General Business Terms and Conditions (Allgemeine Geschäftsbedingungen) v. 1.0

5Pro-Software GbR

1. General provisions

The following provisions shall govern all contractual relations between the Ordering Party/Client/Customer/Purchaser and the Supplier/Contractor/5Pro-Software; they shall also apply to any additional deliveries or services. Any special terms agreed in the context of an individual agreement shall supersede these General Business Terms and Conditions. By placing an order and/or claiming of benefits these terms apply as recognized and accepted.

2. Proposal and agreement signing

2.1 The proposals of 5Pro-Software are not-binding regarding prices, quotations, dates of delivery and other contents, and are subject to confirmation. Contracts and other agreements will be effective only by confirmation in writing/scanned copy.

2.2 With proposals, specifications, design mock-ups and other documents we reserve ourselves all rights of property and copyrights. These should be not available to third parties without our written consent.

3. Delivery terms

3.1 The scope of delivery become effective upon written acknowledgement by 5Pro-Software. We reserve the right to perform partial shipments. If these are already useful for the customer, we are entitled to place an invoice over these partial deliveries.

3.2 The deadlines indicated by 5Pro-Software in the proposal are not binding, unless otherwise explicitly agreed in writing. The terms of delivery begin with the day of our acknowledgment of order, however, not before clarifying all details of the project implementation.

3.3 Delay of an agreed deadline occurs for the rest of delivery only, provided that the contracting partner sends a reminder mail to 5Pro-Software, and sets there a reasonable new deadline, which can be, according to range of the assumed work, one month until at most six months. After unsuccessful expiration of this term the contracting partner is authorized to withdraw from the contract, by a written declaration.

3.4 Delay of the delivery deadline does not occur if 5Pro-Software changes or supplements work on the ordered object as requested by the contracting partner.

3.5 5Pro-Software carries the danger up to acceptance of the delivery. The contracting partner carries also the danger before acceptance of the delivery, if he delays the acceptance or if the execution is interrupted for reasons of the contracting partner. The achievement is accepted after completion, even if the final adaptation of the specifications from the contracting partner has not

occurred completely. Self-contained parts of the work are to be accepted separately on request. If the achievement is used completely or partly or the acceptance is delayed without fault of 5Pro-Software, the acceptance is effective at the end of six working days after announcement of the completion. A use of the achievement may occur only by explicit agreement on the part of 5Pro-Software. Produced partial achievements are considered as accepted when they are used.

3.6 Delivery delays because of events of force majeure which make the delivery complicated or impossible, like war, natural disasters, official orders, strike etc., - this is also valid for deliveries by our suppliers - are not in the responsibility of 5Pro-Software, even not in the case of obligingly agreed terms and dates. They entitle 5Pro-Software to defer the delivery for the period of the duration of force majeure plus an adequate initialization time or to withdraw totally or partly from the contract. In each case there still exists the claim on payment of the implemented work as well as other costs caused by the order.

4. Prices and Payment

4.1 The prices included in the proposal are generally understood to be in EURO. VAT/MwSt and shipping/handling are not included, unless otherwise noted. If an order is not feasible without exceeding the quotation of more than 20%, 5Pro-Software has to indicate this immediately to the contracting partner. Otherwise § 650 BGB is valid.

4.2 The invoice is issued in course of 10 days after the day of the delivery. Payments must be performed during 14 days starting from invoice date, without any discount. Payee should make sure to cover all bank and currency exchange expenses.

4.3 With overdue of the payment date 5Pro-Software is authorized to demand reminder fees and overdue interest of 5% above the respective discount rate of the German Central Bank, without proof of a loss.

4.4 With behaviour of the contracting partner contrary to the terms of the agreement, especially with delay of payment as well as if the contracting partner comes into a financial collapse, stops his payments or if a judicial insolvency proceeding starts, any agreements of date of payment are invalid, and 5Pro-Software can require the immediate claim of their property. In such a case no cancellation of the contract is appropriate, unless 5Pro-Software explains this explicitly in writing. Furthermore 5Pro-Software is authorized to place all outstanding invoices due as well as to demand pre-payments and securities.

5. Reservation of Proprietary Rights Until complete payment of all invoices the products, services and all demands existing at the moment of the delivery or later shall remain the property of 5Pro-Software; on payment by cheque or change until their redemption. By assertion of the reservation of proprietary rights by 5Pro-Software the right for the further use of the delivery or services for the contracting partner expires. All program copies made by the contracting partner must be deleted.

6. Claim und warranty

6.1 According to the quick development of technology it is not possible to provide software in a way that it works perfectly in all applications and combinations. However, 5Pro-Software guarantees that the contract software, including the program descriptions and design, delivered at

the time of passing of the risk is free of errors which cancel or reduce the value or the suitability of the software, as well as that it shows the assured features.

6.2 The warranty term for deliveries and achievements is limited to, unless otherwise agreed, twelve months after installation made by 5Pro-Software, otherwise from delivery date.

6.3 5Pro-Software is to be liable for defects as follows: The contracting partner has to check the delivery including the documentation within eight days after delivery, especially in view of the completeness and integrity of the data medium, the program description and the other provided material, the operability of basic program functions as well as the assured functionality. The defects must be notified in writing to 5Pro-Software within further eight working days. The claim must contain a specific description of the defects. Defects which cannot be recognized in the context of the described investigation, must be reprimanded within eight days after discovery according to the requirements above. In the case of a violation of the investigation duties the delivery is regarded as accepted in consideration of the concerning defect, with the result that the duty of warranty is cancelled. In case of the entitled and punctual levied claim 5Pro-Software is authorized after her selection to rectification of defects of the complained delivery. For removal of the defect the contracting partner has to grant 5Pro-Software a reasonable period of time. Cutting of the payment (loss in value) or cancellation of the contract (redhibitory action) can be required if rectification of defects or replacement have failed. However, the warranty is cancelled if the contracting partner does not give 5Pro-Software an adequate opportunity for defect removal. For this the contracting partner must grant, if necessary, access to his hardware on which the reprimanded software is installed.

6.4 For hardware or software not made by 5Pro-Software, 5Pro-Software refers to the warranty claims of her suppliers or manufacturers (third party).

7. Liability

7.1 Claims of the contracting partner due to any damages including consequential harm caused by defects because of either fault on conclusion of the contract, positive infringement of a demand, §635 Civil Code (agreement of transfer of possession of individual software), delay, impossibility or unauthorised acts which are committed during processing the contractual relationship are excluded, unless they are based on the part of 5Pro-Software, her statutory agent or manager on intent, wantonly negligent behaviour or on the slightly negligent infringement of such duties whose abidance for the reaching of the contract purpose is of special importance (cardinal obligation). In the last-mentioned case, with other servants in any case, the limitation of liability for initial incapacity according to paragraph 2 of these liability provisions is valid. In the case of data loss the liability is limited to the typical work on the restoration assuming the existence of suitable backup copies.

7.2 Claims for damages because of missing copyrights or other third party rights are excluded, provided that 5Pro-Software had no knowledge of the defect of title. In this case, 5Pro-Software is obliged, if necessary, to support the contracting partner in the judicial defence. Claims for damages because of a defect are excluded; this applies in particular to damages not effecting the delivered object or damages effecting third parties. The liability for initial incapacity is limited to the handed over payment and limited to only such damages that are typical in case of a hand over of the software.

8. Final regulations

8.1 These General Business Terms and Conditions shall apply insofar as the corresponding purchase agreement does not provide otherwise.

8.2 The general business terms and conditions of the Client shall have no applicability. The Contractor's failure to object to any such deviating general business terms and conditions shall not constitute implicit consent.

8.3 Mandatory legal stipulations shall supersede these General Business Terms and Conditions. The legal invalidity of any given provision of an agreement shall not affect the validity of its remaining provisions. An invalid provision shall be replaced by a newly negotiated provision that comes as close as possible to the commercial intent of the original provision.

8.4 When transferring or selling the object of the agreement or parts thereof to third parties, the Client must ensure that all legal export-related restrictions and/or prohibitions are considered and complied with.

8.5 The Parties hereby agree to act in a mutually loyal fashion. Thus, each Party shall desist from hiring away (even through a middleman) employees of the other Contracting Party who participated in realising an order. This prohibition shall last for the duration of the agreement and 12 months thereafter. If one of the Contracting Parties breaches this obligation, he shall pay the other Party a one-off indemnification in the amount of one annual salary for the employee in question.

8.6 The contractual relationship shall be exclusively subject to law of Germany. No references to international private law shall be permitted. The UN Convention on Contracts for the International Sale of Goods shall also be specifically excluded.

8.7 Any and all disputes arising from, or in connection with, this agreement shall be adjudicated by the court of corresponding jurisdiction in Frankfurt/Oder, Germany. These business terms are valid from 01.01.2004 and become invalid by a version of a newer date.