

## PROOM

### Terms of Use for persons invited online (Members) as of 2010-11-04

#### Article 1 Preamble

PROCAD GmbH & Co. KG (hereinafter referred to as PROCAD) has entered a contract with **company name** (hereinafter referred to as User) on the usage of PROOM. In this context you have been invited by the administrator or project manager to participate in a project of **company name**. For this, you first have to accept the Terms of Use. You will then be granted access to the project space.

#### Article 2 Usage Rights

By accepting these Terms of Use you are granted by **company name** a simple, non-exclusive right to the usage of PROOM limited to the duration of the usage relation, as far as this is required for the usage as a person invited online (sub-licence).

#### Article 3 Limitations of Actions/Individual Responsibility/Password

##### (1) Actions

You hereby undertake to limit the usage of PROOM exclusively to legal, harmless, non-political and non-commercial purposes. For this reason, in the following actions in particular are explicitly prohibited:

- Distribution of political postings, advertisement, chain mails, junk or mass mailings to **company name** or other persons invited online,
- criminal or unlawful actions, such as the distribution of racist, religiously fanatic, hate-propagating, violent or pornographic data, fraud, verbal abuse or harassment, sending of viruses or other unlawful data,
- that may impair the functions of PROOM or other persons invited online,
- transfer or sale of usage rights to non-members,
- disclosure or sending of any contents received via PROOM by **company name** or other persons invited online, with the intention of causing any damage or harm to other persons,
- unlawful collecting or disclosure of personal data of other persons invited online,
- pretending to be another person.

##### (2) Individual Responsibility for Contents

You shall be responsible for uploaded and downloadable documents, files, images, videos or other materials. You shall make sure, and assert hereby, that materials used in the project rooms do not infringe on copyrights, rights of ownership or other rights of third parties.

Apart from actions prohibited as stated above, you hereby assert not to make available to anyone in the project rooms any contents,

- that are of violent nature or contain links to web sites of adult or mature content,
- which you know to be incorrect or misleading,
- promoting illegal actions,
- that violate copyrights, rights of ownership or other rights of a third party, such as pirated computer software or links to such software,
- that show a picture of a person uploaded without the person's permission,
- promoting commercial activities, such as gambling, barter trade or pyramid schemes.

##### (3) Password

You shall treat your password as confidential. In particular, you shall not disclose the password to other persons or use the login data of another person invited online. Furthermore, you shall not create several logins for yourself. All damages resulting from loss or misuse of the password shall be borne by you.

#### Article 4 Indemnity

You shall indemnify PROCAD or **company name** from and against all claims and costs from third parties arising from a violation of the conditions stipulated in Article 3. PROCAD or **company name** shall be entitled to demand advance payments for costs arising in such case.

## **Article 5 Your Other Obligations to cooperate or Information Obligations**

You are committed to providing assistance for the following obligations to cooperation and information obligations:

- provision of an internet connection and a regularly checked e-mail address,
- performance of an adequate data backup of all documents, files, images, videos or other materials uploaded in PROOM, so that those can be restored with reasonable efforts by you,
- installation and update of the used browser with the newest Microsoft Silverlight Technology,
- immediate report in case of prohibited actions or contents to **company name**,
- forwarding of error messages of PROOM to **company name** or PROCAD.

## **Article 6 Duration of the Usage Relation / Termination by PROCAD or **Company Name****

- (1) The usage relation shall be terminated automatically with the end of the project, for which you have been invited, or, at the most, with the end of the usage relation between **company name** and PROCAD.
- (2) **Company name** may terminate your usage relation at any time without giving a reason.
- (3) You may also terminate the usage relation at any time. For this, it shall be sufficient for you to click the button "Leave".
- (4) With the end of the usage relation the usage right granted herein shall also be terminated.
- (5) The right to extraordinary termination remains unaffected.

## **Article 7 Warranty / Liability**

### **(1) Warranty**

The statutory warranty provisions shall apply.

### **(2) Liability**

**Company name** shall be liable without limitation according to statutory provisions, if the damage

- results from gross negligence or intention or
- if liability is stipulated under the Product Liability Act or
- if it is a personal injury.

Apart from the above, for culpable violation of essential contractual duties **company name** shall only be liable for contract-typical damage. Essential contractual duties are duties whose fulfillment allow a proper performance of the contractual agreements, whose violation endanger the contractual intention and on whose mutual compliance **company name** can usually rely on. Further contractual claims or tort claims are excluded.

## **Article 8 Data protection**

The statutory provisions on data protection, according to German Data Protection Act (BDSG), shall apply.

## **Article 9 End of the Usage Relation**

Upon termination of the usage relation, you shall remove all documents, files, images, videos or other materials uploaded by you. If you do not fulfil this obligation, **company name** shall be entitled to deleting these materials immediately and entirely after termination of the usage relation.

## **Article 10 Final Provisions**

### **(1) Update of the Terms of Use**

If the present Terms of Use are changed, the updated Terms of Use shall be considered accepted, if you do not object to the stipulated changes in writing by mail or e-mail to **company name** within the next two months after receipt of the updated Terms of Use.

### **(2) Place of Jurisdiction / Applicable Law**

The place of jurisdiction for all legal disputes arising from or in connection with the usage of PROOM for registered traders shall be Karlsruhe. The contract shall be governed and construed in accordance with German law, to the exclusion of United Nations Convention on Contracts for the International Sale of Goods (CISG).

### **(3) Severability Clause**

If any provisions of these Terms of Use are held to be invalid, the validity of the remaining provisions shall remain unaffected thereof. The parties undertake to replace the ineffective provision by a new provision which has the same effect as the original provision.