

General Terms and Conditions for Software (Subscription, on-premises)

1. Scope

- 1.1 These General Terms and Conditions (hereinafter referred to as "GTC") shall apply to all License Agreements between Nihon Kohden (hereinafter referred to as "NK") and the contracting party (hereinafter referred to as the "Customer"), collectively referred to as the "Parties", insofar as they concern the provision of Software as a Subscription License and the Software is operated by the Customer themselves in their own IT Infrastructure under the on-premises model.
- 1.2 NK is entitled to amend these GTC during the term of a License Agreement with future effect. NK shall notify the Customer of any changes in writing at least six (6) weeks prior to their entry into force. The Customer may object to the amendments in writing within four (4) weeks of receiving the notification; in this case, NK is entitled to terminate the Agreement at the time the amended GTC come into effect.
- 1.3 The Customer's terms and conditions shall not apply, even if NK does not expressly object to their validity in individual cases. The Customer's terms and conditions shall only apply if NK expressly accepts them on a case-by-case basis.
- 1.4 The contract between the Parties comprises the following documents, which, in the event of any conflict, shall take precedence in the following order:
 - 1.4.1. License Agreement;
 - 1.4.2. Annexes to the License Agreement;
 - 1.4.3. these Terms and Conditions.

2. Definitions

- 2.1 Software refers to all programs in machine-readable form. The term "Software" does not include content or data that is processed by the software.
- 2.2 License Agreement refers to the contractual agreement between NK and the Customer regarding the specific obligations and rights of both parties. The License Agreement shall be concluded through offer and acceptance.
- 2.3 Manufacturer refers to the legal entity that developed the Software.
- 2.4 Subscription license refers to the granting of a temporary right to the Customer, i.e. limited to the term of the License Agreement, to use the Software in the contractually agreed version, in accordance with the terms of the lease.
- 2.5 On-premises model refers to a licensing model in which the Customer operates the Software independently of NK on their own IT Infrastructure.
- 2.6 Software Update refers to Updates to the Software, which may include security updates, patches, bug fixes or upgrades.
- 2.7 Patch or bug fix refers to Software Updates designed to correct defects in the Software.
- 2.8 Upgrade refers to Software Updates that include new features, improved usability or enhanced integration capabilities. They go beyond patches and bug fixes and may include, for example, additional modules, new interfaces, optimised workflows or user interface improvements.

- 2.9 Object code refers to the machine-readable, executable form of the Software, which is generated by compiling the source code and can be executed directly by a computer.
- 2.10 Source code refers to the human-readable form of the Software written in a programming language, which serves as the basis for creating the object code.
- 2.11 IT Infrastructure refers to all technical infrastructure provided and operated by the Customer, including hardware (servers, storage systems, network components, etc.), operating systems, databases and other system components on which the Software is installed and operated.
- 2.12 Intended use (of the Software) refers to the use of the Software exclusively for the purpose described in the user manual and in the manner specified in the documentation, in compliance with the technical requirements and contractual agreements.
- 2.13 Confidential information means any information that (1) is expressly marked or designated by a party as confidential or secret, or labelled as confidential in some other way; (2) is clearly intended to be treated as confidential under the circumstances; or (3) is protected by statutory confidentiality provisions.

3. Provision and use of the Software; copyright and usage rights

- 3.1 NK shall provide the Customer with the Software in object code, in the scope and version agreed upon in the License Agreement, for use by the Customer for their own internal business purposes for a fee. The specific features, functionality and intended purpose of the Software are set forth in the user manual.
- 3.2 NK reserves the right to engage third parties to provide their services.
The Customer shall acquire the Software as a subscription license. This subscription license entitles the Customer to use the contractually agreed version of the Software for the duration of the License Agreement. Software Updates are not automatically included in the subscription license and can be contractually agreed upon separately by the Customer if desired.
- 3.3 The Software shall be subject to the Manufacturer's copyright. All rights to the Software, documentation and other materials provided by NK shall remain exclusively with NK or their licensors. The Customer shall only be granted the rights of use expressly stipulated in the License Agreement and these GTC. The Customer shall not acquire any rights whatsoever to the Software's source code. All rights not expressly granted shall remain with NK.
- 3.4 The Software may only be used for the intended purpose described in the user manual. Any use of the Software beyond this scope is not covered by the license. The Customer is not permitted to use the Software for any purpose or in any manner other than that outlined in the user manual.
- 3.5 The Software may only be used by the Customer in their capacity as the contracting party. The Customer is not authorised to allow affiliated companies, as defined by Article 3(3) of EU Commission Recommendation 2003/361/EC, partner companies, or other third parties to use the Software, unless otherwise expressly agreed in the License Agreement.
- 3.6 Upon installation of the Software, and subject to full payment of the agreed fee, NK shall grant the Customer a simple, non-transferable, and non-sublicensable right to use the Software for the contractually agreed scope during the term of the License Agreement in accordance with these GTC. The rights of use granted to the Customer shall apply to the types of use known at the time the rights were granted.
- 3.7 The Customer's rights of use shall be limited exclusively to:

- 3.7.1. the installation of the Software on an IT Infrastructure operated by the Customer;
 - 3.7.2. the execution of the Software for the purposes described in the user manual;
 - 3.7.3. the creation of backup copies of the Software, to the extent necessary for its intended use and for data backup;
 - 3.7.4. the duplication and modification of the Software within the Customer's IT Infrastructure, to the extent that this is strictly necessary for the intended use of the Software, including error correction.
- 3.8 Furthermore, the Customer is not authorised to:
- 3.8.1. reproduce the Software in whole or in part;
 - 3.8.2. translate, modify, arrange, or otherwise alter the Software;
 - 3.8.3. decompile or reverse engineer the Software, unless permitted by mandatory legal requirements;
 - 3.8.4. distribute, publicly disclose, or make the Software publicly available, unless NK has given prior written consent in each individual case.
- 3.9 The quantitative scope of the subscription license is set forth in the License Agreement.
- 3.10 NK is entitled to verify the Customer's compliance with the contractually agreed scope of the license ("**Audit**"). NK shall notify the Customer of any audit at least thirty (30) calendar days in advance. Audits shall be conducted during the Customer's normal business hours. NK is entitled to conduct one audit per calendar year; if there are concrete indications that the agreed scope of the license has been exceeded, NK is entitled to conduct additional audits. NK may conduct the audit themselves or have it conducted by an independent third party bound by confidentiality.
- 3.11 The Customer is obligated to provide NK with the necessary support during an audit, in particular by granting access to the relevant IT systems, providing all necessary information and evidence, and designating a qualified contact person.
- 3.12 If the audit reveals that the agreed scope of the license has been exceeded, the Customer is obligated to remedy the exceedance without delay, but no later than fourteen (14) calendar days after notification of the audit results, and to purchase a supplementary license for the period of the exceedance at NK's current license prices. Further claims and rights of NK remain unaffected.
- 3.13 The documentation pertaining to the Software that NK provides to the Customer is set forth in the License Agreement. Unless otherwise agreed in the License Agreement, the following shall apply:
- 3.13.1. the user manual describing the functionalities and the intended use of the Software;
 - 3.13.2. other technical documentation required for the intended configuration and use of the Software.
- 3.14 The documentation shall be provided in English. NK is entitled to provide the documentation in electronic form (e.g. PDF). The Customer is not permitted to reproduce, distribute or make the documentation available to third parties, unless this is necessary for the contractual use of the Software.

4. Installation

- 4.1 NK shall install and perform the initial configuration of the Software on the Customer's IT Infrastructure in accordance with the terms of the License Agreement. Unless otherwise agreed in the License Agreement, the installation and initial configuration of the Software by NK shall include:
- 4.1.1. the technical integration of the software into the Customer's IT Infrastructure, to the extent necessary for the intended use of the Software; and
 - 4.1.2. the configuration of the Software according to the parameters agreed in the License Agreement.
- 4.2 Proper installation and initial configuration of the Software by NK requires that the Customer fully and timely fulfil their obligations to cooperate. In particular, the Customer is obligated to:
- 4.2.1. provide NK with all necessary information and documentation in full no later than 14 calendar days before the agreed installation and initial configuration date.
 - 4.2.2. grant NK access to the IT Infrastructure on which the Software is to be installed on the agreed date;
 - 4.2.3. ensure that the IT Infrastructure meets the minimum requirements specified in the technical documentation;
 - 4.2.4. perform a complete and proper data backup of the affected IT systems and the data processed therein prior to the installation and initial configuration of the Software;
 - 4.2.5. provide qualified contact persons with decision-making authority during the installation and initial configuration of the Software.

5. System test

- 5.1 Upon completion of the installation and initial configuration of the Software, a system test will be conducted to verify the Software's functionality. The system test shall be carried out in accordance with a jointly agreed test plan and is part of the contractually agreed services.
- 5.2 The Customer is hereby obligated to:
- 5.2.1. provide the necessary cooperation for conducting the system test, in particular to provide test data and qualified contact persons for conducting the system test;
 - 5.2.2. actively participate in the system test and immediately document any deviations or defects in writing and submit them to NK.
- 5.3 The system test shall be considered successfully completed if the Software substantially fulfils the functions described in the user manual and no significant defects are present.

6. Training of Customer employees

- 6.1 Once the system test has been successfully completed, training will be provided to the Customer's employees who will be using the Software. This training does not constitute comprehensive instruction and does not replace the Customer's own responsibility to familiarise themselves with the Software using the documentation.

- 6.2 The scope and format of the training can be either on-site or remote.
- 6.3 The Customer is hereby obligated to:
 - 6.3.1. provide the employees to be trained at the agreed-upon time;
 - 6.3.2. provide suitable premises and technical equipment (for on-site training) or functioning IT systems with internet access (for remote training).

7. Acceptance of the installation

- 7.1 After successful completion of the system test and training, the Customer is obligated to accept the installation and initial configuration services provided within 30 calendar days.
- 7.2 Acceptance is deemed granted (deemed acceptance) if:
 - 7.2.1. the Customer uses the Software productively; or
 - 7.2.2. the Customer does not refuse acceptance in writing within the given acceptance period, specifying significant defects.
- 7.3 Minor defects do not entitle the Customer to refuse acceptance. Such defects must be documented separately and shall be remedied under the warranty or by the support team, which must be contracted separately.
- 7.4 Upon acceptance, the installation and initial configuration services shall be deemed contractually fulfilled.
- 7.5 In all other respects, the provisions of section 11 of these GTC (Warranty) shall apply.

8. Software Updates, Upgrades

- 8.1 NK shall provide the Customer with Upgrades to the extent that this service has been expressly agreed upon in the License Agreement or otherwise.
- 8.2 NK shall provide the Customer with agreed-upon Software Updates or Upgrades available as follows:
 - 8.2.1. NK shall notify the Customer of the availability of Software Updates or Upgrades;
 - 8.2.2. NK shall provide available Software Updates or Upgrades to the Customer. Software Updates or Upgrades shall be installed by NK. The Customer is not required to perform the installation themselves.
 - 8.2.3. If necessary for the installation or intended use of a Software Update or Upgrade by the Customer, NK shall provide update documentation describing the changes, new features and instructions for installing the Software Update or Upgrade.
- 8.3 NK shall notify the Customer of any necessary Software Updates or Upgrades. NK shall carry out the installation at the Customer's request. The Customer's obligations to cooperate shall apply accordingly. In particular, the Customer is obligated to:
 - 8.3.1. perform a complete and proper data backup before installing a Software Update or Upgrade;
 - 8.3.2. check the IT Infrastructure in which the Software is operated for compatibility with the Software Update or Upgrade;

- 8.3.3. follow the instructions in the Update documentation;
 - 8.3.4. immediately check the proper functioning of the Software after a Software Update or Upgrade has been installed.
- 8.4 In the event that NK installs Software updates or upgrades, the installation provisions set forth in these GTC shall apply accordingly.
- 8.5 Upon installation of a Software Update or Upgrade, the Customer hereby acquires the same rights of use to the Software Update or Upgrade as to the original Software.
- 8.6 Simultaneous productive use of both the previous version of the Software and a Software Update or Upgrade is only permitted if this has been expressly agreed in writing by NK and the Customer.

9. Deadlines and appointments

- 9.1 NK shall provide the agreed services in accordance with the deadlines stipulated in the License Agreement.
- 9.2 Deadlines stipulated in the License Agreement are non-binding estimates and do not constitute fixed dates, unless otherwise expressly agreed in the License Agreement.
- 9.3 If the Customer is unable to keep a scheduled appointment, the Customer shall notify NK thereof immediately, but no later than three calendar days prior to the agreed date. In the event of short-notice cancellations, NK is entitled to invoice the Customer for the expenses incurred (in particular travel expenses and personnel costs).

10. Customer's obligations and cooperation

- 10.1 The Customer shall provide NK with the necessary IT Infrastructure in accordance with the agreed technical specifications. The Customer shall be responsible for ensuring that their IT Infrastructure meets the minimum requirements specified in the technical documentation. The Customer shall bear sole responsibility for the provision, operation, maintenance and security of their IT Infrastructure. NK assumes no liability for damages resulting from inadequate IT Infrastructure or insufficient IT security measures.
- 10.2 The Customer must provide NK with secure, data protection-compliant remote access to their IT Infrastructure to the extent necessary for NK's contractual services.
- 10.3 The Customer shall be responsible for performing regular and appropriate data backups, particularly prior to performing a Software Update or Upgrade or before requesting additional services. The Customer shall be solely responsible for backing up and restoring their data.
- 10.4 The Customer shall provide NK with all information, data and documents necessary for the performance of all services in a timely, complete, and accurate manner. NK has no obligation to investigate the information provided. NK is entitled to rely on the accuracy and completeness of the information, data and documents provided by the Customer. NK shall not be liable for defects, delays or impossibility of performance that are attributable to incomplete, incorrect, or late information, data or documents provided by the Customer.
- 10.5 NK is entitled to only accept statements, instructions or notifications from the Customer's designated authorised contact persons. The Customer shall designate contact persons to NK who are authorised to:
- 10.5.1. issue instructions and make decisions regarding the provision of services;

- 10.5.2. report defects or malfunctions;
 - 10.5.3. declare acceptance of services.
- 10.6 The Customer is obligated to inform NK immediately of any significant developments that may affect the provision of services, in particular:
- 10.6.1. significant changes to the IT Infrastructure on which the Software is operated;
 - 10.6.2. security incidents affecting the Software or the IT Infrastructure;
 - 10.6.3. planned changes that could affect the use of the Software;
 - 10.6.4. changes to the authorised contact persons.
- 10.7 The Customer shall fulfil their cooperation obligations in their own interest and may not claim any compensation for doing so. If the Customer fails to fulfil their obligations to cooperate, or fails to do so in a timely or proper manner, the Customer shall be in default of their obligations to cooperate, even without a reminder from NK. The following legal consequences shall apply if the Customer is in default of their cooperation obligations:
- 10.7.1. Agreed dates and deadlines for NK's contractual services shall be postponed to correspond with the duration of the delay.
 - 10.7.2. After a reasonable grace period has elapsed and following unsuccessful requests by NK to the Customer to fulfil their obligations to cooperate, NK reserves the right to temporarily suspend services until the Customer has fully complied with their outstanding cooperation obligations.
 - 10.7.3. NK shall not be liable for delays, impossibility of performance or defects that are attributable to the Customer's breach of their cooperation obligations.
 - 10.7.4. Other claims and rights of NK, in particular claims for damages and the right to extraordinary termination in the event of material breaches of contract, remain unaffected.
- 10.8 If it has been agreed that services shall be provided on-site at the Customer's premises, the Customer shall grant NK's employees access to the premises and IT Infrastructure on the agreed dates, to the extent necessary for the provision of the contractual services.

11. Warranty

- 11.1 NK warrants that the Software shall conform to the agreed specifications upon delivery and be suitable for its intended use. NK further warrants that no third-party rights shall be infringed in connection with the provision of the contractual services. The information provided in the user manual shall be the sole authoritative source for the Software's specifications.
- 11.2 Public statements, promotional claims or advertisements by NK do not constitute a guarantee of any specifications, unless they have been expressly agreed upon in writing.
- 11.3 The Customer is obliged to inspect the Software for defects immediately after it goes into productive use. The Customer must notify NK of any defects discovered without delay, but no later than within 30 calendar days, providing a detailed description of the defect. For defects that are not readily apparent, the notification must be made immediately upon discovery, but no later than within 5 calendar days thereafter.
- 11.4 Before reporting a defect, the Customer must first check within their own area of responsibility to determine the cause of the defect. In particular, this includes:

- 11.4.1. Verifying whether the Customer's IT Infrastructure meets the minimum technical requirements;
 - 11.4.2. Verifying whether the defect was caused by modifications made by the Customer or by third-party systems;
 - 11.4.3. Verifying whether the Software is being used in accordance with its intended purpose.
- 11.5 Notifications of defects must be submitted in writing and should include the following information:
- 11.5.1 A detailed description of the defect and the affected functionality;
 - 11.5.2 Description of the circumstances under which the defect occurred;
 - 11.5.3 Description of the impact of the defect on the use of the Software;
 - 11.5.4 If available: error messages, screenshots, log files or other evidence (reproduction of the defect);
 - 11.5.5 Name and contact details of the authorised contact person submitting the report;
 - 11.5.6 Confirmation that the Customer has checked their area of responsibility.
- 11.6 If an investigation determines that no defect actually exists and that the Customer was either aware of this or was grossly negligent in not being aware of this, the Customer shall bear the costs incurred by NK for defect investigation measures.
- 11.7 In the event of a defect, NK has the right and the obligation to remedy the defect or re-perform the affected contractual service, at its discretion, within a reasonable period during NK's normal business hours. The remedy method (repair or replacement) selected is at NK's sole discretion.
- 11.8 NK may remedy defects at its own discretion by:
- 11.8.1. Providing patches, bug fixes or an updated version of the Software that corrects the defect;
 - 11.8.2. Providing a defect-free version of the Software; or
 - 11.8.3. Providing a non-identical but equivalent solution that does not restrict, or only insignificantly restricts, the contractually agreed use of the Software by the Customer, insofar as this is reasonable for the Customer.
- 11.9 If the Software infringes the rights of third parties and third parties assert their rights, thereby preventing the Customer from using the Software for its intended purpose or restricting such use, NK shall, within a reasonable period of time and at its own discretion, take appropriate measures to remedy the defect of title:
- 11.13.1. Acquire the necessary rights from the third party in question so that the Customer can use the Software without infringement;
 - 11.13.2. Modify the Software in such a way that the rights of third parties are no longer infringed, without significantly impairing the intended use of the Software; or
 - 11.13.3. Provide a legally compliant, equivalent replacement solution that does not infringe the rights of third parties, provided that this does not restrict, or only insignificantly restricts, the Customer's ability to use the Software for its intended purpose, and that this is reasonable for the Customer.

- 11.10 Before commencing any remedy, the Customer shall be responsible for carrying out a complete and proper data backup. NK shall inform the Customer of the date and time the remedy will be carried out in a timely manner. In the event of data loss attributable to NK, NK shall only be liable for the expenses demonstrably incurred as a result of having to restore destroyed data from a proper data backup, provided that the data loss is not due to intentional or grossly negligent conduct on the part of NK.
- 11.11 The Customer is obligated to grant NK the time and opportunity necessary for remedying the defect and to provide the necessary cooperation. The place of performance for NK's remedy obligations is the place of performance for the contractual services.
- 11.12 In the event of defects, NK has the right to two attempts at remedying the defect before the remedy is deemed to have failed. The remedy is only deemed to have definitively failed if:
- 11.12.1. NK seriously and definitively refuses to remedy the defect;
 - 11.12.2. the remedy is unreasonable for the Customer;
 - 11.12.3. the remedy would entail disproportionate costs for NK.
- 11.13 The Customer is not entitled to a fee reduction if a defect only insignificantly impairs the Software's suitability for its intended use.
- 11.14 If the remedy attempts ultimately fail, the Customer is entitled to exercise extraordinary termination of the License Agreement if the Software is no longer fit for its intended use.
- 11.15 Warranty claims by the Customer are excluded in the following cases:
- 11.15.1. Software malfunctions resulting from improper use, modifications to the Software by the Customer or third parties, inadequate IT Infrastructure or failure to follow the instructions and documentation provided;
 - 11.15.2. Software malfunctions resulting from system changes made by the Customer without authorisation;
 - 11.15.3. Incompatibilities of the Software with hardware or Software not listed as compatible in the technical documentation.
- 11.16 The foregoing provisions shall apply mutatis mutandis to any Software Updates or Upgrades.

12. Liability

- 12.1 Claims for damages and reimbursement of expenses by the Customer against NK (hereinafter referred to as "Claims for Damages"), regardless of the legal basis, in particular due to breaches of duty arising from the contractual relationship, tort, culpa in contrahendo, delay or impossibility of performance, are excluded.
- 12.2 The foregoing limitation of liability shall not apply in the event of:
- 12.2.1. claims for reimbursement of expenses in connection with subsequent performance;
 - 12.2.2. liability claims under mandatory product liability regulations pursuant to Directive (EU) 2024/2853;
 - 12.2.3. intent or gross negligence on the part of NK, their legal representatives or vicarious agents;
 - 12.2.4. culpable injury to life, limb or health; or

- 12.2.5. a culpable breach of an essential contractual obligation (cardinal obligation), i.e. a obligation whose fulfilment is essential for the proper performance of the contract and on whose compliance the Customer regularly relies and is entitled to rely.
- 12.3 NK's liability for breach of an essential contractual obligation is limited to compensation for foreseeable damages typical of this type of contract, unless the breach was intentional or grossly negligent; or liability arises from injury to life, limb or health; or liability arises under mandatory product liability regulations pursuant to Directive (EU) 2024/2853.
- 12.4 Except in cases of intent or gross negligence on the part of NK, and in cases of damages resulting from injury to life, limb or health, NK shall not be liable for lost profits; indirect or consequential damages, in particular production losses and business interruptions, and damages that could have been avoided by the Customer performing complete and proper data backups.
- 12.5 NK shall not be held liable, regardless of fault, for defects in the
- 12.6 Software that existed at the time the contract was concluded (initial defects).
- 12.7 NK shall not be liable if the basis for liability is attributable to a breach of duty by the Customer. The Customer is obligated to take reasonable steps to prevent and mitigate damages.
- 12.8 Where NK's liability is excluded or limited, this shall also apply to the personal liability of NK's employees, agents, legal representatives and vicarious agents.
- 12.9 If third parties assert claims against NK for infringement of their rights caused by a breach of duty by the Customer, their employees, legal representatives, executive bodies or vicarious agents, or third parties commissioned by the Customer, the Customer shall indemnify NK against all such claims. This indemnification shall also cover NK's legal defence costs, including reasonable attorneys' fees and court costs. This shall not apply if the Customer proves that they are not responsible for the breach of duty.
- 12.10 Claims for damages by the Customer shall become time-barred 12 months from the commencement of the statutory limitation period; however, the foregoing shall not apply in the cases outlined in sections 12.2.2, 12.2.3 and 12.2.4 of these GTC. Any further claims by the Customer are excluded, unless otherwise stipulated in the contract.

13. Fees, payment

- 13.1 The Customer is obligated to pay the fees agreed upon in the License Agreement. Unless otherwise stipulated in the License Agreement, all fees are exclusive of any applicable costs (e.g. travel expenses) and are subject to the applicable statutory value-added tax.
- 13.2 For NK services requested by the Customer that are not listed in the License Agreement, or for which the Customer has exhausted their quota, the Customer may request a current price list. This also applies to NK's expenses and travel costs. NK shall then provide this to the Customer.
- 13.3 If a fee based on hourly work has been agreed upon, NK shall submit a formal expenses statement to the Customer at the end of an agreed billing period, detailing the actual expenses incurred. The Customer must review the expenses statement within five (5) calendar days of receipt and raise any objections in writing. If no objection is received within this period, the expenses statement shall be deemed approved.
- 13.4 NK is entitled to demand reasonable advance payments from the Customer where more extensive contractual services are required.

- 13.5 For payments due, NK shall send the Customer a verifiable invoice to the billing address provided by the Customer, taking into account any advance payments made by the Customer. The invoiced amount is payable without deduction within the period specified in the invoice by bank transfer to a bank account designated by NK. The payment receipt date shall be the date on which the payment is credited to NK's bank account. All payments shall be made in euros (EUR) unless another currency has been expressly agreed upon. Place of fulfilment for payments is NK's registered office.
- 13.6 If payment deadlines are not met, the Customer shall automatically be in default, even without a receiving payment reminder from NK. In the event of default, NK may charge default interest at a rate of 9 percentage points above the current base interest rate and a reasonable reminder fee. Further claims by NK remain unaffected.
- 13.7 NK is entitled to use reasonable discretion to adjust their fees with future effect in line with changes in the costs involved in providing their services. An increase in the fee may be considered, and a reduction in the fee should be made, if the relevant costs increase or decrease. The same applies if other changes in economic or legal conditions lead to a change in the cost situation. Increases in a particular cost category may only be used to justify a fee increase to the extent that they are not offset by any decreases in costs in other areas. Fee adjustments are possible at the start of each new term of the License Agreement. NK shall notify the Customer of any fee changes in writing in a timely manner, but no later than six (6) weeks before the fee change takes effect.
- 13.8 In the event of a fee increase by NK, the Customer has the right to object to the increase in writing within four (4) weeks of receiving notification. If the Customer objects within this period, NK is entitled to terminate the contract with effect from the date on which the fee change takes effect. If the Customer does not object within this period, the fee increase shall be deemed approved and shall take effect on the date specified by NK.

14. Duration, termination

- 14.1 The duration of the contract is specified in the License Agreement. If no term is specified in the License Agreement, the License Agreement is concluded for an indefinite period. If a fixed term has been agreed upon in the license agreement, the license agreement shall automatically renew for twelve (12) months upon the expiration of the term, unless the License Agreement is effectively terminated by either party beforehand.
- 14.2 The License Agreement may be terminated by either party by giving three (3) months' notice to the end of the month or, if a fixed term has been agreed upon, at the end of the respective term.
- 14.3 The Customer may purchase additional licenses at any time during the term of the contract. These licenses will be integrated into the existing term, with the first year billed on a pro-rata basis depending on the date the additional license was purchased.
- 14.4 The statutory right of both parties to terminate the Agreement for good cause remains unaffected. NK is entitled to extraordinary termination without notice, in particular in the following cases:
- 14.4.1. if the Customer is in default of payment of the fee or a substantial part thereof for more than thirty (30) calendar days and payment has not been received despite a reminder and a grace period of at least fourteen (14) calendar days;

- 14.4.2. if the Customer uses the Software beyond the scope of the contractually agreed license and fails to cease such use despite a request to do so and a grace period of at least fourteen (14) calendar days;
 - 14.4.3. if the Customer transfers, sublicenses or otherwise makes the Software available to third parties without this being expressly agreed upon in the contract;
 - 14.4.4. if the Customer uses the Software in a manner that violates legal regulations, in particular export control regulations, data protection regulations or the rights of third parties, and fails to cease such use despite a request to do so and a grace period of at least fourteen (14) calendar days;
 - 14.4.5. if insolvency proceedings are initiated against the Customer's assets, or if such proceedings are dismissed for lack of assets, or if the Customer declares the cessation of their business operations;
- 14.5 Termination notices must be issued in writing to be effective. The termination takes effect upon receipt by the recipient.
- 14.5.1 Upon termination of the License Agreement, for whatever reason, all rights of use granted to the Customer with respect to the Software shall expire. Once the termination takes effect, the Customer is obligated to completely uninstall the Software from their IT infrastructure and to destroy all copies of the Software in their possession or under their control, including backup copies; return all documentation and other materials provided by NK to NK upon request or, if return is not possible, to irrevocably destroy them; and to confirm the complete uninstallation and destruction to NK in writing within seven (7) calendar days of being requested to do so.
- 14.6 The termination of the License Agreement does not affect the validity of those provisions which, by their nature, are intended to continue beyond the termination of the Agreement. This applies in particular to the provisions concerning confidentiality, liability, obligations to return and destroy materials, and any payment obligations of the Customer.

15. Confidentiality, data protection

- 15.1 If no separate confidentiality agreement has been concluded between the Parties, they shall nevertheless maintain strict confidentiality regarding all confidential information that comes to their knowledge in the course of their business relationship, in particular trade or business secrets.
- 15.2 The Parties are obligated to keep secret all confidential information, in particular:
- 15.2.1. Not to pass on or disclose confidential information to third parties;
 - 15.2.2. Not to use or exploit confidential information for any purpose other than those contractually agreed upon;
 - 15.2.3. Not to duplicate, copy or reproduce confidential information; or
 - 15.2.4. Not to reverse engineer, decompile or otherwise analyse confidential information; unless this is necessary in a specific case for the fulfilment of the Agreement; and
 - 15.2.5. to implement appropriate technical and organisational measures to protect confidential information against unauthorised access, loss, destruction or disclosure.

- 15.3 Disclosure of confidential information is only permitted to the extent necessary for the fulfilment of the Agreement (need-to-know principle). In cases of doubt, the Parties shall, prior to disclosing any information to third parties, seek guidance from the other party as to whether such information is to be considered confidential. The Parties shall only grant access to confidential information to employees or representatives who are bound by professional secrecy or who have previously been subject to confidentiality obligations consistent with those set forth in these GTC, which also obligate them to maintain confidentiality to the extent legally permissible under labour law, even after their departure from the company.
- 15.4 The following confidential information is exempt from these obligations:
- 15.4.1. Information that was demonstrably already known to the recipient at the time of conclusion of the License Agreement or subsequently becomes known to them from a third party without violating any confidentiality agreement, statutory provisions, or governmental regulations;
 - 15.4.2. Information that is publicly known at the time of conclusion of the License Agreement or subsequently becomes publicly known, provided this is not due to a breach of these GTC; or
 - 15.4.3. Information that must be disclosed due to legal obligations or by order of a court or authority. In such cases, the recipient obligated to disclose information shall notify the other party in advance, to the extent permissible and possible, and give them the opportunity to take action against the disclosure.
- 15.5 Both Parties shall comply with all applicable legal data protection requirements regarding the processing of personal data in connection with the fulfilment of this Agreement.

16. Governing law, jurisdiction

- 16.1 The law of the country where NK is headquartered shall apply, to the exclusion of the the UN Convention on Contracts for the International Sale of Goods.
- 16.2 The sole place of jurisdiction for all disputes arising from the contractual relationship between NK and the Customer, including international disputes, shall be the court with jurisdiction over NK's registered office. This Agreement on the place of jurisdiction applies only if the customer is a merchant, a legal entity under public law or a special fund under public law. However, NK is also entitled to bring legal action against the Customer at the place of fulfilment or at the Customer's general place of jurisdiction.

17. Final provisions

- 17.1 The place of fulfilment for all contractual services provided by NK is NK's registered office, unless otherwise expressly agreed.
- 17.2 Any transfer of contractual rights or obligations by the Customer requires the prior written consent of NK to be deemed valid. If the Customer assigns their claim against NK without NK's consent, the assignment shall nevertheless be effective. In this case, NK may, at its own discretion, effect payment to either to the Customer or to the third party to discharge their obligations.
- 17.3 The Customer is only entitled to set off claims if their counterclaim has been legally established, is undisputed, or has been acknowledged in writing by NK.

- 17.4 The Customer is only entitled to exercise a right of retention if their counterclaim is based on the same contractual relationship and has been legally established, is undisputed, or has been acknowledged in writing by NK.
- 17.5 Amendments or supplements to the License Agreement must be in electronic form to be effective. This also applies to the amendment or cancellation of this form requirement itself.
- 17.6 Unless otherwise stipulated in the License Agreement or these GTC, contractual notices and declarations must be made in writing.
- 17.7 Should any provision of these GTC be or become void, invalid or unenforceable for any legal reason, the validity of the remaining provisions shall not be affected. The Parties shall replace the void, invalid or unenforceable provision with a valid provision that comes closest to the economic purpose of the original provision.