



General Terms and Conditions of pcvisit Software AG

§ 1 General Terms

1. These General Terms and Conditions shall apply to contracts and legal relationships between pcvisit Software AG - hereinafter also referred to as pcvisit - and third parties, unless agreed otherwise between the contracting parties in writing; the current version can be downloaded from www.pcvisit.de at any time. The Customer's or another third party's terms and conditions opposed to or deviating from these Terms and Conditions shall apply only to such extent as expressly approved by pcvisit in writing. These Terms and Conditions shall also apply if pcvisit performs the respective due action without reservation, despite of knowing that the Customer or another third party has terms and conditions opposed to or deviating from these Terms and Conditions. Such course of action shall not be construed as an implied acknowledgement by pcvisit as for the applicability of such opposed or deviating third party conditions.

2. These Terms and Conditions shall also apply to all and any future business with the Customer and/or third parties.

§ 2 Offer, Right of Rescission (Cancellation Policy), Termination

1. Offers of pcvisit shall not be considered binding, also with regard to the date of delivery or performance, unless such bindingness is expressly set down in writing in the offer or unless the bindingness of prices or other details is expressly stated on the electronic ordering site. No contract is entered into until a personal or automated electronic order confirmation is sent in writing, and it is subject to the contents of such order confirmation. As for the rest, the offers of pcvisit are non-binding. Technical and other changes are reserved, if reasonable.

2. For a Customer who is a consumer within the meaning of § 13 of the German Civil Code (BGB), the below provisions shall apply:

The consumer (Customer) has a right of rescission, if the contract based on these conditions has been entered into via telecommunication facilities. The cancellation period starts with the delivery of the goods at the date of the receipt by the Customer and/or - in the case of repeated delivery of the same type of goods - not until the first partial delivery has been received; in the case of services, it does not start before the day of entering into the agreement. No grounds need to be given for cancellation. It must be submitted to pcvisit in writing, on a permanent data carrier, or by return of the goods within a term of 2 weeks. For the keeping of the term, the timely posting shall suffice. The right of rescission does not apply to contracts entered into on the basis of these conditions which include the delivery of goods produced according to the specifications of the Customer or are clearly custom-made to match the individual requirements, or which are not suitable for return due to their features, or which include the delivery of audio or video productions or of software, as soon as the delivered data carriers

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have been unsealed by the Customer. When exercising the right of rescission, the Customer (consumer) is obliged to return the goods, provided the goods can be sent as parcel post. In such a case, he shall bear the costs of return shipping up to an amount of 40 €, unless the delivered goods constitute software which the Customer has not ordered.

3. If pcvisit should not be able to render the services in due time for reasons not attributable to pcvisit (including without limitation Force Majeure, strike and other impediments to performance not attributable to pcvisit, which cannot be mastered by making reasonable efforts), and if these services cannot be rendered within a reasonable grace period either, then both parties shall be entitled to cancel the contract without notice. In such cases the Customer shall retain the titles appurtenant to the partial services rendered by the point in time of the cancellation taking effect, and pcvisit shall retain the title to the pro-rata payment for such services. All and any agreements in this regards must be in writing to be valid.

§ 3 Prices, Terms of Payment, Delivery, Ending

1. Unless otherwise stated in the order confirmation or on the ordering web page and specified as binding, the prices of pcvisit for delivery ex works excluding shipping charges shall apply; the latter shall be charged separately. If the Customer is a consumer within the meaning of § 13 German Civil Code (BGB), the value added tax shall be shown separately on the Customer's invoice. If the contractual partner is a business owner within the meaning of § 14 BGB, the price is to be understood plus the legal VAT. The prices refer exclusively to the pcvisit software product; in particular, the prices are to be understood as without installation costs, training, accessories and other accessory consideration, unless agreed otherwise in writing between the parties.

2. After receipt of the shipment, the Customer must pay the purchase price within 10 days, however, not later than after the expiry of 14 days. If the Customer does not settle the pending claim within this period of time and hence defaults in payment, pcvisit shall be entitled to claim default interest in the amount of 5% above the respective base rate of the European Central Bank in accordance to § 247 BGB. A Customer who is an entrepreneur within the meaning of § 14 BGB must pay default interest in the amount of 8% above the respective base rate of the European Central Bank in accordance to § 247 BGB. If pcvisit can prove a higher damage, then pcvisit shall be entitled to enforce the higher amount. The Customer shall be entitled to prove to pcvisit that pcvisit had not suffered any damage, or only a significantly smaller damage, due to the default in payment.

3. In the case that the Customer defaults in payment of the purchase price, or that an application is submitted for the opening of insolvency proceedings on the Customer's assets, pcvisit shall be entitled to withhold all and any services and to enforce its rights from retention of title.

4. If the parties subsequently agree on additional services which have an effect on the agreed terms, then the terms shall be extended by a reasonable period of time. Reminders and setting of deadlines



by the Customer must be in writing to be effective. A grace period of less than two weeks is considered appropriate only in cases of particular urgency, which is not attributable to the Customer.

5. The threat of ending the further exchange of services/payments must be always announced with stating the grounds and setting a deadline for the removal of the fault (usually at least two weeks); it can be put into practice only within two weeks after the expiry of the set term. In the cases specified in § 323 paragraph 2 BGB the setting of a deadline can be waived of. The party that is mainly responsible for the fault cannot demand reversal. All declarations made in this context must be in writing to be effective.

6. The Customer shall have an offsetting right only, if his counterclaims have been legally established or acknowledged by pcvisit or not contested by pcvisit in writing after being called to make a statement, respectively. The Customer may exercise a right of retention only if his counterclaim relates to the same contractual agreement.

7. pcvisit may provide partial deliveries, provided that the isolated parts can be purposefully used by the Customer.

8. The compliance with the agreed delivery times and/or obligations is subject to the timely and orderly fulfilment of the Customer's obligations.

9. If the Customer defaults to accept the goods or services, or if he breaches other duties to collaborate, then pcvisit shall be entitled to enforce compensation for the damages that pcvisit incurred, including possible additional cost. In such a case, also the risk of loss or deterioration of the contractual goods or services by accident shall pass to the Customer at that point in time at which he defaults in acceptance.

§ 4 Subject Matter of Contract, Extent of Software Usage

The subject matter of the contract is, in particular, the delivery of the respective pcvisit software products (software). The extent of software usage and the connected rights and obligations is subject to the right of use specified in the licence certificate as well as in a possible separate licence agreement and/or, in particular, the Licensing Terms of the pcvisit Software AG (EULA) for the software.

§ 5 Transfer of Risk, Dispatch, Acceptance

1. Returns of transport packaging and other packaging material in accordance to the German packaging regulations are not accepted by pcvisit. The Customer is obliged to take care of the disposal of the packaging material at his own expense.

2. On request of the Customer, pcvisit shall secure the delivery by transport insurance; the incurring cost must be borne by the Customer.



3. In the case of transfer of the software via the Internet, i.e. in particular by Email or Internet download, the risk of loss and/or change of the data shall pass to the Customer as soon as the data have passed through the network interface.

§ 6 Liability for Defects, General Liability/Damages

1. Material Defects

a) The software has the agreed nature and properties; it is suited for the use set out in the contract, otherwise the ordinary use. It is of the quality common for this type of software but it is not free of defects. Software necessarily has defects; not every defect constitutes a full right of the Customer, especially rescission of the contract and damages. A malfunction of the software resulting from hardware defects, conditions of the working environment, user's error or similar shall not be deemed a defect. A reduction in quality that is not substantial shall be disregarded.

b) pcvisit Software AG shall have the right to subsequent specific performance in case of a material defect. pcvisit Software AG shall be entitled to choose the nature of the subsequent specific performance, it may, for example, also advise the Customer of ways to avoid the effects of the defect or provide a program without the defect. The Customer shall use a new program version or a previous program version (both of the same value), unless this imposes an unreasonable burden on him.

c) The Customer shall support pcvisit Software AG in the analysis of defects and the elimination of defects by providing a detailed description of problems, informing pcvisit Software AG comprehensively and by providing time and opportunity for the remediation of the defect. pcvisit Software AG's free Customer support can be contacted via email (support@pcvisit.de). pcvisit Software AG can carry out the remedy of defects at its option either on site or in its offices. pcvisit Software AG may also provide services by remote support. The Customer shall be responsible for providing the necessary technical conditions at his own cost, and to allow pcvisit Software AG access to his IT systems after prior notification.

d) pcvisit Software AG shall be entitled to demand the payment of any additional expenses resulting from alterations to the software, use of the software outside of the specified environment or user error. It can demand compensation if no defect is found or if defects have been reported incorrectly or insufficiently. The burden of proof is incumbent upon the Customer. § 254 German Civil Code applies by extension.

e) If pcvisit Software AG definitively and finally refuses to provide subsequent performance, or if such performance fails permanently or is deemed unreasonable for the Customer, the Customer shall be entitled to withdraw from the contract by providing written notice, or reduce the price and demand damages or expenses pursuant to § 6 paragraph 3. These claims become prescribed after the period set out in § 8.



f) pcvisit shall bear no further liability for defects, unless set out in the prior provisions. In particular, pcvisit shall not be liable when and insofar as software has been used incorrectly by the Customer, or if it has been used in a defective or non-compatible hard- or software environment. The same applies should the Customer alter the software without being authorized to do so.

2. Defects of title

a) pcvisit Software AG warrants that no rights of third parties conflict with the Customer's use of the software under this contract. Should defects of rights in title exist, pcvisit Software AG shall, at its option, provide the Customer with a legal way of using the software or different software of similar quality. Should this prove impossible, then the purchase price shall be refunded to the Customer.

b) The Customer shall notify pcvisit Software AG immediately of any claims made against him by third parties based on industrial property rights (e.g. copyright or patent rights).

The Customer authorizes pcvisit Software AG to settle any legal disputes with third parties on its own. Should pcvisit Software AG make use of this authority, the Customer shall not accept claims of third parties without the consent of pcvisit Software AG. pcvisit Software AG defends against the claims of third parties at its own expense and indemnifies the Customer from all costs arising from the defence against these claims, insofar as the costs do not result from behaviour of the Customer breaching his duties (e.g. the use of the program contrary to the terms of this contract).

c) § 6 b), c), e) and f) apply correspondingly for defects in title.

3. Damages and claims for compensation for expenses

a) The following limitations on liability apply for damages for defects, other damages, or claims for the compensation of expenses not covered by paragraphs 1 and 2 of this §.

aa) If the Customer asserts a claim for damages against pcvisit in other cases, pcvisit shall be liable pursuant to the statutory provisions, insofar as the claims are based on an injury caused by intent or gross negligence by pcvisit, including intent or gross negligence of its statutory representatives or senior employees. The liability of pcvisit for the culpability of other persons employed in the performance of obligations under this contract shall be limited to the extent of liability for slight negligence pursuant to paragraph 3) bb) of this §.

bb) pcvisit shall be liable pursuant to the statutory provisions insofar as it violates a material obligation under this contract. This liability also applies in cases of slight negligence. If the injured party is an entrepreneur, the damages are limited to typical and foreseeable damage, a maximum of 5,000 EUR per case and up to 20,000 EUR for all cases of damage. pcvisit shall retain the defence of contributory negligence. The Customer shall in particular be obliged to backup data and to implement protective measures against viruses according to the current technology stands.

b) In case of injuries to life, body or health, for claims pursuant to the Product Liability Act, as well as for claims from "guarantee", the statutory provisions apply. Unless expressly set out in paragraph 3

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any further liability of pcvisit for damages in other cases shall be excluded. This applies in particular for claims for damages for culpa in contrahendo, other breaches of duties or because of tortious claims for damage to property pursuant to § 823 BGB.

4. The Customer is advised that he is obligated to ascertain, prior to the first use of the software, whether or not the installation of the software causes interferences with other software that is already installed, and that he is obligated to backup his data, both before installing the software for the first time and during use, and to take all reasonable additional steps to ensure against data loss in case a software problem is suspected.

5. In so far as the liability for damages of pcvisit is excluded or limited, the same applies for the individual personal liability of its employees, representatives and persons employed in the performance of its obligations under the contract.

§ 7 Duty to Examine; Duty to Report Defects

1. The user is obligated to examine the software for obvious flaws which are visible to an average user. Obvious defects, in particular missing data storage media or manuals as well as significant, easily visible damage to data storage media shall be reported to pcvisit Software AG within two weeks of receipt of the delivery. Merchants pursuant to the German Commercial Code are obligated to report defects immediately.

2. Defects which are not obvious shall be reported to the seller within two weeks of the user recognizing them. Such report shall be made in writing.

3. The defects, in particular the occurring symptoms, shall be described in precise detail.

4. If the Customer is a merchant and violates the duty to examine and report, the software shall be deemed approved with regard to the defect.

§ 8 Reservation of Title

1. pcvisit shall retain the ownership of the object of the contract until all payments owed under the contract have been made. pcvisit shall at its own discretion release this collateral on request of the Customer, if the value of any claims pcvisit has vis-a-vis the Customer - for whatever reason - permanently exceeds the value of the collateral by more than 20%. pcvisit shall be entitled to repossess the object of the contract as well as retain parts of the object to the contract which have not been delivered if the Customer is in breach of the contract, in particular if the Customer is in arrears with payments. The repossession of the object of the contract by pcvisit does not constitute a withdrawal from the contract unless pcvisit had expressly declared such. Levying an attachment on the object of purchase by pcvisit always constitutes a withdrawal from the contract. pcvisit is entitled to sell the object of the contract after repossessing it. The proceeds from such sale - minus the costs of the sale - shall be subtracted from the liabilities of the Customer.



2. The Customer shall be entitled to sell the software only with the written permission of pcvisit in the ordinary course of business. He already assigns to pcvisit all claims against third parties he obtains as a result of the sale in the amount of the unpaid invoice (including VAT), regardless of whether the object of the contract was sold in its original state or after being subjected to processing. The Customer is entitled to collect on a claim even after the assignment. The authority of pcvisit to collect the claim itself is not affected by this. pcvisit undertakes to refrain from collecting claims as long as the Customer renders due payments from the obtained proceeds, is not in arrears and has especially not stopped paying or applied for insolvency proceedings. Should this be the case, pcvisit shall be entitled to demand that the Customer inform pcvisit of the assigned claims and the debtor provides all information necessary for the enforcement releases all relevant documents to pcvisit and notifies the debtor of the assignment.

3. The Customer shall inform third parties of the ownership of pcvisit in the case of seizure or other interferences and notify pcvisit immediately in order to enable it to file an action pursuant to § 771 German Code of Civil Procedure. Should the third party be unable to compensate pcvisit for the legal expenses of a successful action pursuant to § 771 German Code of Civil Procedure, the Customer shall be liable for such expenses.

4. If the object of the contract is mingled with other goods not belong to pcvisit, pcvisit shall obtain joint ownership of the new object, the size of its co-owner's share being determined by the value of the object of the contract to the other objects at the time of the mingling.

If the mingling occurs in such a way that the object of the Customer is deemed the main object, the Customer shall transfer partial ownership to pcvisit. The Customer shall keep and maintain the object subject to sole or part ownership of pcvisit.

§ 9 Limitation of Actions

1. The limitation period for claims based on material defects and defects in title is 2 years if the Customer is a consumer.

2. In other cases, the limitation period shall be:

a) For claims for the repayment of the purchase price based on withdrawal from the contract or reduction of the purchase price one year after the delivery of the software, but no less than 3 months after the valid declaration of reduction or withdrawal has been made.

b) For other claims based on material defects one year; against consumers 2 years from the delivery of the software.

c) For claims based on defects in title 1 year, if the defect in title is not the right in rem of a third party entitling such third party to demand the handing over of the sold and delivered goods and documents.

Limitation of actions occurs no later than after the maximum time limits of § 199 BGB have expired.



3. Furthermore, the statutory limitation periods apply in the case of claims for damages and compensation of expenses based on intent, gross negligence, guarantee, fraudulent intent as well as injury to life, body and health and for claims pursuant to the Product Liability Code.

§ 10 Data Protection

The Customer expressly agrees to the collection, processing and use of personal data which is necessary for the implementation of the contract and the performance of contractual and extra-contractual obligations by pcvisit. The Customer retains the right to revoke this consent at any time with effect for the future. pcvisit advises the Customer that it uses the services of third parties in the performance of contractual and extra-contractual obligations which may be provided with the collected data for the performance of such duties. Examples include third parties such as resellers, suppliers, credit card companies as well as providers of marketing services. Furthermore, the Customer declares his consent to the use of such personal data by pcvisit for exclusively internal purposes, such as for example for statistical analysis, marketing, sales promotions as well as Customer relationship management.

§ 11 Place of Jurisdiction, Place of Payment, Miscellaneous

1. The law of the Federal Republic of Germany applies, with the exception of the conflict of laws provisions as well as the treaty of the United Nations regulating contracts regarding the international sale of goods. The "Convention on Contracts for the International Sale of Goods" (CISG) dated April 11, 1980, in its current form, shall not apply.
2. If the Customer is a merchant pursuant to the German Commercial Code, or a public special fund, the place of jurisdiction shall be Frankfurt am Main. The place of payment shall be Dresden.
3. The rights and obligations resulting from an agreement made by the parties on the basis of these terms cannot be assigned to third parties without prior written consent of pcvisit.
4. Amendments and supplementary agreements require written form. This also applies for the aforementioned clause requiring written form.
5. Should one or more individual provisions of this agreement be invalid either in their entirety or in parts, or should they become so, the rest of the provisions shall remain in force. If an invalid provision affects a current contractual relationship, the parties shall replace the invalid provision with a valid provision coming as close as possible to the commercial and contractual purpose of the invalid provision.

Dated 23rd August 2010