

GENERAL TERMS AND CONDITIONS (GTC) FOR SOFTWARE

1. SCOPE OF APPLICATION

The following General Terms and Conditions apply to the use of the product management software ("software") sold by proProduktmanagement GmbH, Deutschherrnstr. 6, 90429 Nuremberg, Germany ("proProduktmanagement"). By purchasing a license for the software, the licensee ("customer") undertakes to proProduktmanagement to strictly adhere to the terms of use.

The software is provided to the customer by proProduktmanagement exclusively on the basis of these GTC and the associated end user license agreement. Contract conditions of the customer do not apply, even if such conditions are not expressly contradicted by proProduktmanagement.

2. FRAMEWORK CONDITIONS

These General Terms and Conditions shall apply as the general conditions of all current and future business relationships with regard to the software with proProduktmanagement GmbH, even if their inclusion is not expressly agreed again. With the validity of these GTC in the valid form also for future contracts with proProduktmanagement GmbH the customer agrees expressly.

3. SCOPE OF SERVICES

- 3.1. The software purchased by the customer is made available to the customer as a download. The customer can then install the software on his own system according to the documentation provided by proProduktmanagement. The software will not be installed on the customer's system by proProduktmanagement.
- 3.2. The purchase of a software license entitles the customer to receive updates.

4. PAYMENT CONDITIONS

- 4.1. All prices quoted are exclusive of statutory value-added tax.
- 4.2. The licence fees are due after receipt of the invoice and in advance without deduction and in compliance with the stated term of payment. Other terms of payment must be agreed in writing.
- 4.3. proProduktmanagement is free to provide the customer with invoices by letter post or electronically (by e-mail).
- 4.4. In the event of an extension of the license term, the customer shall receive a corresponding invoice, which shall be paid without deduction.
- 4.5. Interest on arrears shall be charged at the rate of 8 percent above the respective base interest rate p.a..
- 4.6. In case of delay of payment proProduktmanagement is entitled to refuse the owed service until the complete effect of the consideration (right of retention) or to extraordinarily terminate the contract for important reason.

5. NOTICE OF CANCELLATION

The customer may terminate the contractual relationship in writing up to 30 days before the end of the granted license period. Otherwise, the contractual relationship shall be automatically extended by a further 12 months.

Either party may terminate this Agreement for cause if the other party breaches a material contractual obligation, and the terminating party must give the other party a written reminder and grant it a reasonable grace period to perform its obligations. Conditions which by their nature are not limited in time shall remain in force until their fulfilment and shall also apply to any legal successors. proProduktmanagement may terminate the customer's license if the customer violates the General Terms and Conditions and/or the License Agreement (EULA).

6. CONSEQUENCES OF CONTRACT TERMINATION

Upon expiration of the contract period, the customer shall delete the software on his computers and cease further use of the software. After the end of the contract, the customer shall no longer have access to the data stored in the software. It is the customer's responsibility to store the data for further use before the end of the contract period. proProduktmanagement is not obligated to release the data beyond this. At the end of the contract, proProduktmanagement will delete the customer data, unless proProduktmanagement is legally obliged to store. If deletion is only possible with disproportionate effort (e.g. in backups), proProduktmanagement is entitled to block the data. The right of proProduktmanagement to use the data according to clause 10 remains unaffected.

7. WARRANTY

The purpose of the software is to support business decisions regarding product (further) development. For this purpose, models and abstractions are used which, like any model, can deviate from reality. In their framework suggestions and potentials are provided among other things. These are dependent on various user inputs, the correctness of which is the sole responsibility of the customer. Also it can come e.g. with unfavorable data constellations to errors with the computation of the suggestions in the software.

- 7.1. For these reasons proProduktmanagement cannot give any guarantees for the correctness of the indicated decision aids. Decisions made with the help of the software should always be questioned critically.
- 7.2. In the case of unfavourable data constellations, for example, the software may not be able to calculate the optimal decision templates.
- 7.3. In no case does proProduktmanagement assume liability for the consequences of (business) wrong decisions due to the use of the software.
- 7.4. proProduktmanagement guarantees that the software provided fulfils the agreed functions. The prerequisite for the warranty, however, is the contractual use of the software *Gewährleistung ist jedoch die vertragsgemäße Nutzung.*
- 7.5. proProduktmanagement does not guarantee that the software works without interruption or errors and that the functions contained are executed in all combinations selected by the customer and meet the requirements of the customer. In the case of software errors which do not only insignificantly impair the contractual use, proProduktmanagement will eliminate the error - within a reasonable period of time - depending on its significance by providing another software version or by providing information on how to eliminate or avoid the effect of the error.
- 7.6. The customer has to grant proProduktmanagement the time and opportunity necessary for any remedy of defects. Otherwise proProduktmanagement is released from any warranty obligation.

8. CHANGES IN PERFORMANCE

proProduktmanagement can change the software within the scope of updates for important reasons. Such a reason exists in particular if the change is necessary due to (a) a necessary adjustment to a new legal situation or jurisdiction or (b) the protection of system security.

9. SECRECY

The software and all documentation provided by proProduktmanagement contain essential components (e.g. algorithms and logic) which represent confidential information and trade secrets and which are considered confidential information of proProduktmanagement. The customer will not pass on confidential information of proProduktmanagement to third parties and will only use it in accordance with this contract.

10. DATA PROTECTION

- 10.1. proProduktmanagement stores the data of the customer during the duration of the contractual relations in electronic form. It undertakes to comply with all data protection regulations applicable in the Federal Republic of Germany.
- 10.2. The customer agrees that his data will be stored by proProduktmanagement and used and processed for the implementation of the offered services.
- 10.3. proProduktmanagement respects the privacy of its customers and observes all applicable data protection regulations. Personal data collected or processed by proProduktmanagement will be treated confidentially and will not be passed on to third parties, except in the case of legal obligations.
- 10.4. A detailed description can be found in the data protection declaration under www.pro-produktmanagement/rights.

11. GERMAN LAW IN FORCE, PLACE OF JURISDICTION

- 11.1. German law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods. Place of jurisdiction is Nuremberg. The contract language is German.
- 11.2. Furthermore, Nuremberg shall be agreed as the place of jurisdiction if the customer relocates its registered office abroad after conclusion of the contract or does not have a general place of jurisdiction in Germany.

12. SEVERABILITY CLAUSE

Should individual provisions of this contract be or become invalid or void, this shall not affect the validity of the remaining provisions of this contract. The invalid clause shall be replaced by a valid clause that comes closest to the meaning and content of the invalid clause.

13. OTHERS

- 13.1. Additional or deviating agreements must be made in writing. This also applies to the waiver of the written form requirement, unless proProduktmanagement confirms the deviating agreement in writing.
- 13.2. All clauses of the general terms and conditions regulate finally the contractual relations of the parties and replace - as far as legally permissible - all preceding agreements or promises, unless their validity is confirmed expressly and in writing by proProduktmanagement.
- 13.3. Neither the delayed assertion of rights from these general terms and conditions nor the waiver of the enforcement of these in individual cases constitutes an implied amendment of the general terms and conditions or a waiver of these on the part of proProduktmanagement.