

§ 1 Validity

- (1) The goods, services and products of e-pro solutions GmbH (hereafter referred to as "e-pro") shall be provided exclusively based on these general terms and conditions of business and the other special terms and conditions (e.g. for software or services) that are declared as applicable in an individual contract.
If the customer has not been given an updated version of the general terms and conditions of business, these regulations shall apply to the entire current and future business for services (e.g. software, services, projects and maintenance) with the customer, even if explicit reference is not made to the general terms and conditions of business.
- (2) Differing or additional general terms and conditions of business relating to the customer do not constitute part of the contract.

§ 2 Prices and payment

- (1) Where services are accounted for based on expenditure, e-pro's current price list shall apply on an order by order basis.
- (2) Where services are provided away from e-pro's business premises by agreement with or at the request of the customer, the resulting travel and accommodation expenses and other expenses shall be charged for separately based on actual expenditure incurred. In such cases, travelling times shall be regarded as time worked.
- (3) All prices are quoted net, i.e. including the statutory rate of value-added tax.
- (4) Invoices issued by e-pro shall be due on the date stated in the accounts, and shall be considered as net, without discount or other deductions, and in any event shall be due no later than the date of receipt of goods delivered, services rendered or customer acceptance of work delivered by e-pro.
- (5) e-pro is entitled to charge interest due at a rate of 5 percentage points above the EURIBOR. If the customer gets into arrears, e-pro shall be entitled to charge interest on arrears at a rate of 8 percentage points above the EURIBOR as a means of compensation. If it is able to provide appropriate supporting documentation, e-pro shall be entitled to claim for damage caused by delay. It is the customer's responsibility to provide e-pro with evidence that such damage is lower.
- (6) The customer can only offset against counterclaims that are established as final and absolute, undisputed or acknowledged by e-pro. The customer may only assert a right of retention on the basis of counterclaims that are based on the same contractual relationship and which are undisputed, established as final and absolute or ready for a decision.

In the case of current business relations, each order represents a separate contractual relationship as defined in section (6).

§ 3 Force majeure, reminders

- (1) If e-pro is prevented from meeting deadlines in respect of delivery of goods, rendering of services or completion of work due to a force majeure after the contract has been concluded, then the deadline concerned shall be extended by the duration of the impact of the force majeure, plus an appropriate lead time. Unforeseeable circumstances beyond the control of e-pro which make delivery, performance or completion unreasonably difficult shall be considered as equivalent to a force majeure. This includes, in particular, industrial action, sovereign interventions, a shortage of raw materials or energy, major transport problems and failure of data lines belonging to third parties, including when such circumstances affect one of e-pro's vicarious agents, suppliers or subcontractors.
- (2) Agreed delivery, performance or completion dates shall be automatically extended by the period in which e-pro is awaiting the co-operation of or information from the customer.
- (3) Any customer reminders or deadlines must be in written form to be effective.

§ 4 Reservation of proprietary rights

- (1) e-pro reserves the right to ownership of objects supplied in its own name (e.g. data media or printouts) until such time as all claims arising from the relevant contractual relationship with the customer have been settled. The servicing and/or maintenance of hardware and software constitute independent contractual relationships in this sense.
- (2) The customer is obliged to indemnify the reserved property against the rights of third parties and, in the event of the reserved property being accessed by third parties, the customer must notify e-pro immediately in writing or by telephone and inform the third parties of e-pro's rights.

§ 5 Liability

- (1) Unless regulated otherwise below, claims asserted by the customer for damages - on whatever legal basis, but particularly on the grounds of unauthorised action, producer liability, incorrect or lack of advice, negligence in contract negotiations or positive breach of obligation - shall not be accepted for cases of negligence and ordinary negligence on the part of e-pro, its representatives, managerial staff, employees or vicarious agents.
- (2) Under the relevant statutory provisions, e-pro shall be liable for culpable breach of obligations

that are essential for the proper implementation of the contract ("cardinal obligations").

- (3) Where e-pro is also liable for ordinary negligence in accordance with paragraph 2, its liability shall be restricted to the level of typical, foreseeable damage.
- (4) In the event of gross negligence on the part of individual vicarious agents, e-pro's liability shall also be restricted to the replacement of typical, foreseeable damage.
- (5) e-pro shall only be liable for the loss of data and its restoration if such a loss would not have been avoidable through the adoption of appropriate data backup measures on the part of the customer, and if the data can be reconstructed - at reasonable expense - from data material held in a machine-readable form.
- (6) The compensation to be paid in accordance with the aforementioned provisions shall be limited, in the case of limited use of the licence material, to the level of the current remuneration for 12 months and, in the case of unlimited use of the licence material, to the one-off remuneration of licence material that is the subject of the claim or which has been the direct cause of the damage. The remuneration applicable at the time the claim is made - excluding value added tax - is definitive for the calculation.
- (7) e-pro shall not be liable for lack of economic success, lost profit, missed savings or indirect damages. Similarly, e-pro shall not be liable for improper installation by third parties or negative interactions of the service rendered with software or hardware components that the customer has or will have subsequently. Nor shall e-pro be liable for inappropriate or improper use or incorrect or negligent maintenance carried out by the customer or third parties.
- (8) The aforementioned liability exclusions and restrictions shall not apply where strict liability exists in law, in particular (i) in cases of liability without fault, as under the German Product Liability Act, (ii) where there is liability for initial incapacity, (iii) where there is damage to health and physical injury or loss of life.
- (9) Where e-pro's liability for damages is excluded or restricted, this shall also apply to the personal liability of its representatives, managerial staff, employees, contractors, employees and vicarious agents.
- (10) Claims for damages shall fall under the statute of limitations within a year of the point at which the customer becomes aware of the damage, and, regardless of such knowledge, in two years from the harmful event. Section 852 of the BGB (German Civil Code) shall remain unaffected.

Where e-pro and the customer are in negotiations about the level of compensation to be paid, the statutory limitation shall be blocked until one of the contracting parties refuses to continue the negotiations.

§ 6 Warranty

- (1) Any defects in delivered software, including any manuals or other documents delivered, shall be remedied within the warranty period of 12 months from delivery following corresponding notification by the customer. e-pro shall have the option, at its reasonable discretion, of rectifying the relevant services or providing a replacement twice.
- (2) The customer is obliged, after receiving the agreed goods or services, or at the request of e-pro, to check that such goods or services are both correct and complete and, in the case of delivered programs, is further obliged to carry out a test run and check the results thereof. If such tests reveal any defects or deviations from the agreed scope of performance, the customer shall be obliged to notify e-pro immediately in writing of any such defects or deviations, including examples of the faults. e-pro shall strive to remedy the defect within a short period of time and make the corrected program available to the customer, or it shall provide a reasonable workaround.
- (3) e-pro must give the customer the necessary information, time and opportunity to carry out all measures or provide replacements. Only in urgent cases of operational security, or if there is a danger of an inordinate level of damage, will the customer be entitled to begin remedying the default itself or having such default remedied by a third party.
- (4) If such complaint turns out to be justified, then the costs incurred in remedying the damage shall be borne by e-pro. Otherwise, such costs shall be charged to the customer in accordance with the price list.
- (5) Where a service or maintenance agreement has been entered into between the parties, e-pro shall render all warranty measures within the framework of such service or maintenance contract. In such a case, there shall be no further claims made by the customer under the terms of the warranty.

§ 7 Rights of third parties

- (1) e-pro shall defend the customer against all claims arising from a contravention of an industrial property right or copyright where such contravention involves goods (in particular software) supplied by e-pro or work results made available which the customer then uses in accordance with the contract. e-pro shall bear any costs and damages imposed on the customer by a court of law, provided that the customer notifies e-pro immediately in writing of such claims, and that e-pro retains all defensive measures and settlement negotiations.

(2) Where claims have been asserted - or are expected - against the customer in accordance with paragraph 1, e-pro may, at its own expense, change or replace the goods or work results on a scale that is reasonable for the customer. If this, or the effecting of a right of use, is not possible at an appropriate level of expense, then, in the case of software, each of the contracting parties may terminate the licence for the relevant software without notice. In such a case, and in accordance with section 5, e-pro shall be liable to the customer for the damage caused by such a termination.

§ 8 Miscellaneous

- (1) In order to fulfil its contractual obligations to the customer, e-pro may utilise the services of subcontractors and other vicarious agents.
- (2) The law of the Federal Republic of Germany shall apply. The UN agreement on contracts relating to the international sale of goods shall not apply.
- (3) No verbal ancillary agreements have been reached. Any amendments or additions to a contract must be in written form. This shall also apply to any change to this requirement for a written form.
- (4) The customer's rights arising from a contract cannot be transferred by the customer to a third party by means of assignment, sublicensing or in any other way unless e-pro has given its express approval in writing. Non-assignment shall not apply to the customer's debts if the relevant contract represents a trade transaction as defined in section 354a of the HGB (German Commercial Code), nor shall it apply to cases for which there are other regulations in the special terms and conditions of business.
- (5) The place of fulfilment shall be Stuttgart, Germany. Stuttgart shall be the sole place of jurisdiction for any disputes arising from or in connection with these general terms and conditions of business, the applicable special terms and conditions and the individual contract in which reference is made to these general rules.
- (6) Should any individual provisions of the contract between e-pro and the customer, including the general terms and conditions of business or the included special terms and conditions be, or

become, ineffective in full or in part, or if these regulations should contain a gap, then the validity of the remaining provisions shall not be affected thereby.

It is agreed that the invalid provision shall be replaced by an effective provision which closely approximates the invalid provision. In the event of a gap in the contract, the provision which corresponds to what would have been agreed in accordance with the purpose of this contract if the contracting parties had considered the matter beforehand shall apply.

- (7) Where contradictions to applicable special terms and conditions of business exist, the special terms and conditions of business shall take precedence over these general terms and conditions of business.
- (8) Where e-pro carries out activities for the customer on site, the customer's house rules shall apply provided that e-pro's employees have been notified accordingly.
- (9) Both contracting parties should heed the German and European data protection provisions relating to the services that are the subject of the contract.
- (10) The parties are obliged to treat the information obtained from the other contracting party in the course of rendering the services that are the subject of the contract in confidence where such information is designated as confidential or may be regarded as confidential by its nature. This shall not apply to information of which the other contracting party was aware prior to the conclusion of the contract, to state-of-the-art information or information that is freely available in the market, nor shall it apply to information of which third parties are aware without the involvement of the other party.

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