

### **Section 1: Scope of Application**

- (1) These terms and conditions of sale and delivery apply exclusively to the deliveries, services, and offers of ProCom Professional Communication & Service GmbH (hereinafter referred to as "seller", "us", or "we"), unless expressly approved otherwise in writing by us. These terms and conditions of sale and delivery also apply if we deliver the goods unconditionally or accept the order unconditionally, despite being aware of conflicting or deviating terms and conditions of the buyer.
- (2) These general terms and conditions of sale apply only to entrepreneurs, legal entities under public law, or special funds under public law within the meaning of Section 310 para. 1 of the German Civil Code (BGB). These terms and conditions of sale and delivery also apply to all future contracts for the sale and/or delivery of movable goods with the buyer, without the need for us to refer to them again in each individual case.
- (3) For services and maintenance work, our separate general service conditions apply additionally.

### **Section 2: Offer, Conclusion of Contract**

- (1) Our offers are non-binding and subject to change, unless otherwise stated in the offer. Binding offers expire 90 days after the date of the offer, unless extended in writing by us or a different binding period is specified in the offer.
- (2) The buyer's order constitutes a legally binding offer to conclude a contract.
- (3) A delivery contract is only concluded through our written order confirmation, which we can declare within two weeks of receipt of the buyer's order. The content of the order confirmation is decisive for the content of the contract; if the buyer does not immediately object, the content of the order confirmation becomes the basis of the contract. If no order confirmation is issued, a delivery contract (to which these terms and conditions of sale and delivery apply) is concluded by the provision of the goods. In this case, the buyer waives the receipt of the acceptance declaration by the seller.
- (4) The seller reserves the right to make changes to the technical concept underlying the offer, provided that performance and quality of the offered delivery item or the price or delivery date are not affected.

### **Section 3: Prices / Payment Terms / Set-off**

- (1) Prices are understood to be "ex works" including standard commercial packaging plus the applicable statutory value-added tax; VAT will only be omitted in cases where the conditions for tax exemption for export deliveries are met.
- (2) Invoices are due for payment without any deduction within 30 days of delivery of the goods and invoicing. In cases of justified interest, we are entitled to demand a reasonable down payment or advance payment. We are entitled to offset payments against the oldest due claim.
- (3) The statutory provisions regarding the consequences of default in payment apply.
- (4) Invoicing is done in EUR. The EUR amount is decisive even if foreign currency amounts are indicated in the invoices alongside the EUR amount. Incoming foreign currency amounts will be credited with the EUR proceeds obtained from them.
- (5) The buyer is only entitled to offset or assert a right of retention with claims that are recognized by us, undisputed, or legally established. The buyer is only entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

### **Section 4: Retention of Title**

- (1) The seller retains ownership of the delivery items until all payments arising from the respective contract have been received.
- (2) The reserved goods must be stored separately from goods owned by the buyer or third parties and must be identifiable as the property of the seller.
- (3) The buyer is entitled to resell and/or process the reserved goods in the ordinary course of business.
- (4) The buyer's claims from the resale of the reserved goods (including other claims such as insurance claims or claims from tort in case of loss or destruction) are hereby assigned to the seller for security purposes. The seller accepts the assignment. The buyer is entitled to collect the assigned claim as long as he fulfills his payment obligations. In case of the buyer's default in payment, the seller is entitled to revoke the collection authorization. In this case, the buyer is obliged, upon the seller's request, to provide all necessary information for collection and to allow the verification of the status of the assigned claim by an agent based on his accounting, as well as to notify the debtors of the assignment.

(5) If the reserved goods are processed by the buyer, it is agreed that the processing is carried out in the name and on behalf of the seller as the manufacturer and that the seller directly acquires ownership or – if the processing involves or is connected with substances of several owners or the value of the processed item is higher than the value of the delivered goods – co-ownership (fractional ownership) of the newly created item in proportion to the value of the delivery item to the value of the newly created item. If the seller loses ownership through combination or mixing or does not become the owner of the manufactured item in the case of processing, the buyer hereby transfers to the seller in advance a co-ownership share of the unified item corresponding to the proportional value of the delivery item. The seller accepts the offer. The transfer is replaced by gratuitous custody.

(6) Before full payment of the secured claims, the delivery items subject to retention of title may not be pledged to third parties or transferred as security. The buyer must immediately notify the seller in writing of any third-party access to the seller's property.

(7) In the event of the buyer's default in payment, the application for the opening of insolvency proceedings over the buyer's assets, a transfer of the expectancy to third parties, or the transfer of the buyer's business operations to third parties, the seller is entitled to withdraw from the contract according to the statutory provisions and to demand the return of the delivered goods. If the buyer does not pay the due purchase price, the seller may only assert these rights if he has previously set the buyer a reasonable deadline for payment without success or such a deadline is dispensable according to the statutory provisions. For the purpose of reclaiming, the seller is entitled to enter the buyer's business premises. After repossession of the reserved goods, the seller is entitled to dispose of them freely. The proceeds from the disposal are to be credited to the buyer's liability (less reasonable disposal costs).

(8) The seller undertakes to release the securities to which he is entitled at the buyer's request to the extent that they exceed the value of the claims to be secured, insofar as these have not yet been settled, by more than 10%. The selection of the securities to be released is at the seller's discretion.

## **Section 5: Software**

(1) Unless otherwise agreed, the buyer is granted a non-exclusive and non-transferable right to use the software with the agreed performance features in

unchanged form on the agreed devices. The scope of the intended use is derived from the respective documentation of our deliveries. The right of use is limited to the agreed period; in the absence of such an agreement, the right of use is unlimited in time.

(2) Ownership and all other rights to the software remain with us or our licensors. Unless otherwise agreed, programs may not be duplicated, modified, or made accessible to third parties without our prior written consent.

(3) Unless otherwise agreed, the use of the software is permitted exclusively in machine-readable form (object code) and only with the hardware delivered together with the software by the buyer. The use of the software on another device requires our prior written consent. In the event of a culpable breach of this obligation, we are entitled to demand reasonable additional remuneration. Further claims remain unaffected.

(4) If we provide software for which we only have a derived right of use (third-party software), the terms of use agreed between us and our licensor apply additionally and take precedence over the provisions of this section 5. If and to the extent that we provide open-source software, the terms of use to which the open-source software is subject apply additionally and take precedence over the provisions of this section 5. We will indicate the existence and terms of use of provided third-party software and open-source software in the documentation of our deliveries and make the terms of use accessible to the buyer upon request. In the event of a breach of these terms of use, we and our licensors are entitled to assert the resulting claims and rights in our own name.

(5) The buyer is only entitled to make a copy of the software for backup purposes (backup copy). Further copies of the software are permitted if a multiple license has been expressly agreed.

(6) Apart from the cases of Section 69e of the German Copyright Act (UrhG) (decompilation), the buyer is prohibited from modifying, reverse engineering, translating, or extracting parts of the software. Alphabetic and other identifiers may not be removed and must be transferred unchanged to any backup copy.

(7) We grant the buyer the right to transfer the right of use of the software to third parties if there is an important reason. Such transfer to third parties may only take place together with the device that the buyer has acquired from us in connection with the software.

When transferring the right of use to third parties, it must be ensured that the third party is not granted more extensive rights of use to the software than the buyer is entitled to under these terms and conditions and the associated documentation. Furthermore, the third party must be imposed with at least the existing obligations under these terms and conditions. In the event of a transfer, no copy of the software may be retained.

- (8) The buyer is not entitled to grant sublicenses for the software.
- (9) After the agreed period of use of the software has expired, the buyer must either return the programs in the original and all copies or destroy them at our discretion and confirm this to us in writing.
- (10) For work results created by us for the buyer as part of customizing (adapting standard software to the buyer's requirements, which does not take place at the source code level), we grant the buyer, after full payment of the owed remuneration, the non-exclusive right to use the work result.

#### **Section 6: Confidentiality and Copyrights**

- (1) The contracting parties undertake not to disclose any confidential information received from the other contracting party, including this contract, directly or indirectly to third parties, either orally or in writing or in any other way, unless this is done with the express written consent of the disclosing party or the information is (a) generally accessible or known, or (b) communicated to the recipient by a third party entitled to do so without an obligation of confidentiality, or (c) already known to the recipient before receipt. "Confidential information" includes all economic, business, technical, or other confidential information, in particular all specifications, descriptions, sketches, drawings, designs, sections, samples, data, inventions, formulas, processes, plans, programs, models, as well as other knowledge, experiences, and know-how not belonging to the state of the art, which are disclosed or made accessible by one contracting party to the other contracting party in the course of contract execution, regardless of the type of recording, storage, or transmission and regardless of whether they are expressly or implicitly designated as secret or confidential. An express designation as confidential makes information confidential without further ado.
- (2) If a contracting party becomes aware that confidential information has come into the possession of a third party or that a document to be kept secret has been

lost or destroyed, it shall immediately inform the other contracting party.

- (3) Subject to a different regulation by a separate contract, the exchanged confidential information may not be exploited or otherwise used or imitated outside the purposes agreed between the contracting parties without express written consent (in particular by means of so-called "reverse engineering"). The disclosing party reserves all rights to the information. The buyer is aware that our trade secrets, in particular, are of economic value to us and are protected by appropriate confidentiality measures and that we have a legitimate interest in maintaining their confidentiality.
- (4) The confidentiality obligation extends to all relevant employees and agents, regardless of the type and legal form of employment. The contracting parties undertake to inform the aforementioned persons of the confidentiality obligation and to oblige them accordingly to maintain confidentiality. They will endeavor to keep the circle of affected persons as small as possible in the interest of confidentiality protection.
- (5) The seller reserves all copyrights to all submitted offers, cost estimates, plans, drawings, and system concepts, as well as other drawings, illustrations, calculations, models, etc., made available to the buyer.

#### **Section 7: Shipping**

- (1) Unless otherwise agreed, our deliveries are made "ex works" from the location specified in our offer or our acceptance of the contract.
- (2) Unless otherwise agreed, prices include the cost of standard commercial packaging.
- (3) Unless otherwise agreed, the risk of accidental loss or deterioration passes to the buyer upon handover of the goods to the carrier, but no later than when the goods leave the delivery warehouse. This also applies if we have assumed responsibility for delivery. If the shipment is delayed due to the buyer's fault, the risk passes to the buyer from the time the goods are reported as ready for shipment.

#### **Section 8: Deliveries / Delivery Time**

- (1) The delivery dates are agreed upon by the parties. If the parties have agreed on a delivery period, it begins on the date of the written order confirmation or – if such is not issued – from the provision of the goods.
- (2) Compliance with agreed delivery and performance dates requires the timely receipt of all documents to be provided by the buyer, the timely provision of all

necessary information, and the fulfillment of all other obligations by the buyer. If these conditions are not met on time, the deadlines will be extended accordingly; this does not apply if the seller is responsible for the delays.

- (3) If the seller recognizes that an agreed date cannot be met, the seller will notify the buyer immediately.
- (4) Delivery periods are extended appropriately if the agreed deadlines cannot be met due to force majeure or other events beyond our control, such as mobilization, war, earthquake, flood, fire, or other natural disasters, pandemics, epidemics, strikes, lockouts, material and energy shortages, delivery delays by suppliers, governmental or international import and export restrictions, etc. The same applies if one of the aforementioned events occurs during a delay in delivery or at one of our suppliers. If an order cannot be fulfilled for more than 2 months due to the aforementioned events, we are entitled to withdraw from the order in whole or in part without the buyer being entitled to claims for damages.
- (5) The seller is entitled to make partial deliveries, provided that (i) the partial delivery is usable for the buyer within the scope of the contractual intended purpose, (ii) the delivery of the remaining goods is ensured, and (iii) the buyer does not incur significant additional costs.
- (6) The buyer is entitled to claim compensation for delays demonstrably caused by us, provided that the buyer has demonstrably suffered damage. If timely replacement is provided, the claim lapses. The compensation amounts to a maximum of 0.5% for each full week of delay, but not more than 5% of the price for the part of the deliveries that cannot be used as intended due to the delay. All further claims for delay are excluded.

#### **Section 9: Warranty**

- (1) The prerequisite for any warranty rights of the buyer, which can apply to both defective hardware and defective software, is the proper fulfillment of all inspection and notification obligations owed under Section 377 of the German Commercial Code (HGB).
- (2) Warranty claims can be asserted in writing within 12 months after the transfer of risk.
- (3) If, despite all due care, the delivered goods have a defect that was already present at the time of the transfer of risk, we will, at our discretion, either remedy the defect or deliver defect-free goods. We must always be given the opportunity to remedy the defect within

a reasonable period. If the remedy fails, the buyer can – without prejudice to any claims for damages – withdraw from the contract or reduce the purchase price.

- (4) In the event of withdrawal from a contract that also includes the delivery of software, the buyer must return the respective data carrier with the software and the associated documentation to us. If the software is wholly or partially replaced under warranty, the buyer is obliged to prove the destruction or return of the previous version of the program.
- (5) Warranty claims do not exist in the case of insignificant deviations from the agreed quality, insignificant impairment of usability, non-reproducible software errors, natural wear and tear, or damage arising after the transfer of risk due to incorrect or negligent handling, excessive strain, or due to special external influences that are not assumed under the contract. If improper repair work or modifications are carried out by the buyer or third parties, there are also no warranty claims for these and the resulting consequences.
- (6) Claims by the buyer for expenses necessary for the purpose of subsequent performance, in particular transport, travel, labor, and material costs, are excluded insofar as the expenses increase because the goods delivered by us have been taken to a location other than the buyer's branch, unless the transfer corresponds to their intended use.

#### **Section 10: Liability**

- (1) We are liable without limitation (a) in cases of intent and gross negligence, (b) in the event of culpable injury to life, body, or health, (c) in cases of mandatory statutory liability regardless of fault (e.g., under the Product Liability Act), and (d) under a fault-independent guarantee.
- (2) In all other cases of negligence, the seller is only liable for the breach of duties that make the execution of the contract possible in the first place and on the fulfillment of which the buyer may therefore rely (essential contractual obligations). Liability for essential contractual obligations, except for the claims regulated in section 8.6 arising from delay, is limited to the typical and foreseeable damage, but not exceeding 100% of the remuneration to be paid by the buyer in each case. If essential contractual obligations are not affected, the seller is not liable.
- (3) To the extent that liability is excluded or limited, this also applies to the personal liability of the seller's employees, workers, representatives, organs, and vicarious agents.

### **Section 11: Export**

- (1) The goods delivered by the seller may only be exported to other countries in an uninstalled state with the seller's written consent, which must be specified at the time of order. This does not apply to re-exports within the European Economic Area.
- (2) In the event of a violation, the seller is entitled to claim damages and has the right to withdraw from on-going orders.
- (3) The buyer undertakes to comply with the provisions of the German Foreign Trade Act (AWG), the German Foreign Trade Ordinance (AWV), the EU Dual-Use Regulation (Regulation (EU) 2021/821), and the US Export Administration Regulations (EAR) in their respective valid versions when exporting the products obtained from the seller. The buyer is independently responsible for informing themselves about all applicable export regulations and obtaining all necessary permits independently. In the event of resale of the delivery items, the buyer undertakes to obligate their customers to comply with the aforementioned export regulations accordingly.

### **Section 12: Export to the Russian Federation**

- (1) The buyer may neither directly nor indirectly sell, export, or re-export goods from the seller to the Russian Federation or for use in the Russian Federation that fall within the scope of Article 12g of Regulation (EU) No. 833/2014.
- (2) The buyer will make every effort to ensure that the purpose of section 12.1 is not thwarted by third parties in the further supply chain, including possible resellers.
- (3) The buyer must establish and maintain an appropriate monitoring mechanism to detect behaviors by third parties in the further supply chain – including possible resellers – that would thwart the purpose of section 12.1.
- (4) Any violation of sections 12.1, 12.2, or 12.3 constitutes a breach of essential contractual obligations and entitles the seller to take appropriate legal action, including but not limited to: (a) immediate termination of the contract and (b) the assertion of a contractual penalty amounting to 5% of the remuneration to be paid by the buyer in each case.
- (5) The buyer will promptly inform the seller of any problems in applying sections 12.1, 12.2, or 12.3, including any relevant activities by third parties that could

thwart the purpose of section 12.1. The buyer will provide the seller with information on compliance with the obligations under sections 12.1, 12.2, and 12.3 within two weeks of an informal request for such information.

### **Section 13: Place of Performance / Jurisdiction / Language / Applicable Law / Miscellaneous**

- (1) Unless expressly agreed otherwise, the place of performance is the seller's place of business.
- (2) The German version of these terms and conditions takes precedence over versions in any foreign language and is binding in case of doubt.
- (3) The exclusive – also international – place of jurisdiction for all disputes arising from the delivery relationship is the seller's place of business, Federal Republic of Germany. The seller is also entitled to sue the buyer at his place of jurisdiction.
- (4) The law of the Federal Republic of Germany applies. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.
- (5) Should individual provisions of these general terms and conditions of sale and delivery be wholly or partially invalid or ineffective, the validity of the remaining provisions shall remain unaffected.