptcy is declared with respect to the Supplier's assets.

In other cases the Customer shall promptly inform the Supplier of the necessity to dispose with the Source Code without undue delay.

3. The Customer may dispose with the Source Code only in necessity if the Supplier cannot ensure this for the Customer.

## VIII. Penalties

1. If any of the following circumstances occurs, the Customer shall be entitled to the payment of the following contractual penalties:

- a) 1% for each day of default in handing over of the Software version for life operation or with the handover of a part of the Software version for which a sub-deadline for the Consideration has been agreed;



## **F. Special Provisions for the Supply of Hardware**

### **I. Scope of Consideration**

1. Without prejudice to other separately agreed duties, the Consideration provided by the Supplier shall include at least the Supply, installation, configuration and/or modification of the Hardware components and the training for the Customer's employees or other workers determined by the Customer. The Supplier shall supply the Customer solely with new Hardware or its individual components (i.e. no refurbished Hardware), unless previously specifically agreed otherwise in writing between the Parties. The Hardware must meet the specifications following from the Czech legislation. Unless otherwise agreed upon the Hardware must be further suitable in particular for the purpose pursued by the Agreement and if such a purpose is not evident than for the usual purpose.

### **II. Functionality test**

1. The installation and configuration of the Hardware and the training of the Customer's employees shall be followed by a test of the Hardware functionality to be conducted for a period of one month from the date when the Supplier notifies the Customer of the unlimited functionality of the supplied, installed and configured Hardware.

### **III. Acceptance**

1. The Parties shall confirm the acceptance of the Hardware by the Customer after the successful completion of the functionality test by signing the Handover Protocol.

### **IV. Penalties for default**

1. If the Supplier defaults on the Supply, the Customer shall be authorised, in addition to the above statutory and agreed requirements (contractual penalties), to request a contractual penalty of 10% from the price of the Supply and the Supplier shall pay the Customer this contractual penalty. If a fixed-date transaction is agreed between the Parties, the Customer may request a contractual penalty of 25% from the price of the Supply, in addition to the claims arising under these GTC and from the law.

## **V. Warranty**

1. The Supplier grants the Customer a warranty for the quality of the Supply including the supply of spare parts and the provision of Services related to the performance of the warranty. The warranty period shall be 2 (in words: two) years from the date when Customer accepts the Supply. In case of doubts the Customer shall be deemed to have accepted the Supply on the date stated in the Protocol.
2. The Supplier shall remedy the Defects in the Supply either by repair or by providing a new Supply (or a part thereof, as the case may be) within 30 days of the date when the Defect in the Supply was notified to the Supplier at the latest. However, the repair is conditional on the provision of backup equipment to the Customer at the Supplier's expense. If the Supplier fails to remedy the Defects in the Supply within the above period, the Customer shall be authorised to assert its claims arising from the Defects also by withdrawing from the Agreement or by seeking a discount on the purchase price and/or damages.



## **G. Special Provisions for the Support and Hardware & Software Maintenance**

### **I. Scope of Consideration**

1. Unless the Agreement provides otherwise, in case of doubts the following requirements for the minimum Services to be provided by the Supplier shall be deemed to be covered by the lump-sum Maintenance fees:

- a) Hardware Maintenance: The Hardware Maintenance includes regular preventive Maintenance and the putting in the original condition in the event of any Defects and failures in functionalities, and telephone assistance. This is supported by a suitable remote diagnostic system which identifies and analyses the condition of the systems on a periodical and case-to-case basis;
- b) Software Maintenance: The Software maintenance includes the individual remedying of the Software Defects and the Supply of Updates. The Supply shall always be carried out by handing over the respective Update or Upgrade (if the Supplier is obligated to supply the Upgrade) on a data carrier or online and include the installation and configuration of the respective Software for the relevant systems documented with extensive protocols, unless otherwise provided. For each new or updated version of the Software the Supplier shall always provide the Customer at least with the same rights as are those that were available for the previous version; and
- c) Support Services: In addition, the Hardware Maintenance and Software Maintenance includes extensive support Services for users and administrators available immediately on demand by phone, in particular through a hot-line operated by the Supplier's professionally qualified staff members who are able to communicate in the respective Customer's language and available during standard Working Hours (7.00 a.m.– 5.00 p.m.).

### **II. Response Time**

1. For Critical Defects, 1 hour is considered to be adequate Response Time, for Material Defects, the adequate Response Time is three hours and for Unsubstantial Defects, the adequate Response Time shall be 24 hours unless otherwise provided.

### **III. Warranty**

A warranty period of 12 months shall apply for the Services provided as a part of the Maintenance. If the provided Service is defective, the Supplier may attempt to provide additional Consideration. If the attempt to provide additional Consideration is not successful, the Customer may decide, at its own discretion, whether it will use its other statutory rights, in particular its rights to withdraw from the Agreement or its right to seek a discount on the price and/or damages.

### **IV. Penalties**

1. In a situation where one of the below cases occurs, the Customer shall be entitled to the payment of the following contractual penalties and the Supplier agrees to pay these penalties:
  - a) 1% for each commenced hour of default after the expiry of the Response Time defined in Part G, Section II with respect to Substantial Defects;
  - b) 1% for each commenced day of default after the expiry of the Response Time defined in Part G, Section II with respect to Unsubstantial Defects;
  - c) 25% for the impossibility to upload the old version of the Software (from a backup) during Updates/Upgrades; and
  - d) 15% for tampering with the productive version of the Software without the Customer's consent.



## H. Special Provisions on Consultancy

### I. Scope of Consideration

1. Unless a special agreement provides otherwise, the following scope of Consideration is applicable for the Consultancy:

- a) Permanent Consultancy: Permanent consultancy for individual queries in dealing with the IT systems in use is focused on the provision and integration of professional know-how; and
- b) Project-related Consultancy: Project-related Consultancy focuses on the specific preparation of the individual projects implemented for the Customer by third parties and includes in particular the preparation of a planning sheet with a work schedule. In addition to other special requirements, this service includes at least the representation of the assumed processes, analysis of the actual situation, requirement profiles and formulation of rough and exact technical concepts.

2. The Customer may terminate the Agreement at any time in the manner set out in these GTC. In this case the notice period shall be 1 month and it shall commence on the first day of the month following the delivery of the notice of termination.

### II. Warranty

1. During the 12-month warranty period the granted warranty covers substantive and legal Defects.
2. In the case of Consultancy pursuant to Part H, Section I.1.b the Defects shall be remedied by a one-off repair; a failure to do so entitles the Customer to assert claims prescribed in the Civil Code for contracts for work.

### III. Penalties

1. In addition to the above statutory and agreed claims (contractual penalties), in case of the Supplier's default with the Supply of the Service specified in Part H, Section I.1.b, the Customer may seek a contractual penalty in the amount of

0.5% from the price of the concerned contractual Consideration for each commenced day of the default.

2. In the case of permanent consultancy a contractual penalty in the amount of 10% of the overall amount of the Consideration shall be payable.

Prague, 1 April 2014