General Terms and Conditions of Business

Once an order is placed, the following general terms and conditions come into force:

Warranty

PROFACTOR warrants that the research and development activities will be carried out in accordance with relevant scientific knowledge and that the process technologies will be in accordance with the state of the art. In the case of software services, it is warranted that the software conforms to the associated program documentation. Nevertheless, a complete exclusion of errors in the software is not possible. All research and development results shall be documented in writing or by means of data carriers. In the event of any other loss of any claims arising from a defect, the customer is obligated to immediately and thoroughly inspect the (partial) deliveries from PROFACTOR and to immediately notify PROFACTOR in writing of any defects with a precise description of the defects. The customer is not entitled to withhold payments due to insignificant defects, or to withhold payments for one part of the goods because another part of the goods has significant defects. Any warranty claims shall be suspended as long as the customer is in default of payment; this suspension shall not, however, prevent the commencement, running and expiry of the warranty obligation.

The customer is responsible for proving that a defect exists at the time of delivery. The customer is obligated to support PROFACTOR in the determination and elimination of defects and to enable all necessary measures (such as access, inspection of documents, etc.). If the customer does not comply with his obligation to cooperate in the rectification of defects despite a written reminder from PROFACTOR, the assertion of any claims resulting from a defective service is excluded.

The customer must accept the work/service/software no later than 4 weeks after delivery or service provision. Minor or insignificant defects do not entitle the customer to refuse acceptance. If the customer does not carry out an acceptance within the above-mentioned period or if the work, the service or the software is actually put into use by the customer, the work, the service or the software shall be deemed to have been accepted in any case upon expiry of this period or upon commissioning in real operation by the customer. Warranty claims shall become time-barred 6 months after the actual acceptance of the service by the customer.

The warranty shall take the form of rectification of defects or replacement delivery at the discretion of PROFACTOR within a reasonable period of time to the exclusion of further claims. This applies to defects that are reported to PROFACTOR by the customer in writing in a clear and understandable manner form within the warranty period. If the defect cannot be detected or reproduced, the customer shall bear the costs of the inspection. In the case of minor defects, PROFACTOR is also entitled, but not obligated, at its discretion to refrain from improvement or replacement and instead to grant a reasonable price reduction, in particular if replacement or improvement would involve disproportionate effort. In the case of minor defects as well as non-minor defects, PROFACTOR is also entitled, but not obliged, at its discretion to take back the goods and credit the order value to the exclusion of further claims. Improvement or replacement does not interrupt the original warranty period.

Prerequisite for the warranty is that the application guidelines of the documentation are adhered to. Any warranty claims are excluded if programs or data are changed, reworked or extended by the customer himself.

In the event of a delay in improvement or replacement for which PROFACTOR is responsible, the customer may withdraw from the contract exclusively in respect of the goods or services affected by this delay, to the exclusion of any further claims, expressly setting a reasonable grace period of at least 6 weeks in writing. The withdrawal is only legally effective if PROFACTOR fails to meet the expressly set grace period. There is no right of withdrawal in the case of insignificant defects.

Any intervention or modification of the delivery item (hardware and/or software) by the customer shall result in the immediate loss of all warranty or guarantee claims, unless the modifications were previouslyagreed in writing.

Delays

In case of obstacles to production and delivery beyond the influence of PROFACTOR such as force majeure, strikes, business or delivery disruptions, cuts in or loss of working hours, transportation difficulties, a late provision of information and data, or intervention by authorities, shall result in a reasonable extension of the dates and deadlines for performance.

In case of delay in delivery caused by PROFACTOR, the customer has the right to demand fulfilment of contract or to cancel contract only with respect to the goods affected by said delay, and to the exclusion of all other claims, expressly setting a reasonable grace period of at least 6 weeks in writing. The cancellation shall become effective only if PROFACTOR fails to adhere to the defined extension.

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The customer is not entitled to claim compensation for damages arising out of delays.

If the customer is in default of payment, PROFACTOR reserves the right to suspend the execution of further work steps with immediate effect until all outstanding claims have been settled in full. In this case, the customer waives any claims. Other claims of PROFACTOR remain unaffected.

Rights of use and exploitation

Unless explicitly agreed in writing to the contrary, PROFACTOR assigns to customer, for the duration of the contract, limited right of use (restricted to use within the Republic of Austria and within operations of the customer's own company), of the works ensuing from services, work or inventions arising from or in connection with the contract, particularly to all works subject to copyright laws, and specifically to ideas, concepts, software, prototypes, etc for the duration of contract. The scope of this use of the works depends on the purpose of the contract in question.

PROFACTOR is otherwise entitled to the industrial property rights, unless a different arrangement has been expressly agreed.

PROFACTOR shall be entitled in all cases, irrespective of any deviating regulation of the rights of use and exploitation, to advertise the respective research and development results in such a general manner that PROFACTOR's activities are made known in general and to potentially interested parties in particular. This also applies to the use of the results for general publication, teaching and acquisition purposes.

Modifications to services, works, and inventions, specifically to works in the sense of copyright law, are only permitted with express approval of PROFACTOR and/or copyright holder.

The acquisition of any rights of use and exploitation by the customer shall in any case only take place after full settlement of any payment outstanding to PROFACTOR. PROFACTOR retains all rights of use and exploitation until this point. In case of delay in payment, PROFACTOR additionally reserves the right to prohibit any and all use of services rendered until all amounts outstanding to PROFACTOR have been settled in full.

Industrial property rights of third parties

The customer declares and warrants that the preliminary services provided by him do not infringe the property rights of third parties. PROFACTOR does not assume any obligation to verify this.

For its part, PROFACTOR shall endeavour to avoid collisions with existing property rights as far as possible. When using the services of third parties, PROFACTOR will ensure that appropriate agreements are concluded with these third parties to ensure that PROFACTOR receives the rights of use to these services in accordance with this point of the contract.

In the event of infringement of existing third-party property rights, PROFACTOR shall be liable to the customer for any resulting claims for damages of whatever nature only in the event of intent and gross negligence.

There is an obligation for mutual information and coordination between PROFACTOR and the customer.

Retention of title

PROFACTOR retains ownership until all amounts outstanding to PROFACTOR have been settled in full. In case of delay in payment, PROFACTOR reserves the right to repossess goods subject to retention. Repossession of goods subject to retention of title does not constitute a cancellation of contract. PROFACTOR will sell goods subject to retention of title on the open market, and credit the customer's account with the amount received, less all costs incurred by repossessing and reselling goods. Any seizure carried out by PROFACTOR of goods subject to retention of ownership shall not be deemed to be a waiver of the right of ownership.

If the customer has already disposed of goods subject to retention of ownership, all titles owned by the customer from the sale or disposal to third parties of said goods, shall be transferred to PROFACTOR. The customer is obliged to disclose all details of the purchaser, purchasing price, delivery date, location of goods, and to disclose the assignment of goods.

Should third parties attempt to gain possession of goods subject to retention by seizure, garnishment and the like, the customer shall undertake to inform the third party of PROFACTOR's right of retention, and to advise PROFACTOR immediately in writing. The customer shall indemnify PROFACTOR and hold them harmless against all expenditures incurred in refuting attempts to access goods subject to retention.

Subject to prior notice, PROFACTOR retains the right to cancel contract, and to repossess goods subject to retention, if the customer is in default (even for reasons beyond his control), or circumstances arise that endanger fulfilment of PROFACTOR's entitlements.

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Price changes

Prices and dates are quoted based on cost/information available when the initial offer was drafted. Should sustained changes in requirements occur during the term of the project, thus entailing development work above and beyond the scope of the offer, PROFACTOR retains the right:

- to extend the term of the project in mutual agreement with the customer,
- to invoice customers for additional expenses.

Confidentiality

The customer may be mentioned by name as a reference in presentations.

Confidentiality and exclusivity of the research and development work must be agreed separately in writing.

Liability and compensation for damages

The customer is aware that services rendered by PROFACTOR represent a prototype not designed for serial use, but for the possible development of such products.

The customer shall use services rendered at the customer's own risk. PROFACTOR thus provides no warranty, and accepts no liability for the specific usability or exploitability of services rendered, nor for material defects, malfunction, etc. PROFACTOR shall only provide warranty for material defects only if a replacement can be obtained from the supplier, and in addition PROFACTOR could have reasonably recognized the defect if it had exercised due care.

Liability on the part of PROFACTOR is thus limited to damage proven to have been caused deliberately or by gross negligence on the part of PROFACTOR. Under no circumstances shall PROFACTOR accept liability for consequential damage, pecuniary loss, loss of profit, and third-party damage. Compensation for damage is restricted to sum total of order.

Claims for compensation must be raised in a court of law within one year of performance. No liability will be assumed for claims arising or raised after this deadline.

Offsetting prohibition

The customer shall not be entitled to offset any counterclaims against claims made by PROFACTOR or to assert a right of retention for payments to which the customer is contractually bound by PROFACTOR.

Third-party rights

If a third-party claims rights to a service supplied by PROFACTOR and therefore asserts a claim against the client, PROFACTOR shall assume the defence on behalf of the client in order to indemnify and hold the client harmless. For this purpose, the client assigns all rights of defence to PROFACTOR. The client is obligated to support PROFACTOR by providing all available and necessary information that the client has for an appropriate legal defence.

The decision on the scope of the legal defence and the conclusion of settlements is incumbent upon PROFACTOR. The assumption of any liability for costs arising from the assertion of claims against third parties requires immediate written notification after the assertion of claims.

Legal succession

These provisions shall also apply for and against legal successors of the parties. The customer may not assign, sublicense or transfer in any other way the contractual relationship and any associated rights granted by PROFACTOR to a third party without prior written consent.

Amendments to contract and services

Assurances by PROFACTOR or amendments to contract are subject to written confirmation by PROFACTOR. Wherever written form is stipulated, facsimile transmission shall be deemed to fulfil this stipulation. A contractual declaration transmitted via email shall only be deemed as valid in writing if a signed written document is electronically transmitted as a scanned attachment.

Deliveries by PROFACTOR to the customer shall be sent to the last known address provided by the customer, or to an electronic address. The customer is obliged to advise PROFACTOR of changes of address, in lieu of which deliveries to the last known address shall be deemed to have been received by the customer.

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Should any part of this agreement be invalid for any reason, it is to be replaced with a corresponding text, which is valid and equivalent to the meaning intended by PROFACTOR. The rest of the agreement shall remain unaffected and valid.

Research premium

PROFACTOR reserves the right to claim the research premium, if, by the end of the current calendar year, the customer has not informed PROFACTOR in writing of its own intention to use said premium.

Non-solicitation clause

The customer undertakes not to directly or indirectly poach any PROFACTOR employees from the start of the order until 3 years after completion of the project. For each case of violation of this non-solicitation clause, the customer undertakes to pay PROFACTOR a contractual penalty in the amount of 6 gross monthly salaries (including bonuses) of the employee concerned who is enticed away in violation of this non-solicitation clause, whereby the gross annual salary of the employee concerned which he received in the year prior to the realization of the contractual penalty shall be decisive for the calculation of the contractual penalty.

In addition, the customer shall be obliged to pay PROFACTOR the loss incurred (including the loss of profit).

This non-solicitation clause shall also apply to subsidiaries of the customer in which the customer holds a majority of votes and the customer undertakes to impose this non-solicitation clause on its subsidiaries.

Place of performance, legal venue, applicable law

Place of performance for all obligations subject to this business relationship is PROFACTOR's company offices in Steyr, Austria.

The legal venue for any and all disputes arising out of or in connection with this business relationship shall be the court with subject-matter jurisdiction at PROFACTOR's registered offices. Austrian law applies. The United Nations Convention on Contracts for The International Sale of Goods is herewith excluded.

Special provisions for software deliveries

1. Software license: Every software delivery shall exclusively serve as a transfer of rights of use (license). A purchase of the software is excluded. The use of the software and potentially agreed maintenance may be restricted by the issued license (e.g. to certain locations, to a certain number of users, to a certain number of instances, etc.). Circumventing these restrictions is not permitted.

2. Scope of license: Unless expressly agreed otherwise, PROFACTOR shall retain ownership rights to the supplied software. The issued license does not comprise the right to decompile, modify or reverse-engineer the software into individual components. Unless expressly agreed otherwise, a transfer of the source code and all usage and exploitation rights to the same shall be excluded. Unless expressly agreed otherwise, there shall be no right to sublicense or resell the supplied software.

3. Libraries: If the software contains (external) libraries/components ("DLL files"), no sublicense shall be granted for these software components. The licensing terms and conditions of the respective software manufacturer of the libraries/components shall apply and these are referred to in the licensing terms or the text file of the software itself.

4. Scope of service: Certain software features and functions can only be guaranteed if these have been expressly agreed in writing and approved by PROFACTOR. The scope of the software functionality is restricted to the specific offer or the definitions contained in the functional specifications. Any further functionalities do not fall within the scope of this contract, even if these would otherwise be available or are considered as standard.

5. Limitation of liability: Unless expressly agreed otherwise in a corresponding agreement, PROFACTOR does not provide any warranties of any kind with regard to the software and all services associated with the use thereof; it shall particularly not grant any implicit warranty of a certain functionality, quality or standard features or its suitability for a certain purpose. Any such warranty is excluded. The compatibility of software with a certain software and/or hardware environment shall only be deemed warrantied if this has been expressly approved in writing. The customer shall be responsible for the compatibility of the software with his existing hardware or software environment, provided responsibility therefore has not been expressly assumed by PROFACTOR. PROFACTOR shall not be liable for any losses of data resulting from use of the software. The customer shall be responsible for backing up his own data before using the software. Otherwise, liability for damages resulting from use of the PROFACTOR software shall be limited to software components which have been independently developed by PROFACTOR as well as damages which have been intentionally caused as a result of gross negligence despite exclusively using the software according to the intended use and purpose and despite using

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it in an up-to-date hardware and software environment. The liability amount shall also be limited to the license fees already paid. Liability shall further be limited to direct damages and shall exclude any loss of earnings, indirect damage, incidental or consequential damage or lost savings caused by software defects.

6. Maintenance, support, etc.: Services going above and beyond the licensing of the software, i.e. software support, maintenance services, the creation of updates for the further development of the product with regard to ongoing developments in the IT infrastructure, shall not be considered as contractually binding unless expressly agreed otherwise. If maintenance of the software has been agreed, willingness to perform said maintenance shall solely apply for the most recent version of the software, not for earlier versions.

7. File formats, data carriers: The methods by which the software is supplied shall solely be determined upon by PROFACTOR. The supply of the software in a certain file format or on a certain data carrier shall only be permitted if this has been expressly agreed.

8. Copies: Unless expressly agreed otherwise, any form of copying the supplied software is prohibited, excluding copies and back-up copies which are necessary for the agreed service. PROFACTOR shall be free to copy-protect its supplied software.

9. Updates: During the ongoing licensing period, PROFACTOR shall be authorized to request that the license holder perform a software update at PROFACTOR's request, provided this is necessary for security reasons or for compliance with the contractual provisions.

Duty to provide information in accordance with the General Data Protection Regulation (GDPR)

a. Name and contact details of the responsible party:

PROFACTOR GmbH, Im Stadtgut D1, 4407 Steyr-Gleink
Legal form: GmbH
Registered office: Steyr
E-mail: office@profactor.at
Internet: www.profactor.at
Telephone: +43 (0)7252 885-0
Fax: +43 (0)7252 885 101
Company register no.: FN 129658z
Commercial register court: Steyr District Court

b. Questions about privacy can be sent to datenschutz@profactor.at.

c. Processing takes place, in particular, for the purpose of fulfilling a contract with the data subject or for carrying out pre - contractual measures which are carried out at the request of the data subject pursuant to Art 6 (1) (c) GDPR or for the purpose of fulfilling a legal obligation of the person responsible according to Art Article 6 (1) (c) GDPR or the processing is necessary to safeguard the legitimate interests - including the assertion, exercise or defence of legal rights - of the controller or a third party pursuant to Article 6 (1) (f) GDPR. In the case of granted consent, the processing is carried out on the legal basis of Article 6 (1) (a) GDPR.

d. Insofar as the processing is based on Article 6 (1) (f) of the GDPR, the legitimate interest of the controller or its affiliates and the other recipients is above all to operate a group-wide customer management system for the purpose of administrative optimization and simplification and for the purpose of direct marketing (marketing and information measures, in particular on the products and services offered by the following Group companies).

e. The following categories of recipients are defined according to Article 13 (1) (e) GDPR:

- Affiliates of the responsible party

- Order processors

- Funding agencies or partners

- Social security institutions

- Authorities;

- Third-party providers and cooperation partners (e.g. development service providers, banks, research partners);

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- Collection service providers, legal and tax consultants and experts for the assertion, exercise or defence of legal claims;

- Auditing firms to meet accounting requirements;

- Courts to assert, exercise or defend legal claims

f. the personal data are stored for as long as required for:

- Fulfilment of a contract with the data subject or

- Fulfilment of a legal obligation (for example 7-year retention periods according to the UGB, BAO) or

- Assertion, exercise or defence of legal rights.

g. According to the GDPR, the following data subject rights exist with the exceptions provided for in the respective provisions:

- Right to information (Art. 15 GDPR),

- Right to rectification (Art. 16 GDPR),

- Right to cancellation (Art. 17 GDPR),

- Right to restriction of processing (Art. 18 GDPR),

- Right to object to the processing (Art. 21 GDPR),

- Right to data portability (Art. 20 GDPR),

- Right to complain to the supervisory authorities (Art. 77 GDPR, in particular the Austrian Data Protection Authority),

- Right to revoke the consent (Art. 7 (3) GDPR), if the processing is based on consent, with future effect.

h. The provision of personal data is required by law or based on a contractual obligation, so that the data subject is obliged to provide it and non-provision would result in the refusal of the business relationship.

i. If data are not collected directly from the data subject, the following categories of personal data are also collected from publicly accessible databases (e.g. commercial register, edict file, central resident register):

- Commercial register data

- Creditworthiness data including payment history (e.g. KSV queries)

- Insolvency data

- Registration data

j. Further information on the right of objection under Art. 21 in connection with direct mail: If personal data are processed in accordance with Article 21 (2) GDPR, the data subject has the right to object at any time to the processing of personal data concerning him. In the case of such an objection, the personal data will no longer be processed.

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