

Nub Systems BV General Terms and Conditions of Supply of Goods and Services

(Version EN-2015-05-30)

These general terms and conditions (“GTC”) have been established by Nub Systems BV, incorporated in Delft, The Netherlands (“Nub Systems”). The GTC’s together with the agreed and documented scope of the Project, including any Goods and/or Services to be supplied or rendered and the price to be paid by Customer in relation thereto, form the “Agreement”.

1. Definitions

For the purposes of the Agreement:

“Affiliate” means a company which, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with Customer or Nub Systems, respectively; and ‘control’ means the direct or indirect ownership of in aggregate 50% or more of voting capital;

“Claims” means all losses, damages, claims, liabilities, demands, penalties and interest;

“Gross Negligence” is defined by the governing law of the Agreement. However, if such law does not define such term, it means any act or failure to act (whether sole, joint or concurrent) which seriously and substantially deviates from a diligent course of action or which is in reckless disregard of or indifference to the harmful consequences;

“Wilful Misconduct” is defined by the governing law of the Agreement. However, if such law does not define such term, it means an intentional disregard of good and prudent standards of performance;

“Project” the provision of Goods and Services and all other work and obligations to be performed by Nub Systems according to the Agreement;

“Goods” robots/robotic systems, sensors/sensor systems, software and/or any other physical goods or deliverables designed, developed, manufactured, constructed, sold and/or supplied by Nub Systems for/to Customer;

“Services” design, development, manufacturing, installation and any other services rendered by Nub Systems to Customer.

2. General

- a) These General Terms and Conditions apply to the Performance of a Project by Nub Systems and to every proposal, quotation, order and/or any other legal relationships under which Nub Systems acts as the actual or potential seller, supplier or provider of Goods and/or Services respectively.
- b) The applicability of any general or special terms and conditions or payment conditions of the Customer is hereby explicitly rejected.

3. Scope, Conclusion and Amendment of Agreement

- a) The Agreement will determine its scope by reference to a specific project (“Project”) to be performed by Nub Systems for the Customer.
- b) The Agreement will indicate the nature and specification of Goods and the Services to be provided or rendered by Nub Systems as part of the Project as well as any guarantees (if any) provided by Nub Systems in relation thereto.
- c) An Agreement shall only be deemed to have been concluded with Nub Systems: (i) once the Customer has accepted our non-binding proposal/quotation without reservation; (ii) once the Customer has received our written order confirmation; (iii) or once Nub System begins filling the order for Goods or Services.
- d) Any amendments to an Agreement will be valid only following explicit prior written approval of such amendment(s) by Nub Systems.
- e) If during the course of the Agreement either party deems it necessary to change or complement the scope of the Project, then the parties will negotiate in good faith a suitable adaptation of the Agreement for such purpose.

4. Customer Cooperation and Information

- a) The Customer shall ensure that all resources, information and discussion partners regarded by Nub Systems as being necessary for the performance of the Agreement are made available in a timely manner. Nub Systems will notify the Customer about which resources must be made available at particular times.
- b) The Customer will inform employees of Nub Systems fully, extensively and free of charge about the requirements and instructions that apply at the Customer’s site, including the safety requirements and internal rules, if work is to be carried out there by Nub System employees.
- c) The Customer will grant employees of Nub Systems free and safe access to the place(s) of work and other area(s) as decided upon insofar as is necessary for the performance of the Agreement.
- d) Nub Systems shall have the non-exclusive, unrestricted and irrevocable right to use and disclose data and information, provided by or on behalf of Customer in connection with the Project or this Agreement (“Customer Information”). In performing the Project Nub

Systems shall be entitled to rely on the Customer Information. Should any of the Customer Information be erroneous, incomplete, ambiguous or objectively impracticable, he shall make the necessary amendments/additions immediately after receiving corresponding notification from Nub Systems. Nub Systems cannot be held liable for any damages, of whatever nature, which have arisen or may arise due to the fact that Nub Systems has relied upon incorrect and/or incomplete Customer Information.

- e) If Customer intends to disclose third party information or information which it requires Nub Systems to keep confidential Customer shall first notify Nub Systems of the nature of that information on a non-confidential basis and any restrictions as to its use and disclosure. Customer shall not disclose such information to Nub Systems, and Nub Systems shall not be bound by any conditions restricting the use and disclosure of such information, unless Nub Systems in its sole discretion has explicitly agreed in writing to receive such information and under which specified conditions.

5. Performance of the Project and Warranty

- a) Nub Systems shall perform the Project as an independent contractor. The responsibility for any use made of the Goods and Services provided in relation to the Project shall rest exclusively with Customer.
- b) Nub Systems shall be entitled to subcontract, to third parties of its choice, the performance of part of the whole of the Project, under Nub Systems’ responsibility.
- c) Nub Systems warrants that the Services will be performed with due diligence and in accordance with good practice normally exercised by companies providing similar services in the relevant industry.
- d) In as far as software developed by Nub Systems is included in the Goods to be supplied, customer is granted a non-exclusive right to use the software on or in relation to the delivery item it is intended for. Unless otherwise agreed in writing, the software is supplied on an as-is basis and Nub Systems does not warrant the adequacy or suitability of the software provided to Customer. Nub Systems does not and is not able to grant any licence or right of use in respect of third party software.
- e) Except as set out in this Agreement, all conditions, warranties and representations, expressed or implied by law or otherwise, in relation to the Project including the provision of the Services and the supply of Goods or are expressly excluded so far as the same is permitted under the governing law of the Agreement.

6. Delivery of Goods and Title

- a) Unless explicitly stated otherwise in the Agreement, all Goods will be delivered “ex works” Delft, the Netherlands, according to the Incoterms 2010.
- b) All Goods delivered to Customer shall remain the sole property of Nub Systems until the purchase price for such Goods has been paid in full.

7. Price and Payment

- a) All prices stated by Nub Systems are excluding statutory value added tax (VAT) where this is due and exclusive any transportation costs.
- b) Customer shall make payments in Euro in accordance with without setoff, withholding or counterclaim, to the bank account specified in Nub Systems’ invoice within thirty (30) days of the date of the relevant invoice.
- c) Any amount (or part thereof) invoiced and payable in accordance with the Agreement but not paid in time shall bear 1% (one per cent) of interest per month or pro rata part thereof as from the end of the date on which the Customer was in default of payment, automatically and without the need to formally notify the default for said purpose.
- d) If Customer disputes an invoice, Customer will promptly notify Nub Systems in writing of the amount in dispute and the reasons therefore and will pay the undisputed portion of the invoice. Upon the dispute being resolved, Customer will promptly pay any outstanding amounts in accordance with this Article 7 (including any interest applicable to the outstanding amounts) and, to the extent the dispute is resolved in favour of Customer, Nub Systems will issue a credit note for the relevant amount.

8. Intellectual Property, Nub Systems Information Confidentiality and Use rights

- a) The intellectual property rights in all information and data developed by or on behalf of Nub Systems in the course of performing the Project or resulting from the Project shall vest exclusively in Nub Systems (“Nub Systems IP”) and Nub System shall have the right to use such Nub Systems IP for any purpose without restriction.
- b) The copyrights in any reports, software, designs, drawings and other documentation (together hereafter “Nub Systems Documents”) shall vest and remain vested in Nub Systems and such Nub Systems

Documents are for use by Customer only and Customer may not without permission of Nub Systems copy, publish or otherwise make public any Nub Systems Documents or prepare any derivative works based on such Nub Systems Documents.

- c) Any disclosure of any information from Nub Systems shall remain at Nub Systems' sole discretion. For the purposes of this Article 8, "Nub Systems Information" shall mean (i) any information disclosed by or on behalf of Nub Systems in connection with the Project or this Agreement including any Nub Systems IP; and (ii) the results, conclusions and findings of any evaluation by or on behalf of Customer of any such information.
- d) Customer shall neither use nor disclose to any third party any Nub Systems Information, except that Customer may: (i) use Nub Systems Information for the purpose as described in the Agreement; and (ii) disclose Nub Systems Information to (i) those of its employees who have a need to know such information for the Specified Purpose and (ii) a reputable third party contractor only insofar necessary for the Specified Purpose, provided such third party has first signed an agreement with Customer restricting its rights of use and disclosure of the information on terms not less stringent than apply to Customer hereunder without the right of further disclosure.

9. Liability and Claims for Defects

- a) If Customer proves that (any part of) the Services (is) are in breach of the warranty in Article 5(c) and notifies Nub Systems in writing within one (1) calendar month after completion of the relevant Services, Nub Systems shall, at its option, either investigate and endeavour to re-perform those deficient Services or repay that part of the Fee attributable to the deficient Services whereupon Nub Systems will have no further obligations in respect of those Services.
- b) If Customer proves that (any part of) the Goods do not conform with the specifications in regard of which Nub Systems has expressly stated in the Agreement that these are guaranteed specifications (hereafter "**Guarantees**") and Customer has notified Nub Systems in writing within one (1) month after receipt of the relevant Goods that and to which extent the Goods do not meet the Guarantees, Nub Systems shall, at its option, repair or replace the defective goods for new goods or repay the purchase price for the Goods in question whereupon Nub Systems will have no further obligations in respect of those Goods. Notwithstanding the foregoing, Nub Systems is not liable and does not accept any liability for Goods not meeting the Guarantees in the following cases; unsuitable or improper use or use for another purpose than pursuant to the Agreement, unauthorised or faulty commissioning by the Customer or a third party, natural wear and tear; any changes to hardware designed or supplied by Nub Systems, and/or use of the Goods in combination with software, infrastructure or Systems other than software, infrastructure and systems supplied and/or recommended by Nub Systems.
- c) In case of the Goods or part thereof supplied by Nub Systems consist of standard products or components the Customer's claim for defects shall be directed solely to the external supplier, unless agreed otherwise in writing.
- d) Notwithstanding anything contained in the Agreement, Nub Systems' total aggregate liability to the Customer arising out of or in connection with the Agreement, in tort (including negligence or breach of statutory duty) or howsoever arising, shall be limited to the amounts paid to Nub Systems under the Agreement over the period of three (3) months prior to the supply of Goods or Services or the incident that caused the damage, subject to a maximum of €25,000 (twenty five thousand) per year. This limitation also applies to any employees. These employees and Nub Systems will jointly be liable for no more than the sum specified above.
- e) However, the limitation in above Article 9(c) will not apply to liability arising out of Gross Negligence or Wilful Misconduct.
- f) Neither Party shall be liable under or in connection with the Agreement, in tort (including negligence or breach of statutory duty) or otherwise: (i) for any loss of profit, losses caused (whether directly or indirectly) by business or production interruptions, loss of goodwill, contracts, revenues, anticipated savings, reputation; or (ii) for any special, indirect or consequential damage of any nature whatsoever arising out of the provision of the Services or of any error or defect therein, or of the performance, non-performance or delayed performance for whatever reason. Nothing in this Article 9(e) shall limit the obligation of one Party to indemnify the other under Article 10.
- g) No director, employee or agent of Nub Systems or any of its Affiliates shall have any personal liability in connection with the Agreement.
- h) No provision contained in the Agreement shall exclude the liability of a Party in respect of any fraud or fraudulent misrepresentation or to the extent that liability cannot be limited or excluded in accordance with the governing law of the Agreement.
- i) Any Claim, regardless of the form that it takes, based on or arising

from the Agreement will expire if it is not lodged in writing within one (1) year after the cause thereof arises.

10. Indemnities and Insurance

- a) Nub Systems and Customer shall each be responsible for all Claims in connection with the performance of the Agreement arising out of:
 - (i) injury, disease, or death of employees of it or its Affiliates, or
 - (ii) loss of or damage to property of it or its Affiliates, or
 - (iii) loss or damage resulting from pollution from its own property, even if (i), (ii) or (iii) above is caused by the negligence of the other Party or its employees or agents, and each will indemnify and hold harmless the other accordingly.
- b) Without prejudice to Article 10(a), Customer shall indemnify and hold harmless Nub Systems, any Affiliate of Nub Systems, and any director, employee or agent of Nub Systems against all Claims arising out of:
 - (i) any delay or failure of Customer to meet any of its obligations under the Agreement; and/or
 - (ii) any third party arising out of or in connection with the Agreement and/or any use made of the Goods or Services, but not against any Claim that arises out of Nub Systems' Gross Negligence or Wilful Misconduct.
- c) The Customer shall maintain insurance, whether by self-insurance or otherwise, to cover its liabilities under the Agreement.

11. Assignment

Neither Party shall assign any or all of its rights and obligations under the Agreement without the prior written consent of the other Party, except that Nub Systems may assign any or all of its rights and obligations to any Affiliate of Nub Systems without the prior written consent thereto of Customer.

12. Publicity

Neither Party shall disclose the other Party's name or use the other Party's logo in any public statement or document, whether by way of press statement, publication, Internet, or otherwise, except with the express consent of the other Party. Notwithstanding the foregoing Nub Systems may use Customers name in its customer list and may refer to Customer Project as work performed for a customer unless agreed otherwise in the Agreement.

13. Non-Solicitation & No Restriction on Competition

- a) The Customer will not employ or make an offer to any employees of Nub System involved in the performance of the Agreement for as long as the Agreement continues and for a period of one (1) year after termination of the Agreement.
- b) No part of an Agreement will or is intended to obstruct or restrict Nub System from entering into similar agreements with third parties or developing or offering Goods and Services that are similar to those supplied under this Agreement.

14. Force Majeure

Neither Party shall be liable for any delay or failure to perform any of its obligations under the Agreement to the extent that such performance is hindered, delayed or prevented by any cause whatsoever outside the reasonable control of that Party. However, this provision applies neither to any obligation to make any payment nor to the obligation to take reasonable measures for preventing the disclosure of confidential information. If force majeure occurs, the affected Party shall promptly give notice thereof to the other Party. If force majeure has continued for a period of thirty (30) consecutive days, then either Party has the right to terminate the Agreement by seven (7) days written notice to the other Party.

15. Termination

- a) If a Party commits a material breach of its obligations under this Agreement ("**the Party in Breach**"), the other Party may give written notice to the Party in Breach requiring it to rectify that breach. If the Party in Breach fails to rectify that breach within sixty (60) days of having received such notice, the other Party may terminate the Agreement upon sending written notice to the Party in Breach. If the other Party does not send written notice terminating the Agreement within thirty (30) days following expiration of the sixty (60) day rectification period, the right to terminate for the relevant material breach will expire, unless the Parties agree otherwise.
- b) If any amount invoiced in accordance with the Agreement remains unpaid sixty (60) days after the date of the invoice, Nub Systems may terminate the Agreement by giving seven (7) days written notice to Customer.
- c) Upon any termination Customer shall pay to Nub Systems (i) all amounts to which Nub Systems is entitled but which are unpaid at the date of termination (whether or not they have yet become payable)

and (ii) all costs reasonably incurred by Nub Systems as a result of such termination.

- d) Termination of this Agreement shall be without prejudice to any right or obligation already accrued to either Party prior to the date of termination, or which is specified or implied to remain in force after such termination.

16. Governing Law and Dispute Resolution

- a) The laws of The Netherlands shall govern: (i) the Agreement and its subject matter; and (ii) any dispute, controversy or claim in connection with or arising out of with this Agreement or its subject matter whether in tort, contract, under statute or otherwise, including any questions regarding its existence, validity, interpretation, breach or termination ("**Dispute**").
- b) Subject to Article 16(a), any Dispute which cannot be settled amicably by the Parties shall be finally and exclusively resolved by arbitration under the arbitration rules of the NAI (Het Nederlands Arbitrage Instituut) in force as at the date of the Agreement ("**Rules**"), which Rules are deemed to be incorporated by reference into the Agreement. The Tribunal shall consist of three (3) arbitrators, to be appointed in accordance with the Rules. The seat of the arbitration shall be The Hague, the Netherlands. The language of the arbitration shall be English. Unless the Parties agree otherwise the arbitration proceedings and the arbitration award shall be kept confidential.
- c) If Customer breaches or threatens to breach any of its the confidentiality obligations in Article 8 or otherwise according to the Agreement, Nub Systems may, notwithstanding Article 16(b), at its own discretion apply to a court of competent jurisdiction to seek any remedies including without limitation any interim and/or injunctive relieve for such breach or threatened breach. Both Parties hereby submit to the exclusive jurisdiction of such court in the event that Nub Systems elects to refer a breach or threatened breach of Customer confidentiality obligations to such court.

17. Invalidity

- a) If any provision of this Agreement shall be found to be illegal, unenforceable or otherwise invalid, then, notwithstanding any such provision shall be deemed to be deleted and substituted by a valid provision which in its effect comes so close to the invalid provision that it can be reasonably assumed that the Parties would have reached agreement also with this new provision.
- b) In case such a new provision cannot be found, the invalidity of one or more provisions of this Agreement will not affect the validity of this Agreement as a whole, unless the invalid provision was of such essential importance to this Agreement that it is to be reasonably assumed that the Parties would not have entered into this Agreement without the invalid provision.

18. Entire Agreement/Waiver/Amendment/Relation of Parties

- a) This Agreement, together with any documents referred to in it, embodies and sets out the entire agreement and understanding between the Parties in connection with the subject matter hereof and each Party acknowledges that it has not relied on any statements, oral or written, made prior to the Agreement. Nothing in this Agreement shall be considered or construed as conferring any right or benefit on a person not a party to this Agreement and the Parties do not intend that any term of this Agreement should be enforceable by any person who is not a party to this Agreement.
- b) This Agreement shall not be amended, modified, varied or supplemented except in writing and agreed by duly authorised representatives of the Parties.
- c) Notwithstanding termination rights as stated in Article 15, failure or delay on the part of either Party to exercise any right or remedy under this Agreement, whether single, partial or otherwise, shall not be construed or operated as a waiver.
- d) Nothing in this Agreement shall create a partnership between the Parties or otherwise constitute a partnership, agency, trust, employment relationship or other similar arrangement.