

General Terms and Conditions of ProLeiT Iberia applying to business with corporate parties

I. General provisions

1. The general terms and conditions provided herein shall be binding to the Parties. Likewise, the Parties' mutual written representations shall be decisive for the scope of the deliveries and services (hereinafter referred to as "Deliveries"). However, the Customer's General Terms and Conditions shall apply only to such extent that the Supplier or Service Provider (hereinafter referred to as "ProLeiT") has expressly accepted them in writing.
2. ProLeiT reserves its property and copyrighted exploitation rights without any limitations or restrictions regarding quotations, drawings and other documents (hereinafter referred to as "Documents"). The Documents may not be copied or made available to any third parties without ProLeiT's prior written consent and shall – in the event ProLeiT does not receive the order – be returned to ProLeiT without any delay upon request. Sentences 1 and 2 shall apply accordingly to the Customer's documents; however, they may be made available to such third parties that ProLeiT engaged to complete the Deliveries as permitted.
3. The Customer shall not have the exclusive right of use of standard software and firmware unless modified with the agreed-upon functions and features on the agreed-upon devices. Unless otherwise expressly agreed upon, the Customer may produce no more than one backup copy.
4. Partial Deliveries are admissible to the extent that they are reasonably acceptable by the Customer.
5. The term "claims for damages" includes claims for expenses of any kind.

II. Rights in the objects of the agreement; reimbursement of additional costs

1. The Customer shall not use, without ProLeiT's prior approval, the services and deliveries rendered by ProLeiT on the agreed-upon devices for the agreed-upon purpose until full payment by the Customer of the fees to which ProLeiT is entitled. Upon full payment of the fees, the Customer shall have the non-exclusive, non-revocable and non-transferable right to use the above services and deliveries. The Customer shall in particular have the right to use the delivered software programs on the processors listed in the agreement. The right of use is understood to be non-exclusive insofar as the Customer hereby grants ProLeiT the right of unrestricted and unlimited co-use.
2. The trade secrets of ProLeiT and/or its licensors inherent in the Deliveries, in particular in the software and the documentation, are subject to copyright pursuant to the provisions of Spain's Royal Legislative Decree 1/1996, of 12 April 1996, approving the Intellectual Property Consolidated Act. The Customer shall take this into account and, for example, shall not remove any copyright marks.
3. The Customer shall not make the software and the documentation available to any third party without ProLeiT's prior written approval. ProLeiT shall not unreasonably deny such approval.
4. Another prerequisite for a transfer to a third party is that the Customer shall bind the third party by way of a written agreement to any and all of the Customer's obligations under these Terms and Conditions and that he/she shall not retain any copies of the software and the documentation.
5. In the event a subsequent change of the service and procedure specifications by the Customer or other circumstances triggered by the Customer result in additional man-hours or test times for ProLeiT, the Customer shall pay a fee for such additional resources at the agreed-upon rates or, as an alternative, at rates common in the sector. Furthermore, the costs ProLeiT actually incurred as a result of such additional resources shall be reimbursed. The same shall – contrary to Art. X or XI – apply when and if defects in the services to be rendered by ProLeiT resulted from circumstances triggered by the Customer, in particular due to errors in the Documents or data that ProLeiT received from the Customer as per Art. III No. 1.

III. Parties' cooperation

1. ProLeiT shall receive from the Customer any and all documents, information and data required for rendering the agreed-upon services. This includes complete service and procedure specifications, as well as test data, in particular for a potential acceptance test. The service and procedure specifications must be presented in the

final and binding version to ProLeiT upon commencement of the service, usually when the programming services begin. ProLeiT agrees to check the descriptions presented for this purpose in terms of feasibility within reasonable time prior to the commencement of the programming services. Specifications shall not become binding until ProLeiT confirms feasibility in writing.

2. The Customer shall also store the documents, information and data handed over to ProLeiT; ProLeiT shall not be held liable in case of any loss.
3. If ProLeiT is also engaged to prepare the service and procedure specifications, they shall become binding no later than upon acceptance. Such separate services shall be deemed accepted when and if the Customer does not expressly refuse to accept them within a period of two weeks of receipt due a substantial defect.
4. If a Party wishes to change binding documents, information or data or accepted separate services, such change shall not be binding unless the other Party approves of them in writing.
5. Each Party shall designate and notify the other Party about a qualified employee who may provide the information required for the performance of this agreement and is authorized to make decisions.

IV. Prices and Terms and Conditions of Payment

1. The prices are exclusive of shipping, packing and statutory sales tax. Pursuant to the International Commercial Terms of the International Chamber of Commerce, the machine shall be delivered "EXW Seville". Therefore, the machine is understood to be delivered at the seller's premises and the seller shall not be responsible for the loading, dispatch, insurance and transportation of the machine.
2. In the event ProLeiT agreed to set up or assembly the items and unless otherwise agreed-upon, the Customer shall not only be responsible for the payment of the agreed-upon fees, but shall also bear any and all required incidental costs such as travel expenses, costs for the transport of the tools and the personal luggage, as well as allowances.
3. Payment shall be made free ProLeiT's paying office.
4. The Customer may set off from the price only such amounts as are payable for claims on which the parties have reached an agreement and for claims awarded by the courts provided that such judgments are final.

V. Retention of title

1. ProLeiT shall retain title to the goods and rights delivered in the course of the provision of the services until any and all claims to which ProLeiT is entitled vis-à-vis the Customer resulting from the business relation have been satisfied. ProLeiT is hereby granted a right of retention of title which shall remain in force until the whole price has been paid in full. Upon full payment of the price the title shall be automatically conveyed to the Customer.

Notwithstanding the above, the Customer may guarantee the payment of ProLeiT's fees by creating a security interest which shall be expressly approved by ProLeiT. If more than 20 % of the total fees are guaranteed or paid, ProLeiT, if so wishes, may – upon the Customer's request – release the portion covered by said guarantee and grant the Customer the title to the goods so guaranteed or paid.

2. While the goods are subject to retention of title as aforesaid, the Customer shall not pledge the goods or assign them as collateral. Notwithstanding the above, the Customer may only resell said goods provided that all and any of the following requirements are met: a) that the resale has occurred in the ordinary business operation of the Customer; b) that the reseller receives payment from its customer or ensures that the title is only transferred to the customer when and if the customer has met the payment obligations, and c) a guarantee is created as agreed in clause 3 below.
3. The Customer hereby assigns his/her future receivables from the resale due from his/her customers including any and all incidental rights and any offset receivables to ProLeiT as security, without additional declarations being required. If the goods owned by ProLeiT are sold together with other goods, the Customer shall assign to ProLeiT such portion of the total purchase price that equals the amount billed by ProLeiT.
4. In case of pledges, seizures or other dispositions or third party interventions, the Customer shall notify ProLeiT without any delay.

5. If the Customer violates his/her obligations, in particular if he/she is at default, ProLeiT shall have the right – after unsuccessful expiration of a reasonable deadline for the delivery set for the Customer – to not only redeem the goods, but also cancel the agreement.
6. The agreement may not be cancelled on the grounds of ProLeiT's revocation or refusal of the authorization of use by the Customer; such actions or the pledge of the goods subject to retention by ProLeiT do not constitute a cancellation of the agreement unless ProLeiT has expressly stated so.
7. Until expressly revoked by ProLeiT, the Customer shall have the right to redeem assigned receivables from the resale. ProLeiT shall have the right in particular in case of default of payment, discontinuation of payment, opening of insolvency proceedings or justified indications of a pending insolvency of the Customer to revoke the direct debit authorization.

VI. Delivery deadlines and default

1. Deadlines set for Deliveries can only be met if all Documents to be supplied by the Customer, required permits and releases, in particular plans, are received in a timely manner and if agreed terms of payment and other obligations of the Customer are fulfilled. Unless these conditions are fulfilled in a timely manner, deadlines set shall be reasonably extended; this shall not apply where ProLeiT is responsible for the delay.
2. If deadlines cannot be met due to force majeure such as mobilization, war, rebellion, terrorist acts or similar events, e.g. strike or lockout, such deadlines shall be extended accordingly. This shall also apply in case of virus or other third-party attacks onto ProLeiT's IT system or ProLeiT deliveries that are not in a timely or proper manner.
3. If ProLeiT is responsible for the delay, the Customer may – if he/she can prove that he/she suffered a loss – may claim a compensation of 0.25 % for every completed week of delay, but in no case more than a total of 2.5 % of the price of that part of the Deliveries which could not be used for the intended purpose due to the delay.
4. Both the Customer's claims for damages due to delayed Deliveries, as well as claims for damages in lieu of performance exceeding the limits specified in No. 3 shall be excluded in all cases of delayed Deliveries even upon expiry of a deadline set for ProLeiT to effect the Deliveries. This shall not apply to the extent that ProLeiT is subject to statutory liability due to deliberate acts, gross negligence, or due to injury of life, body or health. The Customer may only cancel the agreement based on legal regulations in those cases where ProLeiT is responsible for the delay. The above provisions do not result in any change of the burden of proof to the detriment of the Customer.
5. Upon ProLeiT's request, the Customer shall declare within a reasonable period of time whether he/she cancels the agreement due to the delayed Deliveries or insists on the Deliveries.

VII. Transfer of risks

1. Even where delivery is freight paid, the risk shall pass to the Customer as follows:
 - a) if the Deliveries do not include setup or assembly upon the goods being shipped or picked up by the carrier. Upon the Customer's request, ProLeiT shall insure the Deliveries against the usual risks of transport at the Customer's expense;
 - b) if the Deliveries include setup or assembly, at the day of taking over in the agreed-upon operation or, if so agreed, after a successful test run.
2. The risk shall pass to the Customer when and if the dispatch, shipping, the start, the performance of the setup or assembly, the taking over in the own operation or the test run are delayed for reasons for which the Customer is responsible or if the Customer has otherwise failed to accept the Deliveries.
3. If acceptance is agreed-upon, the Customer shall effect acceptance within 14 days of being notified about the Deliveries being ready for acceptance. The Deliveries are also deemed accepted when and if the Customer does not meet the 14-day deadline or starts using the Deliveries.
4. Acceptance is also effectively undertaken when and if the delivered good is put into operation without ProLeiT's approval.

5. The Customer shall ensure that all prerequisites for the acceptance are fulfilled and shall provide ProLeiT with all means as required for this purpose. Except for personnel expenses incurred by ProLeiT, the Customer shall bear the entire costs relating to the acceptance.
6. The Customer shall not deny acceptance in case of minor defects, save his/her rights under Art. X.

VIII. Setup and assembly

Unless otherwise agreed-upon, the following provisions shall apply to the setup and assembly:

1. The Customer shall undertake and provide in a timely manner at its own expense:
 - a) any and all construction or other not sector-related incidental work, including the required qualified staff and aids, building materials and tools;
 - b) the utensils and materials required for the assembly and commissioning, e.g. scaffoldings, hoisting and other devices, combustibles and lubricants;
 - c) energy and water at the location of use, including the connections, heating and lighting;
 - d) protective clothing and equipment that is required due to special circumstances at the assembly location.
2. Prior to the assembly activities, the Customer shall, without further request, provide the required information and data regarding the location of hidden electricity, gas, water lines or similar systems, as well as the required structural information.
3. Prior to the setup or assembly, the required equipment to be supplies for the work at the setup or assembly site and all preliminary work must have progressed prior to the assembly to such degree that the setup or assembly can commence as agreed upon and completed without any interruptions. Delivery paths and the setup or assembly site must be leveled and cleared.
4. In the event the setup, assembly or commissioning are delayed for reasons for which ProLeiT is not responsible, the Customer shall bear any reasonable costs incurred for waiting periods and any additional travel of ProLeiT or the assembly personnel that is required.
5. The Customer shall acknowledge on a weekly basis without any delay the hours that the assembly personnel worked and the completion of the setup, assembly or commissioning.

IX. Acceptance

The Customer shall not refuse to accept Deliveries due to minor defects. In any case, the Customer shall have a right of recourse against ProLeiT due to defects in the quantity or quality of the goods received, provided that the action is taken within four days from receipt and provided also that such defects are not due to a fortuitous event, flaw inherent to the Delivery, or malicious intent.

X. Material defects

ProLeiT shall be liable for material defects as follows:

1. All parts or services where a defect becomes apparent within the agreed-upon limitation period shall, at ProLeiT's discretion, be repaired, replaced or provided again free of charge irrespective of the hours of operation elapsed, provided that the reason for the defect had already existed at the time when the risk passed.
2. The period referred to above shall be 12 months from the date of delivery or, if so agreed, from the date of acceptance, notwithstanding the provisions of the Spanish Civil Code and other special laws of Spain that may apply in the matter of interruption of the limitation period. The limitation period shall not apply in case of injury of life, body or health and in case of intentional violation of obligations by ProLeiT.
3. The Customer shall present notices of defects in writing.
4. In case of notices of defects, the Customer may withhold payments to such extent that they are in a reasonable ratio to the material defects that occurred. The Customer shall only withhold payments when and if a notice of defects is submitted and there is no doubt about whether such notice is justified. In case of unjustified notices of defects, ProLeiT shall be entitled to reimbursement of expenses by the Customer.

5. Prior to any withholding of payments by the Customer as provided above, the Customer shall give ProLeiT an opportunity to perform the works or services within a reasonable period. A reasonable period shall mean 3 months from the notice of defects being satisfactorily served.
6. If supplementary performance is unsuccessful, the Customer shall be entitled to cancel the agreement or reduce the fee, irrespective of any claims for damages it may have according to No. 10.
7. There shall be no claims based on defect in cases of insignificant deviations from the agreed-upon quality, of only minor impairment of usefulness, of natural wear and tear or damage arising after the transfer of risk from faulty or negligent handling, excessive strain or unsuitable equipment, or from particular external influences not assumed under the agreement, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the Customer or third parties and the consequences thereof shall be likewise excluded.
8. The Customer shall have no claim with respect to expenses incurred in the course of supplementary performance, in particular transportation, call-out, labor, and material costs, to the extent that expenses are increased because the subject-matter of Deliveries was subsequently brought to a location other than the Customer's branch office, unless doing so complies with the intended use of the Deliveries.
9. The Customer's right of recourse against ProLeiT shall be limited to cases where the Customer has not concluded an agreement with its customers exceeding the scope of the legal regulations governing claims based on defects.
10. The Customer's claims for damages due to a material defect shall be excluded. This shall not apply in case of fraudulent non-disclosure of the defect, non-compliance with a feature warranty, in case of injury of life, body or health, and in case of intentional or grossly negligent violations of obligations by ProLeiT. The above provisions do not result in any change of the burden of proof to the detriment of the Customer. Further claims by the Customer against ProLeiT or claims other than those specified in Art. X due to material defects shall be excluded.

XI. Industrial property rights and copyrights; defective title

1. Unless otherwise agreed upon, ProLeiT agrees to render the Deliveries free from any third-party industrial property or copyrights (hereinafter referred to as "Industrial Property Rights") only in the country in which the delivery destination is situated. In the event a third party brings forward claims against the Customer due to the infringement of Industrial Property Rights as a result of ProLeiT rendering and the Customer using the Deliveries as agreed-upon, ProLeiT shall be liable towards the Customer within the period stipulated in Art. X No. 2 as follows:
 - a) At its discretion and expense, ProLeiT shall obtain a right of use regarding the respective Deliveries, modify the Deliveries in such manner that the Industrial Property Rights are not infringed, or replace the Deliveries. If ProLeiT is not able to do so at reasonable terms and conditions, the Customer shall have the legal right to terminate the agreement or reduce the fees.
 - b) ProLeiT's obligation to pay damages is governed in Art. XIII.
 - c) The above obligations of ProLeiT shall exist only to the extent that the Customer notifies ProLeiT in writing without any delay about the claims brought forward by the Customer, does not acknowledge any violation and leaves any and all defense or out-of-court settlement measures up to ProLeiT. The Customer's cessation of use of the Deliveries does not involve any acknowledgment of fault or guilt by ProLeiT with regard to any claim or violation, and the Customer shall inform any third parties of this fact.
2. The Customer's claims shall be excluded when and if the infringement of the Industrial Property Rights is within his/her control.
3. Furthermore, Customer's claims are excluded when and if the infringement of the Industrial Property Rights was caused by certain specifications made by the Customer, by use not foreseeable by ProLeiT or due to the fact that the Deliveries were modified by the Customer or used together with products not supplied by ProLeiT.
4. Moreover, in case of an infringement of Industrial Property Rights, the provisions of Art. X. No. 3, 4, 5 and 10 shall apply accordingly to the Customer's claims governed by No. 1 a).
5. In the event of other defective titles, the provisions of Art. X shall apply correspondingly.

6. Any Customer's claims against ProLeiT and/or its agents other than those described in Art. XI shall be null and void and will have no legal grounds.

XII. Infeasibility; adjustment of agreement

1. In the event Deliveries are not feasible, the Customer shall have the right to claim damages unless the infeasibility was beyond ProLeiT's control. However, the Customer's claims for damages shall be limited to 10 % of the value of such portion of the Deliveries that cannot be used for the intended purpose due to infeasibility. This limitation does not apply in case liability is assumed due to deliberate acts, gross negligence or due to injury of life, body or health; this does not result in a change of the burden of proof to the detriment of the Customer. The Customer's right to terminate the agreement shall remain unaffected.
2. In case of temporary infeasibility, Art. VI (Delivery deadlines and default) shall apply.
3. In the event unforeseeable events as defined in Art. VI No. 2 result in a significant change in the economic importance or the contents of the Deliveries or have a major impact on ProLeiT's operation, the agreement shall be reasonably adjusted in good faith. When and if such adjustment is not economically reasonable, ProLeiT shall have the right to cancel the agreement. The same shall apply when and if the required export permits are not granted or cannot be used. If ProLeiT wishes to exercise such right to terminate, the Customer shall be notified without any delay after learning about the impact of such event, even if an extension of the delivery deadline is agreed-upon with the Customer first.

XIII. ProLeiT's liability

1. ProLeiT shall assume unlimited liability for any personal damage caused by ProLeiT and shall reimburse the expenses incurred for the restoration of any property damaged by ProLeiT up to the amount of 100,000 EUR per event. In case of damaged data carrier material, the replacement and reimbursement obligation does not cover the expenditure for the retrieval of lost data and information.
2. Unless otherwise set forth in these Terms and Conditions, any additional claims for damages or reimbursement of expenses by the Customer (hereinafter referred to as "Claims for Damages"), regardless of the legal reason, in particular those resulting from a violation of obligations under the agreement and due to an illegal act, shall be excluded.
3. This shall not apply in case liability is assumed (1) under the applicable laws of Spain, (2) as a result of deliberate acts, (3) due to gross negligence by the owners, legal representatives or executives, (4) due to fraud, (5) due to non-compliance with warranties accepted, (6) due to negligent injury of life, body and health, or (7) due to negligent violation of major contractual obligations.

The Claims for Damages resulting from the violation of major contractual obligations, however, shall be limited to the damage typically foreseeable under such contract unless the criteria of another one of the above cases are satisfied.
4. If the Customer is entitled to claim Damages under this Article, such claims shall elapse upon expiration of the limitation period for claims of damages regarding property damage as set forth in Art. X No. 2. This shall not apply in case of deliberate acts, gross negligence or injury of life, body and health, or in case of claims under the applicable laws of Spain.
5. The above provisions do not result in any change of the burden of proof to the detriment of the Customer.

XIV. Jurisdiction

1. Sole jurisdiction for any and all disputes directly or indirectly arising from the Parties' agreement shall – in the event the Customer is a registered merchant – be Seville.
2. The agreement shall be governed and construed in accordance with the laws of Spain; the UN Convention on the International Sale of Goods (CISG) shall be excluded.

XV. Binding nature of the agreement

Even if individual provisions are ineffective, the remaining provisions shall remain binding. This shall not apply when and if the ineffectiveness or nullity of a provision involves the ineffectiveness or nullity of the agreement or if complying with the agreement would become impossible or would lead to unreasonable hardship.

XVI. Reservation of self-supply

In the event the agreed-upon service is not available due to the fact that ProLeiT's suppliers have not delivered the supplies and ProLeiT's inventories of the respective agreed-upon items have been exhausted, ProLeiT shall have the right to render a service that is equal in terms of quality and price. If the rendering of a service that is equal at least in terms of price and quality is not feasible, ProLeiT may terminate the agreement and is no longer under the obligation to render the agreed-upon service. In such case, ProLeiT agrees to notify the Customer without delay about the non-availability and, if any, return any payments already effected to the Customer and the Customer shall not be entitled to any compensation from ProLeiT.