General Terms and Conditions
NGA Plastic Technology GmbH, Raiffeisenplatz 1, Top 5, 4710 Grieskirchen, valid as of October 20st, 2026

I. Validity of these conditions

1. The following terms and conditions shall apply to the exclusion of all possibly deviating terms and conditions of business of our contracting partner (hereinafter: CUSTOMER) for the business relations between us (NGA) and the CUSTOMER in connection with one of the products/services or plants we offer (hereinafter: PRODUCT). The following terms and conditions apply mutatis mutandis both to the delivery of products and plats and to other services (consulting services, development of system concepts, engineering, etc.). Penalty agreements of the CUSTOMER shall not be accepted unless expressly confirmed by us in writing.

2. Orders placed by us on the basis of the standard terms and conditions of purchase of the CUSTOMER shall always be deemed to have been concluded in accordance with our terms and conditions of business, even if we do not expressly reject the former.

3. If our terms and conditions of business are already known to the CUSTOMER, they shall also apply to future business transactions without further notification. Acceptance of our delivery or performance order as well as the execution of orders shall be deemed to be an acknowledgement of our terms and conditions.

4. Agreements which amend or supplement these conditions, subsidiary agreements and conditions of the CUSTOMER are only effective once they have been confirmed by us in writing. Our representatives and employees (e.g. in the course of a FAT or SAT) are not authorised to make binding declarations beyond the scope of performance of the order confirmation. In the event of contradictions, the order confirmation, any other written special agreements and finally these General Terms and Conditions shall apply.

II. Quotations

1. Our quotations are subject to change and non-binding unless otherwise stated in the specific text of the quotation. We are entitled to make modifications to the specifications at any time by simple notification, even after the quotation has been made and do so up until the placing of the order by the CUSTOMER. We reserve the right to change specifications due to technical necessities even after the order has been placed.

2. The offer shall be cancelled in all respects if an order confirmation is not received from the CUSTOMER no later than 14 days after submission of the quotation, unless otherwise stated in the particular text of the quotation.

3. Cost estimates, drawings and other documents [hereinafter: documents] belonging to the quotation are only for the orientation of the CUSTOMER and are not to be regarded as an agreement on quality or assumption of a guarantee of quality with regard to the PRODUCTS or performance described. We reserve the unrestricted property rights and copyright exploitation rights to the documents. The documents may only be made accessible to third parties with our prior written consent and, if the order is not placed with us, they must be returned immediately upon request at the expense of the CUSTOMER.

4. The reasonable expenses incurred for the preparation of the offer, as well as drafts, sketches or samples prepared at the Principal's request, shall be reimbursed to us promptly at our request even if the prospective order is not placed.

5. Cost estimates are only binding in written form and only if they are expressly designated as "binding". All other information on anticipated costs (including repair costs) is non-binding. Defined performance periods are to be understood as approximate values; fixed deadlines cannot be derived from them.

6. If a quotation or a cost estimate refers to repairs, this shall in no way be construed as an acknowledgement of an obligation to repair (for whatever legal reason).

III. Orders, order confirmations, specifications

1. The information in the order must be as precise as possible regarding the infrastructure (electrical connection standards, water quality, compressed air supply, etc.) of the CUSTOMER, the interfaces at the CUSTOMER's premises, the materials to be processed and the production conditions at the CUSTOMER's premises (air conditioning, temperature, humidity, etc.). In principle, orders are accepted by us by written order confirmation. Moreover, orders shall be deemed to have been accepted once we have executed the order. The CUSTOMER shall immediately check the order confirmation, in particular to see whether all the required details for the adaptation of any interfaces by the CUSTOMER to its infrastructure have been taken into account in the order. This also applies regarding dimensions, weight, etc., as well as any safety-related equipment in the quotation. In the absence of an objection within 10 working days of receipt, this shall be deemed to have been recognised in full. All specifications regarding the necessary infrastructure, including the system environment at the CUSTOMER's premises, shall be deemed to have been expressly accepted.
2. Any changes to the specifications and requests for additional information must be notified to NGA at the latest when the order is placed. Should changes be necessary, NGA shall check these for their feasibility. If these are feasible but would lead to a change in the scope of delivery, NGA reserves the right to submit a supplementary quotation or to correct the quotation, including the price. Subsequent information that leads to a change in the scope of delivery or the costs shall in any case be deemed to be requests for changes subject to a charge, but shall not postpone the due date of the previously agreed payments by the CUSTOMER.
3. The CUSTOMER agrees to provide NGA, in a timely manner and without specific request, with all documents necessary for the fulfillment and execution of a development or consulting order/contract or similar, and to inform NGA of all circumstances relevant to the execution of the order/contract. This also applies to all documents, processes, and circumstances that come to light only during the course of NGA's work.

IV. Delivery, dispatch and transfer of risk

1. Unless expressly agreed otherwise in writing, delivery shall be ex works Grieskirchen (EXW in accordance with Incoterms 2010). Unless otherwise expressly agreed in writing, performance shall take place at our company's registered office; deliveries shall be made (in the case of services) from Grieskirchen, or otherwise from the plant designated by us (EXW in accordance with Incoterms 2010). We are generally not obligated to ship or insure the PRODUCT, unless there is a specific written agreement to the contrary covering all circumstances in a particular case.
2. The risk of accidental loss and accidental deterioration of delivery items shall pass to the CUSTOMER upon notification of the readiness for dispatch. If, in individual cases, despatch by us has been agreed, the risk is transferred to the CUSTOMER upon notification of readiness for despatch or at the latest when the PRODUCT has been handed over by us to the carrier. In any case, the risk is transferred to the CUSTOMER at the latest when the PRODUCT is handed over by us to the carrier. If shipment by us has been agreed in individual cases, the CUSTOMER shall bear the shipping risk and the shipping costs. The assumption of costs shall apply in particular to shipping and shipping packaging as well as to the utilisation of our employees' working hours, which shall be remunerated appropriately. The type and route of dispatch shall be chosen by us unless a specific agreement has been made in this regard. In the event of deviating wishes on the part of the CUSTOMER, the latter shall bear the resulting costs. In the event that repackaging of the PRODUCT is required due to special requests of the CUSTOMER, the CUSTOMER shall in particular also owe a fee for the labour input of our employees resulting from the repackaging.
3. If the CUSTOMER does not accept the delivery items immediately upon notification of readiness for dispatch, we shall store them, if possible, for the CUSTOMER at the CUSTOMER's risk and expense. Storage does not release the CUSTOMER from its payment obligation. We will notify the CUSTOMER of our readiness to deliver at least 14 days in advance.
4. We are authorised to carry out and invoice advance delivery and partial delivery. Provided that the invoice does not exceed or fall short of 10% of the total quantity, the contracting partner is obliged to accept this excess or short delivery at the aliquot invoiced price.
5. We are authorised at our discretion to place subcontracts with sub-suppliers.
6. Place of performance is Grieskirchen.

V. Delivery time/ Date of service performance

1. The delivery time stated in the quotation, for example, is only an approximate one. In the following, the term "delivery time" also refers to the time of service performance.
2. The delivery period shall be extended accordingly should we be prevented from delivering on time due to unforeseeable events or events for which we are not responsible and which are unavoidable even with reasonable

care (all cases of force majeure, war, intervention by authorities, delays in transport and customs clearance, transport damage, energy shortages, labour disputes, etc.), even if these occur at our suppliers, as well as in the event of delayed delivery by our suppliers, . We will inform the CUSTOMER accordingly, who must grant us a reasonable period of grace at least twice, if necessary. Should an end to such events not be foreseeable, we shall be entitled to withdraw from the contract.

3. The delivery period begins with the dispatch of the order confirmation, but not before receipt of an agreed advance payment, not before clarification of all technical details and not before the CUSTOMER has fulfilled all the conditions incumbent on it for the performance of the duty, in particular not before we have received the down payment required before work is carried out or before a letter of credit which is to be issued has been opened.
4. The delivery time is deemed to have been met if the notification that the goods are ready has been issued by the time it expires. If dispatch has been agreed, the delivery time shall be deemed to have been met when the delivery item has left the factory or notification of readiness for dispatch.
5. Any delays in delivery which are attributable to the sphere of the CUSTOMER, in particular due to any change requests by the CUSTOMER, do not constitute a delay and lead to a corresponding extension of the delivery period.
6. If delivery on call has been agreed, we may consider the PRODUCT to have been called one year after the order has been placed and demand the performance owed by the Principal in this case.

VI. Products, services, scope of delivery, interfaces

1. The PRODUCTS/SERVICES correspond to the relevant product descriptions, brochures, assembly plans, order confirmations, etc., expressly referenced in the description/quotation, or information on the properties of prototypes (such as performance, dimensions, materials, etc.), insofar as these originate from NGA and are expressly confirmed by us, to the extent confirmed in each individual case. In all other respects, details of the PRODUCT are only approximate.
2. In any case, replacement by equivalent components, customary deviations and legally required deviations or technical improvements are permissible and reserved, provided that the contractually intended use is not impaired.
3. Unless otherwise specified in writing in an individual agreement, the obligation of NGA to perform shall include the expressly designated PRODUCTS themselves, up to the correspondingly specified interfaces to the other infrastructure or performances provided by the CUSTOMER, and shall not include the obligation for interface adaptation, integration or connection. NGA shall not be obliged to take into account the infrastructure provided by the customer/other infrastructure. Unless otherwise expressly agreed in writing, the transport and/or assembly of the PRODUCTS shall not be part of the performance and shall be organised by the CUSTOMER. The CUSTOMER is also responsible for obtaining any permits that may be required. This also applies to any additional CE declarations of conformity, additional (safety) measures for the installation of the system on site or others.
4. Unless expressly confirmed otherwise by NGA, all systems from NGA are designed for connection to a mains supply: 400 volts, 50 Hz. TN-S mains according to IEC 364-4-41 (L1, L2, L3, N, PE; loadable N; max. ± 10 % mains fluctuation). The PRODUCT is painted in RAL 1007 and RAL 9002, the labelling is in the language specified by the Machinery Directive EU 2006/42 EC, otherwise in English.
5. The technical design complies with the legal requirements in effect at the time of delivery in the country to which the product is shipped, i.e., the Federal Republic of Germany or the Republic of Austria. This takes into account the German (Austrian) Product Safety Act (ProdSG), the EU Machinery Directive 2006/42/EG, and the relevant regulations/standards in the version applicable at the time of delivery. Responsibility for safety is assumed solely in accordance with the cited provisions, but not for any deviating requirements on the part of the CUSTOMER.
   The scope of delivery is considered to be a machine in the sense of the EU Machinery Directive 2006/42/EG - EMV Directive 2014/30/EU as well as the Low Voltage Directive 2014/35/EU. An EC Declaration of Conformity will be provided at the time of delivery. The system has a CE label. Assemblies which are installed by the CUSTOMER in a complete system are considered to be exceptions to this. In this case, the CUSTOMER, as the system integrator, is responsible for compliance with the EG- Machinery Directive and for the complete CE labelling. In such cases, NGA is only obliged to provide overall CE labelling when units are installed by the CUSTOMER after express prior written agreement and this is done for an additional fee. Should the PRODUCT supplied by us be modified by the CUSTOMER or a third party authorised by the CUSTOMER, the CE conformity issued by us shall expire. The CUSTOMER is then again responsible for a new overall CE marking.
6. The price offered shall include the basic documentation of the system according to the valid EU Machinery Directive (1 x in German in A4 format (assembly drawings larger) and 1 x electronically on a data carrier), which contains a technical description of the PRODUCT and its operation. Should the CUSTOMER require further documentation in accordance with special requirements, for example in translated form, this will be invoiced separately.

VII. Prices and terms of payment

1. All prices are ex works (for Services from our Companies registered office) include packaging, plus the statutory value added tax applicable on the day of delivery, but excluding loading and insurance. If delivery has been agreed, the price shall not include unloading or carrying the goods. Any cash expenses, incidental expenses, travel expenses, etc., must be reimbursed upon submission of receipts.

2. If a price is not specified, our prices valid at the time of delivery or performance shall apply.
3. Unless otherwise agreed in writing between the CUSTOMER and NGA, payments shall be made in EURO either by bank transfer or - with the prior written consent of NGA - by means of an irrevocable letter of credit in EURO. However, NGA reserves the right to only give its consent after the letter of credit offered has been confirmed by a bank accepted by NGA. The CUSTOMER is not entitled to a discount deduction. The date of payment shall be the date of receipt by us or our paying agent.
4. Unless otherwise agreed in writing, payments shall be due as follows:
   When delivering products and plants
   - 30% upon receipt of the order confirmation from NGA
   - 60% upon notification of readiness for dispatch and before handover for transport
   - 10% after installation and commissioning, but no later than 60 days after provision for collection

   For other services (consulting services, engineering, etc.):
   - 30% upon receipt of the order confirmation from NGA
   - 30% after completion of an agreed intermediate step (milestone)
   - 30% prior to project delivery
   - 10% after delivery of the project or provision of the service.

   Alternatively, we are entitled to issue interim invoices based on the progress of service delivery and to request corresponding payments on account. These payments are due upon issuance of the invoice by us. In the event of a delay in payment of interim invoices, NGA is released from its obligation to provide further services. However, this does not affect the assertion of further claims resulting from non-payment.
   The due date of the originally agreed payments shall not be postponed by subsequently agreed additional or change orders of the CUSTOMER. Such additional or change orders are regularly the subject of a supplementary quotation, lead to an extension of the delivery period and must be paid for additionally. As there is no delay in delivery, any penalty payments agreed for such a case shall not be due in the absence of a delay.
5. Failure to pay even one instalment on time will result in the loss of the deadline and the outstanding total amount will then become due immediately.
6. Should, with NGA's prior written consent, the CUSTOMER pay in freely convertible currencies other than the invoice currency, the CUSTOMER shall bear the exchange rate risk and all currency differences arising from the payment obligation; in particular, it may not claim reimbursement of any exchange rate advantages. All bank charges shall be borne by the CUSTOMER.
7. We are entitled to charge appropriate reminder fees, as well as the costs of a commissioned collection agency and default interest of 9% above the respective base interest rate from the due date.
8. After conclusion of the contract and subject to the provisions in the order confirmation, we will not increase prices within the first 6 months. In addition, we are entitled to adjust the prices if the order deviates from an overall quotation or if the costs have changed by the time of delivery. In the case of contracts concluded with prices left open, the price applicable on the day of delivery or completion of the delivery shall be charged.
9. We shall be entitled to withhold performance up to the full payment of the respective amounts due. The CUSTOMER is not entitled to exercise a right of retention due to counterclaims that are not based on this contractual relationship. The CUSTOMER may only exercise a right of retention on the basis of undisputed or legally established counterclaims.
10. A set-off by the CUSTOMER is only possible on the basis of undisputed or legally established counterclaims.
11. The occurrence of a significant deterioration in the financial circumstances of the CUSTOMER or other circumstances which significantly impair its creditworthiness shall result in the immediate maturity of all our claims, even if the CUSTOMER has provided us with bills of exchange. In particular, our claims shall become due immediately if
    - the CUSTOMER is more than 4 weeks in arrears with more than insignificant claims or
    - there is a significant deterioration or considerable jeopardisation of the financial circumstances of the CUSTOMER or of its general partner or in the value of the collateral provided for this contract;
    - the CUSTOMER or its general partner has provided incorrect information about its financial circumstances;
    - the CUSTOMER or its general partner dies or changes or in the event of insolvency of the CUSTOMER;
    - the CUSTOMER or its general partner has not fulfilled its obligation to disclose its financial circumstances even though a reasonable deadline has been set.

    If our claims become due immediately, we shall also be entitled to perform only after payment of the claims due and against advance payment or against provision of security and to withdraw from the contract following an unsuccessful request to do so.
12. If the CUSTOMER continues to violate the terms of payment or violates them significantly, we shall be entitled to withdraw from the contract after the unsuccessful expiry of a reasonable payment period and, in particular, to demand compensation instead of performance. Liability for damages caused by delay shall remain unaffected.
13. The place of fulfilment for the payment obligations of the CUSTOMER is our registered office in Maitenbeth.
14. Our representatives or salesmen are not authorised to collect debts or make deferment agreements.

VIII. Retention of title

1. NGA retains title to the PRODUCT until full payment of the sales price due has been made by the CUSTOMER. Should the CUSTOMER fail to fulfil its contractual payment obligations, NGA may demand that the PRODUCT be returned by declaring its withdrawal from the contract, and the CUSTOMER shall return the PRODUCT at first request. Intellectual property shall not be transferred at any time.
2. The CUSTOMER shall not be entitled until full payment has been made, to pledge the PRODUCT, to assign it as security or to transfer similar rights without NGA's prior written consent. Should the PRODUCTS become the subject of seizure, confiscation and/or the establishment of comparable legal positions of third parties, the CUSTOMER shall notify NGA immediately in writing, stating all of the information available.
3. Resale shall only be permitted in the ordinary course of business. The CUSTOMER assigns to NGA all claims to which it is entitled from the resale of the PRODUCT - in separate form or as part of a complete product - in the amount of the value of the PRODUCT in the event of such a resale and until full payment of the purchase price has been made. The CUSTOMER shall be authorised and obliged to collect the assigned claims from its customers until revoked; in addition, NGA's right to collect the assigned claims itself shall remain unaffected.
4. NGA may notify the CUSTOMER's customer of the assignment at any time and NGA shall be entitled to seize the PRODUCT or the entire item or to request the customer to make direct payment to NGA in the corresponding amount if the CUSTOMER fails to fulfil its contractual obligations, in particular if it defaults on payment of the purchase price, or if NGA becomes aware of circumstances which are likely to significantly reduce the creditworthiness of the CUSTOMER. The execution of the surrender and the provision of security shall not be deemed a cancellation of the contract and shall not cancel the obligations of the CUSTOMER, in particular to pay the purchase price.
5. Any treatment or processing of the PRODUCT subject to retention of title shall always be carried out for NGA as the owner. In the event of processing, combining or mixing of the PRODUCT with goods of third parties as an inseparable part of the resulting overall product, NGA shall acquire co-ownership of the new overall product in proportion to the value of the components. Any rights, claims for remuneration or claims of the CUSTOMER against third parties arising from such integration shall be assigned by the CUSTOMER to NGA at the time of integration.
6. The CUSTOMER shall provide maintenance and keep the PRODUCT in proper condition, and in particular shall notify NGA immediately of any repairs, servicing and inspections that may become necessary and have them carried out, and shall take out appropriate insurance. NGA reserves the right to inspect the retained product at any time.
7. In the event of a justified cancellation of the contract by NGA, NGA shall be entitled to take back the PRODUCT subject to retention of title, to sell it and to set off the corresponding proceeds against existing claims held against the CUSTOMER.

IX. Acceptance (FAT), installation, commissioning

1. Unless otherwise agreed, acceptance of the PRODUCT (Products and Plants) shall take plant designated by NGA. . NGA will notify the CUSTOMER in writing of the completion of the PRODUCT and the expected acceptance date in advance in good time. Unless otherwise agreed in writing, the FAT sections as contained in the order confirmation shall apply.
2. In order to carry out the acceptance, the CUSTOMER is obliged to ensure, at its own expense, the presence of a person who has the technical knowledge required for the acceptance and who has been provided by the CUSTOMER with such a power of representation that this person can decide with binding effect for the CUSTOMER whether the acceptance was successful or not within the meaning of the following provisions.
3. Should, for whatever reason, the CUSTOMER prevent the scheduled and timely acceptance by delaying the scheduled acceptance date by more than one week the payment period shall continue regardless. This shall also be the case should the CUSTOMER fail to send a person to the acceptance or should it send a person who does not have the necessary authority to represent the CUSTOMER (paragraph 2 above). Damage, delays and/or other circumstances in the course of the acceptance which are attributable to the person sent by the CUSTOMER shall be borne by the CUSTOMER and shall entitle NGA to demand reasonable compensation from the CUSTOMER in addition to the reimbursement of expenses pursuant to Section XI. 10 (see below).
4. Acceptance shall take place in accordance with the criteria to be agreed in each individual case. Unless otherwise agreed, the PRODUCT is ready for acceptance if it complies with the scope of delivery as defined in the order confirmation. If certain specifications are included in the offer and expressly confirmed/agreed in writing by NGA, these specifications must also be fulfilled. Insignificant deviations from the relevant acceptance criteria - i.e. deviations which do not prevent the proper operation or the agreed use of the relevant PRODUCTS or which can be eliminated by the time of the SAT - shall not prevent acceptance. This is particularly the case because the corresponding production conditions can only be tested on site at the SAT. The burden of proof for the non-existence of significant defects lies with the CUSTOMER.
5. Acceptance shall be recorded in a protocol to be signed both by NGA and the CUSTOMER on site. Any functional faults or defects must be stated and described in full in the acceptance report, otherwise the corresponding claims shall be forfeited.
6. Transport to and installation of the PRODUCT at the factory of the CUSTOMER shall be organised by the CUSTOMER at its own expense. Any transport and/or assembly insurance must also be taken out by the CUSTOMER and the

latter must bear the corresponding costs. The CUSTOMER shall not be responsible for the organisation of the assembly if, by prior written agreement, the assembly and installation of the PRODUCT is to be carried out by NGA.

7. The assembly and installation at the factory of the CUSTOMER shall be carried out without the presence of any employees from NGA providing that the PRODUCT consists of one or more stand-alone standard device(s). Upon request and at the expense of the CUSTOMER, NGA may provide the CUSTOMER with a separate offer for assembly services or assembly consulting services. Should the PRODUCT be an entire plant, assembly shall be carried out by NGA in accordance with the agreed scope of services and at the prices stated there.
8. Should the acceptance or a further one take place at the factory of the CUSTOMER, the following shall apply. Any damage to the PRODUCT resulting from the delivery to the factory of the CUSTOMER that is to be performed by the CUSTOMER shall not lead to any delay or grounds for refusal of acceptance that can be attributed to NGA. Should delays result from errors in the context of an installation for which NGA has been commissioned, the burden of proof shall lie with the CUSTOMER.
9. In any case, the CUSTOMER shall not be entitled to put the PRODUCT into operation until acceptance has been successfully completed. In the event of a breach, all outstanding payments shall become due immediately, even in the event that acceptance has failed for reasons for which NGA is responsible. NGA shall not be liable for any damage or other consequences in connection with commissioning prior to successful acceptance.
10. As compensation for expenses incurred as a result of the delayed acceptance, NGA shall be entitled to charge the CUSTOMER in addition at least the following:
    - an amount of EUR 500.00 plus VAT for the costs of additional storage of the PRODUCT (at NGA or externally at a third party)
    - an amount of EUR 1,500.00 plus VAT for personnel costs (when storage of the PRODUCT is done by NGA or externally at a third party, or also at the CUSTOMER)

    NGA shall be entitled to charge these additional costs per day or part thereof, calculated from the last day of the agreed acceptance, whether at NGA (FAT) or at the CUSTOMER (SAT). The amounts stated are minimum amounts; any expenses or damages in excess of these shall also be reimbursed upon proof by NGA.

X. Obligation to inspect and give notice of defects

1. The CUSTOMER must inspect the PRODUCT without delay and notify us [not our commercial agents and salesmen] in writing of any defects without delay, but no later than 10 days after receipt at the place of delivery. The CUSTOMER is obliged to provide detailed information on how and when the defect occurred.
2. Hidden defects must be reported in writing no later than 3 working days after their discovery.
3. The timely sending of a written notice of defects with a precise description of the defects complained about shall suffice to comply with the deadline. If complaints or notices of defects are not made in good time, the delivery shall be deemed to have been approved. At our request, samples of the defective PRODUCTS and supporting documents shall be forwarded to us simultaneously with the assertion of defects.
4. The CUSTOMER must immediately check - if necessary by means of trial processing - whether the delivered PRODUCT is suitable for the intended use.
5. If the CUSTOMER does not fulfil the inspection obligation incumbent upon it in accordance with Point X., or does not do so in good time or properly, warranty claims for defects or other claims for damages that the CUSTOMER raises against us are excluded to the extent that carrying out the inspection would have avoided or minimised any damage that occurred.
6. After assessment of the defect by the contracting partner, the delivered PRODUCT may not be disposed of in any other way without our express written consent. Should the CUSTOMER carry out any modifications, disassembly or other work on the PRODUCT without prior inspection by NGA and/or written approval, or reprogram, adapt, otherwise modify or edit the software in any way, and/or integrate it into an overall system, and/or have any of these activities carried out by a third party, or if the claimed defect is caused by improper use of the PRODUCT, disregard of operating and maintenance instructions or other influences/circumstances outside of the sphere of influence of NGA, for example, a change in the operating or system environment of the CUSTOMER, NGA's liability for defects shall lapse to the extent that the defects have arisen as a result of such an action. Any unauthorised modifications by the CUSTOMER shall lead to the expiry of CE conformity.
7. The assertion of the defect shall not release the contracting partner from its payment obligation.
8. The CUSTOMER is not permitted to return the rejected PRODUCT, with the exception of samples requested by us, without our prior written consent. Should, however, the PRODUCT be returned, we must be reimbursed for all costs of any kind that we incur as a result. No claims or other legal consequences can be derived by the contracting partner from the acceptance of the returned PRODUCT. Similarly, any inspection of the defect by us does not give rise to any claims on the part of the contracting partner or any other legal consequences. The risk that the PRODUCT can be used for a specific purpose or in a specific manner shall be borne by the contracting partner, unless we have given a written undertaking to the contrary.

XI. State of the product owed and warranty

1. The owed condition of the delivered PRODUCTS is determined exclusively by our binding written quality specifications, e.g. within the framework of our data sheets, which we provide the CUSTOMER with as part of the specific contractual relationship. Any objectives of the CUSTOMER which have not been expressly agreed in writing as the owed quality do not define the owed product quality. This shall also apply to any software supplied.
2. Should the delivery item be defective at the time of transfer of risk, the CUSTOMER is entitled to request repair/rectification or replacement of the delivery item. NGA shall exercise the right to choose between repair/rectification or replacement delivery.
3. We are entitled to refuse to repair or replace the goods should this involve disproportionate effort. The CUSTOMER shall then be entitled to the rights specified in section 4. A disproportionate effort for the chosen type of subsequent fulfilment is to be assumed in particular if the costs of subsequent fulfilment exceed the value of the item at the time of transfer of risk by 20%.
4. Should we not be able to remedy the material defect within a reasonable period of time, we may, at our discretion, reduce the purchase price, rescind the contract or claim damages in accordance with Point XII . Should the chosen subsequent fulfilment be unreasonable for the purchaser, it shall immediately be entitled to the rights specified in sentence 1. In the case of insignificant material defects, the right to withdraw from the contract and to claim damages is excluded. The contracting partner shall provide us with the necessary assistants, auxiliary materials and tools free of charge for warranty work at the factory of the contracting partner. The warranty obligation shall not be extended by work and deliveries that are the subject of warranty.
5. The warranty period in the B2B area is 12 months for Products, and 3 (three) months for Services. As a rule, the period begins for delivery at the time of the notification of readiness of the ordered PRODUCT. In the case of agreed despatch, this is the time of notification of readiness for despatch. In any case, the period begins at the latest with the rendering of accounts. Warranty expires immediately if changes or repairs are made to the delivered item without our consent.
6. In particular, a case of warranty for defects does not exist if and insofar as damage to the delivery item or to other legal assets of the CUSTOMER is attributable to the following reasons:
   - incorrect information on the purpose, location or conditions of use of the delivery item,
   - faulty further processing, assembly, handling,
   - normal or excessive wear and tear that cannot be attributed to production or material defects (such as V-belts, heating tapes, thermal sensors, filter mats, etc.),
   - excessive strain and improper handling of the delivery items,
   - product deviations which only insignificantly impair the product suitability or the value of the PRODUCTS.
7. Should the CUSTOMER fail to fulfil its inspection, complaint and testing obligations in accordance with point X. immediately, in good time or properly, its warranty rights shall lapse.
8. We shall bear the direct costs arising from the rectification or replacement delivery - insofar as the complaint proves to be justified. These are the expenses directly required for the purpose of subsequent fulfilment, in particular the costs of the replacement part including shipping as well as the reasonable costs of removal and installation. Otherwise, the cost shall be borne by the CUSTOMER.
9. Replacement parts shall become the property of NGA.
10. In the event of defects in components installed by third-party manufacturers, NGA shall be entitled to either assert its warranty claims against the third-party manufacturer for the account of the CUSTOMER or assign them to the CUSTOMER. A direct claim against NGA shall only exist if the judicial enforcement of the claims against the third-party manufacturer was unsuccessful within a reasonable period of time or if such enforcement is not possible from the outset (e.g. in the event of insolvency).
11. In the event of defects of title, the PRODUCTS, including software, shall only be free from third-party property rights (copyright, patents and utility models, other industrial property rights) at the place of delivery. In the event of defects of title, NGA may, at its discretion, modify or replace the PRODUCT within a reasonable period of time in such a way that the rights of third parties are no longer infringed, or it may supply an alternative product with the same function, or procure the required right of use for the CUSTOMER by other means, e.g. by concluding licence agreements. The provision of Point XI.4 shall apply mutatis mutandis.
12. In any case, NGA does not warrant and shall not be liable for the fact that the manufacturing or other processes applied using the PRODUCTS as well as the results produced by the CUSTOMER using the PRODUCTS infringe on any industrial property rights, in particular patents or utility models of third parties. Rather, the CUSTOMER itself is responsible for ensuring that its use of the PRODUCTS - in particular the processes used and the results obtained from such - does not infringe on any industrial property rights of third parties. In case of culpable breach of this obligation by the CUSTOMER and claims in this respect against NGA by a third party for infringement of property rights due to the delivery of PRODUCTS to or their use by the CUSTOMER or the resulting end product/result, the CUSTOMER shall indemnify NGA against all claims of the third party and compensate NGA for any damage incurred in this connection. In the event of any other loss of the above-mentioned claims, the CUSTOMER shall notify NGA immediately in writing should any claims be asserted against it due to the infringement of such rights, shall not make any declaration of acknowledgement, shall leave any defence measures or negotiations to NGA alone, and shall await NGA's instructions.
13. All material defects or defects of title shall be remedied without recognising any legal obligation.

XII. Claims for damages

1. In the case of a merely negligent breach of duty by us or our vicarious agents, our liability shall be limited to the foreseeable damage typical for the contract, unless there is a grossly negligent breach of duty. This shall not apply in the event of a breach of an essential contractual obligation and in the event of injury to life, limb or health.
2. Unless otherwise provided for in these Terms and Conditions, in all cases our liability shall be limited to the damage caused to the object of our performance. Any further damages, in particular for consequential damages (including incidental damages, loss of profit, business interruption, loss of data, indirect damages and pure financial losses) are excluded, insofar as we cannot be accused of gross negligence. The exclusion of liability shall also not apply in cases in which liability exists under the Product Liability Act for personal injury or property damage to objects used by consumers in the event of defects in the delivery item. The maximum limit of our liability shall in any case be the sum insured in favour of NGA under the existing liability insurance.
3. Claims for damages due to modifications to the PRODUCT, non-compliance with instructions for use, improper use, non-compliance with the product information, the use of non-original parts from NGA, the use for purposes other than those intended and/or external influences/circumstances outside of the sphere of influence of NGA are expressly excluded.
4. Claims arising from errors and/or damage caused by malware, computer viruses and/or breaches of the law by third parties are always excluded. Also excluded are claims arising from errors and/or damage caused by improper use or disregard of the care required in respect to software or the PRODUCT by the CUSTOMER, that can be considered to be reasonable and appropriate in view of the technological possibilities. For example, this applies in particular to the use of unsuitable data carriers and/or system components, a lack of suitable virus protection or security measures that do not correspond to the state of the art, as well as the use of unsuitable personnel.
5. Any compensation for damages made on our part shall be without recognising any legal obligation.

XIII. Industrial property rights

1. All industrial property rights or rights to intellectual property in connection with or to the PRODUCTS provided and their manufacturing processes are the sole property of NGA and remain with NGA. This applies to their application and/or the processes carried out with them as well as to components, software or the corresponding source and object codes as well as the user documentation, processes, plans, sketches, descriptions, drawings, manuals, assembly instructions, calculations, quotations, cost estimates and other technical documents, as well as samples, prototypes, catalogues, brochures, illustrations and the like - in particular patent, trademark, sample, copyright or other design rights, and/or rights to know-how and commercial, technical and procedural information. The CUSTOMER shall not be granted any rights, in particular no licence or rights of use, with the exception of a simple authorisation for the CUSTOMER to use the PRODUCT in its specific composition and design as intended and as acquired from NGA.
2. These rights belong exclusively to the CUSTOMER and are not transferable. Only NGA is entitled to use these rights, to exploit them and to apply for industrial property rights and/or to otherwise protect its rights. We are also entitled to print a company or brand name on the PRODUCTS which have been manufactured and to do so without the express consent of the partner. The CUSTOMER is not authorised to change the appearance of the PRODUCTS, including the packaging and/or accompanying documents, in any way, in particular it may not remove or change any brands or other marks of NGA or use them separately. Should the CUSTOMER redistribute a PRODUCT, it is may neither change nor remove the attached labelling.
3. If the CUSTOMER is provided with manuals, end user documentation or comparable instructions or other information, these are provided solely as an aid for the proper operation of the PRODUCT. Should the delivery item be software or should the PRODUCT contain software, the right of use extends exclusively to the PRODUCT for which the software is purchased or with which the software is delivered, and is for the purpose of operation of it and exclusively for the duration of active use of this PRODUCT, and is limited to the duration of use of the PRODUCT by the CUSTOMER.
4. The CUSTOMER is not entitled to use these documents or software and/or their source or object code in any way other beyond the use for the operation of the PRODUCT, in particular not to exploit, reproduce, distribute, process or modify, make available, transmit or perform them, regardless of the form and data carrier, and regardless of whether they were known at the time of conclusion of the contract or not. The only exceptions to this are any mandatory rights granted by law in connection with the use of the software, in particular those pursuant to the guidelines 2009/24/EC of 23 April 2009, Articles 5 and 6, subject to the conditions and requirements specified therein.
5. Should, at the request of the CUSTOMER, NGA authorise the disclosure of documents originating from NGA to the CUSTOMER's customers, the CUSTOMER shall be obliged to inform its customers of the above-mentioned rights of NGA and to obligate them to comply with and disclose the above provisions. This applies in particular to the obligation to require each further customer to comply with the above provisions. In the event of violations, the CUSTOMER shall be liable for the behaviour of its customers just as for its own. Should NGA provide the CUSTOMER with advertising material for the purpose of passing it on to end customers, such as, in particular, product brochures, catalogues or advertising leaflets, such material may be passed on to these customers without prior approval in the form in which it was provided by NGA and remains unchanged.

6. All rights to services, findings, developments, inventions, etc., which arise in the context of the provision of services by NGA, belong exclusively and fully to NGA, irrespective of whether the CUSTOMER was involved in any way in the provision of such services. All rights arising on the part of the CUSTOMER are automatically transferred to NGA with the creation of the services, findings, developments, inventions, etc. and are automatically transferred to NGA. NGA is also entitled to the exclusive and global rights of use of the works. In particular, NGA also has the exclusive right to file applications for industrial property rights. The CUSTOMER will not assert any rights with regard to applications for industrial property rights, in particular also to any right of prior use.

XIV. Data protection

1. The CUSTOMER acknowledges that its personal data, including the data of its employees, or of the CUSTOMER's customers and its business partners in particular, name, title, address, date of birth, etc., shall be processed by NGA and/or companies affiliated with NGA, for the purpose of fulfilling the contract (Article 6 (1) (b) GDPR - conclusion and fulfilment of the contract) or as a result of legitimate interest (Article 6 (1) (f) GDPR) and shall be stored by the responsible party for the duration of the validity of guarantee, warranty, limitation and statutory retention periods or, if applicable, until the end of any legal disputes in which the data are required as evidence. The CUSTOMER guarantees that it has obtained the consent of its employees, customers and business partners for this use of data and shall indemnify and hold NGA and/or companies associated with NGA harmless against all possible claims. The controller of the processing is the Next Generation Analytics GmbH.
2. The data protection declaration of NGA Lab & Pilot Solutions GmbH contains additional information about the data subject's rights to information, rectification, erasure, restriction of processing, data transfer and complaints to the data protection authority. It can be found at https://www.nga.at/datenschutzerklaerung/

XV. Non-disclosure

1. The parties undertake to maintain absolute secrecy with regard to the business and trade secrets received by them as a result of the business relationship, insofar as and as long as these are not or do not become accessible to the public. The CUSTOMER undertakes not to disclose such business and trade secrets to third parties and to take all measures reasonably appropriate to maintain confidentiality. The use of such business and trade secrets by the CUSTOMER outside of the intended use of the PRODUCT, as well as after termination of the use of the PRODUCT, is prohibited.
2. The CUSTOMER is obliged to transfer this non-disclosure obligation also to all employees, third parties commissioned by it etc. and to demonstrate such in individual cases upon request by NGA.
3. This non-disclosure obligation shall also apply after termination of the business relationship.

XVI. General

1. Should one or more provisions of these General Terms and Conditions be declared invalid, inadmissible or unenforceable, for whatever reason, this shall not affect the remaining provisions. In such a case, the invalid or unenforceable provision shall be replaced by a provision that comes as close as possible to the economic purpose of the invalid provision in a legally effective manner. Any gaps in the contract shall be filled in the same way.
2. Notices from the CUSTOMER to NGA are only binding if they are in writing in German or in English. The transmission of notices can also be made by fax or by electronic means. They become effective at the time when they either reach the recipient or would have reached the recipient under normal circumstances with the chosen method of transmission. Notices which reach us on Saturday, Sunday or on one of the public holidays in force shall not take effect until the next working day.
3. The CUSTOMER may only assign its rights and obligations under these GTCS and the Purchase Order/Order to third parties with the prior written consent of NGA in each individual case. NGA is entitled at any time to transfer its rights and obligations under these GTCS and an order to a company affiliated with NGA or to a third party without the need for the consent or approval of the CUSTOMER.
4. Provisional non-enforcement of a right established for the business relationship of the contracting partners shall in principle not be deemed a waiver thereof by the respective contracting partner for this or future cases. A waiver of rights shall only be effective if declared in writing by the respective party entitled to claim.
5. Should NGA provide consultancy services and/or other technical information outside the contractually agreed scope of services, these shall be provided free of charge and without any liability. Consultancy services are provided without any guarantee unless a written consultancy agreement containing deviating provisions has been concluded.
6. The CUSTOMER agrees not to enter into any business relationship of any kind with individuals or companies that NGA engages to fulfill its obligations, either during the term of this agreement or for a period of three years following the termination of this specific contractual relationship. In particular, the CUSTOMER shall not engage such individuals or companies to provide consulting services that are the same as or similar to those offered by NGA.

XVII. Applicable law, place of jurisdiction, arbitration clause

1. This contract shall be governed by Austrian law, to the exclusion of the conflict of laws provisions and the UN Convention on Contracts for the International Sale of Goods.
2. The exclusive place of jurisdiction for all disputes arising from and/or in connection with the business relationship between the CUSTOMER and NGA shall be Wels, Austria, provided that the CUSTOMER has its permanent seat in an EU member state, Iceland, Norway or Switzerland.
3. If the CUSTOMER has its permanent seat in another country, all disputes arising out of and/or in connection with the business relationship between the CUSTOMER and NGA shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by an arbitrator appointed by mutual agreement between NGA and the CUSTOMER, in the absence of agreement under these Rules. The place of arbitration shall be Zurich, Switzerland. German shall be the language of arbitration.
4. Notwithstanding this agreement on the place of jurisdiction, NGA reserves the right to seek injunctive and/or interim relief before any authorities whatsoever, including state courts, in any jurisdiction.

XVIII. Force Majeure Clause

The following clauses are a mandatory part of the contract between NGA and the CUSTOMER and cannot be waived!

1. Definition: “Force Majeure” means the occurrence of an event or circumstance (“Force Majeure Event”) that prevents or impedes a party from performing one or more of its contractual obligations under the contract, if and to the extent that the party affected by the impediment (“the Affected Party”) proves:

a) that such impediment is beyond its reasonable control; and
b) that it could not reasonably have been foreseen at the time of the conclusion of the contract; and
c) that the effects of the impediment could not reasonably have been avoided or overcome by the Affected Party.

2. Non-performance by third parties: Where a contracting party fails to perform one or more of its contractual obligations because of default by a third party whom it has engaged to perform the whole or part of the contract, the contracting party may invoke Force Majeure only to the extent that the requirements under paragraph 1 of this Clause are established both for the contracting party and for the third party.
3. Presumed Force Majeure Events: In the absence of proof to the contrary, the following events affecting a party shall be presumed to fulfil conditions (a) and (b) under paragraph 1 of this Clause, and the Affected Party only needs to prove that condition (c) of paragraph 1 is satisfied:

a) war (whether declared or not), hostilities, invasion, act of foreign enemies, extensive military mobilisation;
b) civil war, riot, rebellion and revolution, military or usurped power, insurrection, act of terrorism, sabotage or piracy;
c) currency and trade restriction, embargo, sanction;
d) act of authority whether lawful or unlawful, compliance with any law or governmental order, expropriation, seizure of works, requisition, nationalisation;
e) plague, epidemic, pandemic, natural disaster or extreme natural event;
f) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy;
g) general labour disturbance and those existing in the Affectes Party´s own company, such as boycott, strike and lock-out, go-slow, occupation of factories and premises.

4. Notification: The Affected Party shall give notice of the event without delay to the other party.
5. Consequences of Force Majeure: A party successfully invoking this Clause is relieved from its duty to perform its obligations under the Contract and from any liability in damages or from any other contractual remedy for breach of contract, from the time at which the impediment causes inability to perform, provided that the notice thereof is given without delay. If notice thereof is not given without delay, the relief is effective from the time at which notice thereof reaches the other party. The other party may suspend the performance of its obligations, if applicable, from the date of the notice.
6. Temporary impediment: Where the effect of the impediment or event invoked is temporary, the consequences set out under paragraph 5 above shall apply only as long as the impediment invoked prevents performance by the Affected Party of its contractual obligations. The Affected Party must notify the other party as soon as the impediment ceases to impede performance of its contractual obligations.
7. Duty to mitigate: The Affected Party is under an obligation to take all reasonable measures to limit the effect of the event invoked upon performance of the contract.
8. Contract termination: Where the duration of the impediment invoked has the effect of substantially depriving the contracting parties of what they were reasonably entitled to expect under the contract, either party has the right to terminate the contract by notification within a reasonable period to the other party. Unless otherwise agreed, the parties expressly agree that the contract may be terminated by either party if the duration of the impediment exceeds 120