

#### Article 1 Preamble

PROCAD GmbH & Co. KG (hereinafter: PROCAD) enables the use of virtual project rooms for the persons with an invitation link as well as users of PROOM FREE. The software "PROOM" (henceforth: PROOM) developed by PROCAD of the Microsoft Windows® Azure™ platform is used for this purpose.

Before you can start using it, you must first accept these Terms of Use. In addition to this user agreement, the GTC and the general license conditions of PROCAD apply. This user agreement shall take precedence over the GTC and the general license conditions of PROCAD in the event of any contradictions.

The GTC and the general license conditions of PROCAD can be found at <https://support.procad.de> and at [General Terms and Conditions](#) and [License terms](#).

#### Article 2 Usage Rights

After accepting these terms of use, PROCAD grants you a simple, non-exclusive right to use PROOM, limited in time to the duration of the usage relationship, to the extent necessary for the use.

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

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

- Dissemination of political contributions
- Sending advertisements, chain mails, or junk and mass emails to PROCAD or other users
- criminal or unauthorized acts, such as dissemination of racist, religiously fanatical, hate-propagating, violent and pornographic data, fraud or harassment
- Sending virus-infected or other harmful data
- Actions that affect the function of PROOM
- Transfer or sale of the rights of use to non-members
- Sharing or sending any content received through PROOM with the intention of harming others
- Collecting or disclosing personal information about others
- Identity illusions.

The users 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

- contain content glorifying violence or pornographic content or links
- may be false or misleading to the best of their knowledge
- incite to illegal acts
- Infringe intellectual property rights or copyrights or other rights of a third person
- shows a photograph of a person uploaded without their consent
- promote commercial activities such as gambling, bartering, or pyramid schemes.

All passwords must be kept confidential. In particular, you shall not disclose the password to other persons or use the login data of another member or user. Furthermore, you are not allowed to create multiple accounts of your own. All damages resulting from loss or misuse of the password shall be borne by you. We are entitled to immediately block the storage space if there is reasonable suspicion that the data stored by you is illegal and/or violates the rights of third parties. A reasonable suspicion of illegality and/or infringement of rights exists in particular if courts, authorities and/or other third parties inform us thereof. We must notify you of the block and the reason for it without delay. The suspension shall be lifted as soon as the suspicion is removed.

#### Article 4 Indemnity

If PROCAD should be taken up nevertheless due to an injury of the defaults in § 3 by a third party, you release PROCAD from all costs and claims for damages in connection with it opposite third parties. PROCAD is entitled to require appropriate advances for this.

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

You also agree to comply with the following obligations to cooperate and provide information:

- provision of an internet connection and a regularly checked e-mail address,
- Performing adequate backup of all documents, files, images, videos or other materials uploaded to PROOM so that they can be restored with reasonable effort,
- immediate report in case of prohibited actions or contents to PROCAD, as soon as knowledge of such actions or contents is gained,
- forwarding of error messages of PROOM to PROCAD.

#### Article 6 Duration of Usage Relationship / Termination

The usage relationship shall be terminated automatically with the end of the project, for which you have been invited. PROCAD and the project manager authorized to do so at their own discretion may terminate the usage relationship at any time without giving a reason. The right to extraordinary termination remains unaffected.

You can also terminate the usage relationship at any time. For this, it shall be sufficient for you to click the button "Leave". The right of use granted herein shall also be terminated with the end of the usage relationship.

The usage relationship of a Free Account ends if no activity is detected within the Free Account for a period of 12 months.

#### Article 7 Warranty / Liability

The statutory warranty provisions shall apply.

We shall have unlimited liability in accordance with the provisions of law if the damage

- a) results from gross negligence or intention;
- b) entails liability under the Product Liability Act;
- c) occurred as a result of a fraudulently concealed defect or (in the case of the granting of a right of use for an unlimited period of time) in the event of a breach of a warranty for the quality of PROOM; or
- d) the damage is in the form of personal injury (damage to life, body and health).

Apart from the above, for culpable violation of essential contractual duties we shall only be liable for contract-typical damage and up to an amount of 500,000.00 Euros for material damage, 250,000.00 Euros for EDP property damages and 50,000.00 Euros for pure financial loss. Essential contractual duties are duties the contract has to grant to the user according to its contents and purpose; furthermore, essential contractual duties are duties, the fulfillment of which allows a proper performance of the contractual agreements, and on the mutual compliance of which the user has usually relied on and can usually rely on. Further contractual claims or tort claims are excluded.

We shall be liable for the loss of data only to the extent that is unavoidable even if the customer had properly fulfilled or would have fulfilled its data backup obligation pursuant to Art. 6 (2). Notwithstanding our unlimited liability pursuant to Art. 7 (2) a-d, our strict warranty liability for initial material defects in PROOM shall be excluded to the extent that a right of use limited in time has been granted.

The above limitations of liability also apply to the personal liability of our employees, representatives and vicarious agents.

#### Article 8 Data protection

The statutory provisions on data protection apply in accordance with the GDPR and the German Data Protection Act BDSG (new). Details can be found in the privacy policy for PROOM. [Privacy Policy for PROOM](#).

#### Article 9 End of the Usage Relationship

After the end of the usage relationship, you may no longer use PROOM. If you are a PROOM FREE user, PROCAD is entitled to delete these materials immediately and completely after the end of the usage relationship. Four weeks before deletion, a warning is sent to the email address specified in the account.

The users of PROOM FREE must therefore duly comply with their data backup obligation pursuant to Art. 6 (2), so that there is no unintentional loss of data due to deletion after the end of the usage relationship.

#### Article 10 Final Provisions

If the present Terms of Use, our GTC or general license terms are changed, these updated terms shall be considered accepted, if you do not object to the stipulated changes in writing by mail or e-mail to PROCAD within the next two months after receipt of the updated terms.

The place of jurisdiction for all legal disputes arising from or in connection with the use of PROOM is 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).

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 shall then endeavor to replace the invalid provision with an appropriate provision that comes as close as possible to the purpose intended by the invalid provision.