Nimble Innovation GmbH
Edisonstraße 1
4600 Wels

General Terms and Conditions (GTC)

1. Validity

1.1. These General Terms and Conditions ("**GTC**") apply to all legal transactions concerning the provision of work and / or services as well as the sale and delivery of goods / products between Nimble Innovation GmbH (hereinafter "**Contractor**") and the customer (hereinafter "**Customer**" and together with the Contractor the "**Contracting Parties**").

1.2. The Contractor's GTC shall also apply to future transactions and/or supplementary transactions between the Contracting Parties, even if no further reference is made to the GTC when the contract is concluded in the future.

1.3. The possible invalidity of individual provisions shall not affect the validity of the remaining GTC. The invalid provision shall be replaced by a valid provision that comes as close as possible to the economic purpose of the invalid provision.

1.4. General Terms and Conditions of the Customer that conflict with or deviate from these GTC or (verbal) amendments or supplements to the Contractor's GTC shall require the express written consent of the Contractor to be valid; a lack of objection by the Contractor to the Customer's General Terms and Conditions shall not be understood as consent. This shall apply even if the Contractor provides services without reservation in the knowledge that the Customer's General Terms and Conditions conflict with or deviate from these General Terms and Conditions.

1.5. The current version of the GTC, available on the homepage [nimble-innovation.com/terms-of-use], applies at the time of conclusion of the contract and these were also sent to the Customer.

1.6. The Contractor reserves the right to amend the GTC unilaterally while the contractual relationship is still in force, insofar as this is necessary to eliminate subsequent equivalence problems or to adapt to changed legal or technical conditions and the Customer is not unreasonably disadvantaged. The Customer shall be informed of any amendment, including the content of the amended provisions, at least 4 weeks before the amendment(s) come into effect at the contact address last provided by the Customer (post or e-mail). The changes shall become effective if the Customer does not object to them in writing or by e-mail within four weeks of receipt of the notification of change.

2. Quotations / prices

2.1. All offers are non-binding and subject to change, unless otherwise expressly stated in the offer.

2.2. A contract shall only come into effect upon written order confirmation by the Contractor and shall be governed exclusively by the content of the order confirmation and these GTC.
2.3. The prices in the offer are quoted in euros excluding VAT, unless indicated separately.
2.4. If the Customer requests services that were not included in the original contract, an appropriate fee shall be due in the absence of an agreement to the contrary.
2.5. Costs for travelling, daily and overnight allowances shall be invoiced separately to the Customer. Travelling times shall be charged as working hours in accordance with the applicable hourly rate if they are outside the local area of the Contractor's registered office.
2.6. If the Customer orders services outside normal business hours, these shall be charged at a surcharge of 100%. Services are provided outside normal business hours if they are performed between 8 p.m. and 6 a.m. or on Saturdays, Sundays or public holidays.
2.7. The fee for continuing obligations is agreed as value-adjusted according to the VPI 2020 issued by Statistik Austria and the fees are adjusted accordingly. The starting point is the previous month of the month in which the contract was concluded.

3. Provision of services

3.1. The Contractor's obligation to provide services shall commence at the earliest on the day on which the Customer has created all technical and legal prerequisites for execution that were described in the contract or in information provided to the Customer prior to the conclusion of the contract or that the Customer should have known based on relevant expertise or experience.
3.2. Performance deadlines and dates are only binding if they have been expressly agreed as such in writing.
3.3. The Contractor shall not be responsible for delays in delivery and cost increases due to incorrect, incomplete or subsequently changed information; any additional costs arising from such circumstances shall be borne by the Customer.
3.4. If an order can be divided into several units or programs or if this order comprises several such units, the Contractor may also make partial deliveries and submit partial invoices.
3.5. If fulfilling the order is not possible, whether due to a legal obstacle or an actual circumstance, the Contractor shall be obliged to notify the Customer immediately of this impossibility. The Contractor may then refuse to fulfil the order if the Customer does not change the order to such an extent that performance is possible. If the impossibility of performance is due to a circumstance on the part of the Customer, the Contractor reserves the right to withdraw from the order in question and to claim the expenses already incurred.
3.6. If documentation that has not been agreed is requested, this shall be invoiced and provided separately.

4. Payment

4.1. Unless otherwise expressly agreed or stated in the respective invoice, the Contractor's invoices including VAT shall be payable within 14 days of the invoice date without deduction and free of charges. The terms of payment stipulated for the overall order shall apply analogously to partial invoices submitted by the Contractor.

4.2. Payment dedications of individual payments by the Customer are not binding for the Contractor.

4.3. If partial payments are not made by the Customer, the Contractor shall have the right to suspend fulfilment of his obligations under the order until performance by the Customer. In addition, the Contractor shall be entitled to declare claims for services already rendered to the Customer from the business relationship in question due and payable and to allow the loss of the deadline to take effect.

4.4. In the event of default in payment, the Customer shall be obliged to reimburse the costs necessary and appropriate for the recovery of the debt (reminder costs, collection fees, legal fees, etc.). In addition, interest in the amount of 9.2% points above the base interest rate shall be charged in the event of culpable default of payment in accordance with § 456 Austrian Commercial Code (*Unternehmensgesetzbuch*).

4.5. The Contractor reserves the right to claim further damages for default.

4.6. The Customer may not withhold payments due to incomplete overall delivery, guarantee or warranty claims or complaints.

5. Rights for project-based offers

5.1. Project-based offers are regarded as commissioned work. The Customer shall receive a non-exclusive, non-transferable and perpetual right to use the documents and software solutions developed as part of this project for the agreed purposes. All copyrights and other industrial property rights shall remain with the Contractor.

5.2. The Contractor is authorised to publish press releases in connection with the collaboration and to name the Customer and the project as a reference. This right includes the use of project information, images and logos on digital channels, including the company website, presentations and social media platforms, provided this does not concern confidential information. Confidential information within the meaning of this clause is information that has been labelled confidential to the Customer or whose confidentiality arises from the nature of the information. The Contractor undertakes not to publish or use confidential information without the express written consent of the Customer. Images and logos may only be used on condition that the necessary rights have been obtained and that no third-party rights are infringed.

6. Copyright and intellectual property

6.1. The components of digital services, in particular software, videos, images, text, sounds and graphics, as well as their composition, are protected by copyright; the Contractor or its employees are therefore entitled to the copyrights.

6.2. The Customer shall only receive the right to use the software after payment of the agreed remuneration exclusively for its own purposes, only for the hardware specified in the contract and to the extent of the number of licences acquired for simultaneous use on several workstations.

6.3. Copies may be made for archiving or data backup purposes unless there is an express prohibition in the software of the licensor or third parties. Furthermore, all copyright and proprietary notices must be transferred unchanged in these copies.

6.4. In the event of an infringement of the Contractor's copyrights, the Customer shall be liable for damages, whereby full satisfaction shall be owed in such a case.

7. Warranty for defects

7.1. The provisions of the statutory warranty shall apply. The warranty period for the Customer is 12 months from acceptance.

7.2. Upon acceptance/handover, the Customer must check the performance for functionality and freedom from defects. After an agreed acceptance has been carried out, the notification of defects that were detectable during acceptance is excluded.

7.3. Notices of defects are only valid if they concern reproducible defects and if they are documented in writing within 14 days after the agreed service has been performed or, in the case of customised software or other products, after the program or product has been accepted. If such a notice of defects or complaint is not made or not made in good time, the delivered goods shall be deemed to have been approved, and the Customer can no longer assert any legal claims arising from defects.

7.4. If notices of defects are justified, the defects shall be remedied within a reasonable period of time. In such cases, the Customer is obliged to take all measures necessary for the investigation and rectification of defects or to enable the Contractor to take these measures.

7.5. If the Customer fails to give notice of defects within the period specified in section 7.3 , the Customer shall no longer be entitled to assert claims under warranty, compensation for damages due to these defects or due to an error regarding the absence of defects in the item.

7.6. Defects resulting from changes to programs made by the Customer or a third party are not covered by the Contractor's warranty. Similarly, there is no warranty for errors, faults or damage which originate from improper operation or modified components, interfaces or parameters; the same applies to transport damage.

7.7. For programs that are subsequently modified by the Customer's own programmers or third parties, any warranty by the Contractor is void.

7.8. If the subject of the order is the modification or supplementation of existing programs, the warranty shall apply to the modification or supplementation. This shall not revive the warranty for the original program.

7.9. If the Contractor is paid for his services in a project "on a time and material basis", all bug fixes or further activities shall also be paid on a time and material basis. This also applies after the project or product has been handed over to the Customer.

8. Liability

8.1. The Contractor shall only be liable for breach of contractual or pre-contractual obligations, in particular due to impossibility, delay, etc., in the event of financial losses in cases of intent or blatant gross negligence.

8.2. Compensation for consequential damages and financial losses, unrealised savings, loss of interest and damages from third-party claims against the Contractor is excluded in all cases, insofar as legally permissible.

8.3. The limitations or exclusions of liability also include claims against employees, representatives and vicarious agents of the Contractor due to damage caused by them to the Customer without reference to a contract between them and the Customer.

8.4. The Contractor's liability shall in any case be limited to the order value of the respective order; in the case of contracts with an ongoing fee, liability shall be limited to the fee to be paid within one calendar year.

8.5. The Contractor shall not be liable for damage caused by improper handling or storage, overuse, non-compliance with operating and installation instructions, incorrect commissioning, maintenance, servicing by the Customer or third parties not authorised by us, or natural wear and tear, insofar as this event was the cause of the damage. There is also an exclusion of liability for failure to carry out necessary maintenance

8.6. These limitations of liability do not apply to compensation for personal injury.

8.7. Claims for damages must be asserted in court within 12 months otherwise they shall lapse.

9. Duration of contract and cancellation

9.1. The contractual relationship shall end upon completion of the provision of services or delivery of the product in accordance with the contract.

9.2. Cancellation by the Customer is only permissible for a good cause that has been agreed in writing and if the Contractor does not fulfil its obligation to perform despite being granted a reasonable grace period and does not remedy this delay by engaging third parties. Good cause exists in particular in the event of a delay in performance for which the Contractor is responsible.

9.3. The Contractor is entitled to withdraw from the contract if one of the following important reasons exists:

- 9.3.1. if the Customer is in default with the payment of an invoice despite a reminder and the setting of a grace period;
- 9.3.2. if the Customer is in default with the acceptance of the service offered by the Contractor in accordance with the contract;
- 9.3.3. if the Contractor's performance is interrupted for more than 3 months for reasons attributable to the Customer;
- 9.3.4. delays in delivery and performance due to force majeure (events that are external, unforeseeable and cannot be averted, such as natural disasters, epidemics, pandemics, war, etc.); or

9.3.5. if the Customer prevents the Contractor from providing the service.

9.4. In the event of justified cancellation by the Customer, the Contractor shall be entitled to the remuneration for the services and expenses incurred until the effective ate of the cancellation. The services provided to date shall be invoiced in accordance with the contractual provisions.

9.5. In the event of unjustified withdrawal by the Customer, the Contractor shall be entitled to agree to the cancellation of the contract. The Contractor's services shall be invoiced in accordance with the contractual provisions. In the absence of an agreement regarding the remuneration to be paid, section 2.4 shall apply *mutatis mutandis*.

9.6. In the event that circumstances arise during the execution of the order/provision of the service which lead to considerable difficulties in the execution of the service, or damage to property and/or assets of third parties is to be feared, the Contractor shall be entitled to withdraw from the order, to the exclusion of claims for compensation of any kind, or to suspend the work performance until the aforementioned circumstances have been remedied by the Customer. This shall lead to the suspension of any agreed deadlines or to the postponement of the agreed completion date. In such a case, the Contractor shall be entitled to charge the Customer for the services rendered up to that point, irrespective of the type of contract selected. The costs of the downtime shall also be charged to the Customer in the case of lump-sum price agreements.

10. Non-solicitation and loyalty

For the term of any contract between the Customer and the Contractor and for a further twelve months after termination of the contract, neither the Customer nor the Contractor may directly entice away the employees of the other Contracting Party or enter into any kind of business relationship with them by any other means (e.g. through a contract for work or another company). The Contracting Party in breach of this non-solicitation clause shall be obliged to pay liquidated damages in the amount of one year's salary of the employee concerned.

11. Confidentiality and data protection provisions

11.1. Both Contracting Parties undertake to treat all information exchanged within the scope of the project in question as strictly confidential and not to make it accessible to third parties, unless there is a legal obligation to disclose it or the other Contracting Party has given its written consent.

11.2. The Customer agrees that personal data may be processed automatically by the Contractor for the purpose of processing and fulfilling the contract in question and stored for as long as is necessary to fulfil the contract and for the enforcement of legal rights. Contract fulfilment is not possible without this data processing. This data is treated confidentially and is used exclusively for the Contractor's internal purposes. Personal data will not be passed on unless a separate agreement has been reached between the Customer and the Contractor or is provided for by law. The Customer has the right to request information about stored data and may request that it be corrected

or completed if necessary. Furthermore, he is entitled to demand the deletion of personal data if the purposes for which they were collected no longer exist.

11.3. Additional information on the type and scope of the processing of personal data carried out by the Customer and on the right to information, correction, deletion, restriction of processing, cancellation and transferability can be found at [nimble-innovation.com/privacy-policy] .

12. Final provisions

12.1. Austrian law applies; reference to any conflict of laws rules of private international law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG), is excluded.

12.2. Changes to the address, company name, name, legal form and the like of the Customer must be notified to the Contractor in writing.

12.3. The exclusive place of jurisdiction shall be the competent court in Wels, Austria.