

# General Terms and Conditions of PROFI Engineering Systems AG

As of 23. August 2021

---

## Scope of the General Terms and Conditions

1. These General Terms and Conditions ("**AGB**") shall apply to individual contracts ("**Individual Contracts**") for the described services entered into between PROFI Engineering Systems AG, Otto-Röhm-Str. 18, D-64293 Darmstadt, Germany (hereinafter "**PROFI AG**," "**we**," "**us**," "**ourselves**," "**our**") and the respective contracting partner of PROFI AG (hereinafter "**Customer**"), and only whenever our Customer is acting in the exercise of its commercial or independent activity (and hence as a business enterprise within the meaning of § 14 of the German Civil Code ("Bürgerliches Gesetzbuch", "BGB")) or is a legal person under public law or a public fund.
2. Any opposing, deviating, or amending general terms and conditions of the Customer shall not apply unless their validity is expressly consented to. Such shall also apply even if the applicability of the Customer's general terms and conditions is not expressly contradicted. Any rendering of services or acceptance of payments by us without reservation shall not signify any acknowledgement of any deviating provisions.
3. Every individual contract (hereinafter "**Individual Contract**") shall constitute an independent contract having no legal effects upon any further Individual Contracts entered into between PROFI AG and the Customer. Any termination or otherwise expiration of the Individual Contract shall not affect the term and effectiveness of any remaining Individual Contracts and other agreements in existence between the Customer and PROFI AG.
4. Any provisions, alterations, or amendments in deviation from these AGB or from an Individual Contract shall require the written-form (*Schriftform*).

## Part A

### General conditions

#### I. Scope

1. **These AGB Part A, shall apply to all Individual Contracts between our Customer and us, in the individual scope of applicability defined above.**
2. **The cases in which the special conditions in Part B, Part C, Part D and/or Part E shall apply in addition to this Part A are governed under the respective "Scope" heading. To the extent that a provision in these special conditions contradicts one of the provisions in these AGB Part A, the provision in the special conditions shall, as a more specific provision, take precedence over the provisions in these AGB Part A.**

#### II. Scope of services; data back-up by the Customer; subcontractors

1. The scope of services owed by us shall, depending on the service requested in each instance, follow from the special conditions of Parts B, C, D, and/or E as well as from the respective Individual Contract. To the extent that the provisions of the Individual Contract contradict these AGB, the provisions of the Individual Contract shall take precedence.
2. Without a separate order we shall not be obligated – if no justified occasion to do so exists – to review for completeness and accuracy (i) the Customer's issued order and service description or (ii) any data, information, or services the Customer otherwise provides. It shall be the Customer's responsibility prior to the installation of software on its computers or prior to work on its computers to secure in a suitable form the information located thereon. Beyond that, it shall be incumbent upon the Customer to regularly create proper back-up copies of its data.
3. Whenever we make recommendations for the use of hardware components and peripheral devices, then the adjustment of peripheral devices not covered by this recommendation which are set by the Customer or used at its wish shall not be included in the scope of the services. The adjustment can be very time- and cost-intensive in the individual case. In the event that adjustment is ordered without an agreement for payment at the same time, payment shall be effected in accordance with the amount of time expended, in accordance with our respectively current price list.

#### III. Cooperation of the Customer

If and insofar as our service is not fully rendered in the delivery (and any licensing) of software or hardware, then the following provisions shall apply to the Customer's cooperation duty:

1. The fulfillment of material cooperation duties by the Customer shall be condition to the rendering of services by us according to schedule. If the Customer is in default with the Customer's material cooperation duties, then our expense for the product increases and the subsequent dates will be postponed. The Customer acknowledges and agrees that this postponement will then not have to take place in a manner in-line to the delay caused, but rather can also be shorter or longer. The length of the postponement shall in this case be determined in accordance with our equitable and judicially reviewable discretion pursuant to

§ 315 para. 3 BGB. Any additional expenditures arising to us shall be paid by our Customer (see Sect. III para. 2).

2. We shall be allowed to additionally invoice, in accordance with time and expense at the respectively applicable hourly rates, any downtimes in which we or our vicarious agents cannot productively work due to the Customer's not having complied with its cooperation duties properly, fully, or in a timely manner. The Customer shall retain the right to substantiate a lesser degree of damage. Downtimes requiring payment can, e.g., arise from:
  - a) unavailability of the Customer's point of contact, insofar as such results in downtimes;
  - b) unavailability or failures of the communication networks, within the responsibility of the Customer, to the extent these networks are necessitated by technical reasons for purposes of development, testing, or integration,
  - c) unavailability or defectiveness of interfaces or interface programs, to the extent as these are to be set by the Customer; and/or
  - d) delays by the Customer in provision of test data.
3. To clarify all questions concerning the Individual Contract during the entire term of the Individual Contract, the Customer shall appoint to us as an authorized point of contact a person having the authority to make decisions. This point of contact shall in particular render decisions of the Customer in a timely manner such that, during performance of the Individual Contract, no delay due to omitted or untimely decisions by the Customer occurs. In the event of absence due to vacations or illness of the contact person, the Customer shall have to ensure that there is a representative who is correspondingly so authorized.

#### **IV. Delivery dates, impediments to performance, reservation of right of self-delivery**

1. Delivery dates or dates for the rendering of our services shall be binding only if they have been expressly stipulated with the Customer as binding.
2. If a binding determination of the delivery and/or performance deadline is missing, then we shall determine the delivery and/or performance deadline in accordance with our reasonable and judicially reviewable discretion.
3. If, despite entering into a congruent hedging transaction with a supplier known to be reliable, we cannot be supplied in a timely manner, then the applicable dates for the rendering of our services shall be extended by a reasonable period of time, to be determined by us in accordance with our reasonable and judicially reviewable discretion.
4. Legal holidays shall be: 1 January, Good Friday, Easter Monday, 1 May, Ascension Day, Whit Monday, the Feast of Corpus Christi, 3 October, 24 December, Christmas Day, 26 December, and 31 December.

#### **V. Payment, bonuses, expenses, payment default**

1. The payment to be paid by the Customer for the services to be rendered by us shall follow from the respective Individual Contract. Unless otherwise stipulated, all payment stipulated shall be in Euro plus value-added tax and any expenses for transportation and packaging. With respect to the calculation of downtimes, the provisions in Sect. III para. 2 shall apply.
2. All payments are to be settled by the Customer within fourteen (14) days of receipt of our respective invoice, via bank transfer to the bank account indicated on the invoice.

#### **VI. Counterclaims; assignment**

Our Customer shall be able to offset our claims only with undisputed or judicially ascertained counterclaims. The Customer shall be authorized to exercise a right of retention only insofar as the Customer's counterclaim is based upon the same contractual relationship.

#### **VII. Acceptance**

1. Insofar as we, in accordance with an Individual Contract, have to render services within the meaning of §§ 631 *et seq.* BGB, these shall require acceptance. This shall not apply to services to be rendered alongside, including, but not limited to, consulting and other support services.
2. Insofar as partial acceptances have been agreed upon and/or acceptances of partial deliveries and/or services take place, then we shall have the right to withhold further partial deliveries and/or services as long as the Customer is in default with (i) the acceptance of partial deliveries and/or services or (ii) the payment of accepted partial deliveries and/or services.
3. Acceptance may not be refused on account of non-material defects. 'Material' defects are those defects from which the appropriate, i.e., the economical, use of the work is not possible or is unreasonably restricted or hindered.

#### **VIII. Warranty for defects**

1. If the Customer, in the event of entering into a purchase agreement or contract for work, is entitled to claims for defects against us for defects of the goods or work, then the limitation period for warranty claims shall in the case of a purchase agreement for a new item be one

- (1) year from delivery of the item, in the event of the contract for work, one (1) year from the acceptance. The statutory limitation periods shall however remain unaffected in the event of malicious concealment of a defect, in the event of assumption of a guarantee of quality, in the event of injury to life, body, or health, as well as in the event of willful intent or gross negligence.
2. If a used item is sold in an individual case, then the warranty is excluded. Sect. VIII para. 1 sent. 2 shall apply *mutatis mutandis*.
  3. If we have to warrant for a material defect under a purchase contract, then we shall be entitled to the selection right contained in § 439 para. 1 BGB to decide whether the defect shall be remedied through free-of-charge removal of the defect (repair) or through replacement with a defect-free good.
  4. Insofar as nothing else is expressly stipulated in the respective Individual Contract, we make no guarantee of durability or quality within the meaning of § 443 BGB for the items sold by us.
  5. For purchase contracts, if the Customer is a merchant within the meaning of the German Commercial Code (“Handelsgesetzbuch”, “HGB”) there exists in accordance with § 377 HGB an obligation to inspection and objection. This also applies *mutatis mutandis* to contracts for work in application of this provision.
  6. It is expressly clarified that any of the Customer’s warranty claims arising from an Individual Contract (e.g., claims for defects of the hardware delivered), do not extend to any other Individual Contracts (e.g., for licensing standard software or for the rendering of services) entered into in connection therewith, unless expressly otherwise agreed in the respective Individual Contract.
  7. To the extent that software is defective, the Customer shall as part of the replacement with a defect-free good assume (as applicable) a new version of the software, unless such then leads to unreasonable impairments.
  8. A warranty for the defect of a good shall not apply to defects caused by the software or hardware being used in a hardware or software environment which is not suitable to the requirements set forth in an Individual Contract or to changes and modifications which the Customer has performed on software or hardware delivered by PROFI AG without having the right to do so under the law, these AGB, or based on a previous written consent of PROFI AG.
  9. Any expenses which arise to us resulting from unjustified complaints of defect by the Customer are to be reimbursed by the Customer if the Customer, while exercising reasonable care, could have been discerned that the complaint of defect is unjustified.
  10. Any warranty claims of Customer are solely subject to the statutory legal provisions with respect to software, hardware or other goods or items that are provided free of charge.

#### **IX. Exclusions of liability**

1. PROFI AG shall be liable for damages with respect to injury to life, body, or health, which result from a breach of duty by PROFI AG, by its legal representative or vicarious agents, as well as for damages which result from the absence of a quality which was guaranteed by PROFI AG.
2. PROFI AG shall be liable for damages caused willfully or by gross negligence of PROFI AG or one of its legal representatives or vicarious agents.
3. If damages, except for such cases covered by Sect. IX para. 1 or para. 4, with respect to the breach of contractual core duty are caused by slight negligence, PROFI AG shall be liable only for the amount of the damage which was typically foreseeable. Contractual core duties, abstractly, are such duties whose accomplishment enables proper fulfillment of the Agreement in the first place and whose fulfillment a contractual party regularly may rely on.
4. Liability under the German Product Liability Act (Produkthaftungsgesetz”, “ProdHaftG”) remains unaffected.
5. The limitation period for claims for damages against PROFI AG expires after one (1) year, except for such cases covered by Sect. IX, para. 1, para. 2, or para. 4.
6. Notwithstanding the provisions in this Sect. IX, PROFI AG is solely liable according to the statutory legal provisions with respect to software, hardware or other goods or items that are provided free of charge .

#### **X. Non-disclosure**

1. Both the Customer and PROFI AG, until five (5) years have elapsed from the expiration of the Individual Contract, shall be obligated not to make accessible to third parties, either directly or indirectly, any confidential information transmitted or disclosed to the respective other party thereunder (respectively, the “**Receiving Party**”) and not to use such confidential information for purposes other than the performance of the respective Individual Contract within the scope of which the Receiving Party obtained knowledge of the confidential

information. As 'confidential information' shall be deemed all information (i) concerning the details of the corresponding Individual Contract (including the content of the respective offer), (ii) all technical information and know-how of the other party made accessible to the Receiving Party within the scope of the Individual Contract, (iii) any other information identified by this other party as confidential, and (iv) the other party's operational and business secrets, insofar as and to the extent that such do not fall under (i) through (iii).

2. The non-disclosure obligations under Sect. X para. 1 shall not apply to confidential information (i) which prior to being reported to or prior to the acquisition of knowledge of which by the Receiving Party was demonstrably known and was not disclosed via any breach by a third party of a non-disclosure obligation, (ii) which prior to being reported was known to the public or was generally accessible, (iii) which after being reported became known or generally accessible without any assistance or fault of the Receiving Party, and/or (iv) which is to be disclosed within the scope of an official, judicial, or arbitration proceeding.

#### **XI. Intellectual property/protective rights**

1. To the extent not otherwise expressly stipulated in the respective Individual Contract or in these AGB, we and our suppliers shall, in the course of the relationship to the Customer, retain all rights of ownership in our registered trademarks, in the Standard Software (as defined below in Part B), in the appurtenant documentation, in all Updates (as defined below in Part E), in all services or Deliverables (as defined below in Part C), and in other work products, as well as in all intellectual property rights contained in the above elements or connected therewith. All rights, in particular usage rights relating to copyrights, not expressly licensed or granted pursuant to an Individual Contract or according to these AGB shall be reserved.
2. In relation to us, the Customer shall retain all ownership rights in all of its confidential information and in all of its intellectual property rights already in existence.

#### **XII. Written-form, applicable law, and venue**

1. Any terminations and other declarations of intent shall require written-form.
2. These AGB and all Individual Contracts shall be subject to the law of the Federal Republic of Germany, with the exception of the United Nations Convention on Contracts for the International Sale of Goods, dated 11 April 1980 and the regulatory provisions of international private law.
3. The exclusive venue and the place of performance for all duties arising out of the contractual relationship with the Customer shall be at the seat of PROFI AG.

### **Part B**

#### **Special conditions for the permanent transfer of Standard Software (purchase)**

##### **I. Scope**

**These special conditions for license agreements for Standard Software Part B, shall apply to supplement the provisions in Part A of the AGB, to the extent that the subject matter the Individual Contract is (also) the sale, the delivery, and the licensing of a Standard Software of PROFI AG to the Customer, regardless of whether it is standard software created by us or by a third party.**

##### **II. Scope of services, content and scope of the usage rights in the software**

1. The scope of services can encompass the delivery, licensing, and permanent transfer of standard software which was created either by us as standard software or which is manufactured and distributed by third parties as standard software (hereunder "**Standard Software**").
2. Components of the Standard Software shall be, to the extent nothing otherwise was stipulated, as follows:
  - a) the machine-readable object code and
  - b) the documentation and/or, alternatively, the functional description created either by us or by a third-party manufacturer.
3. We grant the Customer the non-exclusive (simple), non-sub-licensable right to use without temporal restriction the Standard Software manufactured by us, for the purposes specified in the Individual Contract and (only) at the installation locations set forth therein.
4. The use right granted to the Customer under Sect. II para. 3 shall be restricted to the maximum number of licenses stipulated in the Individual Contract and geographically restricted to use in the computer systems which are in the Customer's immediate possession and which serve the use purpose.
5. It is clarified that a license – unless otherwise expressly stipulated in the underlying Individual Contract – shall in each case be restricted to one (1) computer of the Customer. The Customer shall not have the right to transfer any software installed on one of its

computers to other computers without acquiring additional licenses. Such does not apply in the event that a computer has to be exchanged for technical reasons. In this event, however, as soon as the Standard Software has been transferred to the new computer the Customer shall be obligated to completely delete the installed Standard Software from the previous computer.

6. To the extent that the subject matter of the contract is the delivery of Standard Software which was manufactured by a third party, the Customer shall be obligated, in addition to the obligations under this provision, to comply with the licensing terms and conditions for this Standard Software established by the respective manufacturer, including, but not limited to, that this Standard Software is not reproduced contrary to the provisions of the respective third-party manufacturer and that for the intended use – even in the event of a subsequent expansion of use by the Customer – a sufficient number of licenses is always on hand.
7. If the Customer uses the Standard Software in a scope which qualitatively (in view of the type of use permitted) or quantitatively (in view of the number of licenses acquired) exceeds the acquired use rights, then the Customer shall, without undue delay, acquire the use rights necessary for the use permitted.

### **III. Delivery**

1. The Customer shall obtain for the exercising of the respectively granted license the necessary number of reproduced copies of the Standard Software in machine-readable form, either – at our option – stored on data carriers or readied for retrieval by remote data transmission.
2. Furthermore, the Customer shall receive per reproduced copy of the Standard Software a copy of the user documentation created by us or by a third-party manufacturer and made available to us for transfer to the Customer. We shall also be able to fulfill this obligation by setting up electronic assistance built into the Standard Software or by the possibility of obtaining the user documentation directly from the Standard Software.

### **IV. Limitations of service**

Without any stipulation to the contrary in the individual case, the following non-exhaustive list of services shall not be the purpose of licensing the Standard Software under these supplemental conditions, Part B, and, by extension, shall not be encompassed by the payment stipulated for this purpose in the Individual Contract:

- a) installation of the Standard Software at the Customer's premises,
- b) individualized setting of variable parameters of the Standard Software in accordance with the Customer's requirements (customizing),
- c) individualized expansion of the Standard Software for the Customer (individual modifications),
- d) adjustments of interfaces of the Standard Software to the needs of the Customer,
- e) instructing and training the Customer's users of the program, or
- f) care and support of the Standard Software, including, but not limited to, the delivery of new versions of the program.

## **Part C**

### **Special conditions for contracts governing the rendering of services**

#### **I. Scope**

**These special conditions for contracts governing the rendering of services Part C, shall apply to supplement the provisions in Part A of the AGB, to the extent that the subject matter of the Individual Contract is (also) the rendering of services, i.e., including, but not limited to, (i) the installation, the individualized setting/establishing of parameter, and the placing into operation of Standard Software and/or hardware sold by us, (ii) the adjustment and/or expansion of Standard Software being effected for the Customer individually and/or the creation of independent software being effected for the Customer individually (jointly, "*Development of Individual-Software*"), (iii) training or other support of the Customer's employees, (iv) the migration of data or other software components, and (v) the rendering of other consulting services. These special conditions shall not apply to services which are rendered within the scope of an agreement for software servicing or for support.**

#### **II. Scope of services/usage rights**

1. The nature and the scope of the services to be rendered, including, but not limited to, the time frames scheduled here, the services to be rendered by us specifically (the "**Deliverables**") and any payment objectives/milestones shall be set out in the respective Individual Contract.
2. The Customer shall be entitled to the usage rights in the Deliverables as well as in all further work products which are created and left to the Customer within the scope of the services, in

the same scope as for the Standard Software manufactured by us and to which the work results pertain. Insofar as the work results do not pertain to Standard Software manufactured by us, we shall grant the Customer a non-exclusive (simple), non-sub-licensable right to use, without temporal and territorial restriction, the work product created by us, for the purposes specified in the respective Individual Contract.

3. To the extent that the Customer, based upon divergent individual agreements, has acquired an exclusive use right in work results rendered by us under an Individual Contract, we shall have the right to use for the purposes of our business operation our own knowledge or the knowledge of our employees related to creation of the work result, as well as tools and procedures used which are suitable or specified for repeated use in other service relationships. This shall not apply to such knowledge that pertains exclusively to unique characteristics of the Customer's business operation.
4. Delivery of the source codes shall not be included in the scope of delivery for the development of Individual-Software.

### **III. Payment terms**

1. To the extent payment has to be provided on "time and material"-basis the respective payment shall mature on a monthly basis and be billed by us.
2. To the extent the parties agreed on a fixed payment, its maturity shall follow the payment targets set out in the Individual Contract.

## **Part D**

### **Special conditions for the sale of hardware**

#### **I. Scope**

**These special conditions for the sale of hardware Part D, shall apply to supplement the provisions in Part A of the AGB, to the extent that the subject matter of an Individual Contract is (also) the delivery of hardware components.**

#### **II. Scope of services for sale of hardware**

1. Our business activity does not encompass the manufacturing of hardware. Therefore, insofar as hardware components are also contained within the scope of an Individual Contract, we hereby clarify that these are not manufactured by us.
2. The scope of services shall follow exclusively from the contractual stipulations. Insofar as it emerges upon delivery and/or installation that additional hardware components are required, these are to be ordered and paid for separately, or to be obtained by the Customer itself.
3. The Customer shall be obligated to use the system software delivered to the hardware components, i.e.,
  - a) co-delivered system software, which has to be installed on the hardware after the hardware is set up and/or installed, and
  - b) software components already securely integrated in the hardware only in accordance with the respective manufacturer's respective conditions of license.

#### **III. Reservation of ownership, all-monies clause**

1. The delivered hardware shall remain our property until full payment of the portion of the purchase price for the hardware.
2. Moreover, the delivered hardware shall remain our property until final payment of all of our receivables arising from the transaction which was connected with the acquisition of the hardware (acquisition and licensing of Standard Software and/or licensing and adjustment of Standard Software).
3. The Customer shall not be allowed to sell, pledge, or assign to third parties as security the proviso goods to which we hold sole or joint title. The Customer shall not be permitted any pledging, assignment as security, or assignment as collateral.
4. If the cooperation of the Customer is required for the reservation of ownership to be effective, e.g., in the event of registrations which are required under the law of the buyer's country, then the Customer shall have to undertake actions of this nature.
5. If the objective prerequisites for the duty to file a motion for bankruptcy are present with the Customer, then the Customer shall have to – without any corresponding request being required – refrain from any disposal, regardless of its nature, over the proviso goods. Further, in this event we shall have the right to withdraw from the contract and to demand the surrender of the proviso goods.

## **Part E**

### **Special conditions for the temporary transfer of hardware (lease)**

#### **I. Scope**

**These special conditions for the non-gratuitous, temporary transfer of hardware Part E, shall apply to supplement the provisions in Part A of the AGB, to the extent that the subject matter of an Individual Contract is (also) the no-charge temporary transfer of use of hardware.**

## **II. Scope of services**

1. Our business activity does not encompass the manufacturing of hardware. Therefore, insofar as hardware components are also contained within the scope of an Individual Contract, we hereby clarify that these are not manufactured by us.
2. The scope of services shall follow exclusively from the contractual stipulations. To the extent it emerges upon delivery and/or installation that additional hardware components are required, these are to be ordered and paid for separately, or to be obtained by the Customer itself.
3. The Customer shall be obligated to use the transferred hardware components only in the location for use set forth in the respective Individual Contract.
4. The transfer of use in the hardware shall be effected by our transferring of the hardware to the Customer.
5. Without our prior written consent, the Customer shall not have the right to perform any changes on the hardware transferred, or to remove markings that were affixed by us or by our suppliers.
6. Should a third party assert any rights through confiscation, pledging, or the like in the hardware transferred by us to our Customers, then the Customer shall be obligated to inform us thereof in writing without undue delay.

## **III. Term, termination, return**

1. The term of the respective Individual Contract shall commence as of the date which is set forth in the Individual Contract as the contractual commencement, and shall have an initial term of one (1) year (the "**Initial Term**").
2. As of the expiration of the Initial Term, both parties shall be able to terminate the Individual Contract with a notice period of three (3) months. If the Individual Contract is not terminated, then it shall always be extended implicitly for a respective one-year period. Each party shall have the right to terminate the thusly extended Individual Contract in compliance with a termination period of three (3) months as of the end of each extension period.
3. The right to terminate an Individual Contract for cause as well as under § 543 BGB shall not be affected.
4. After the Individual Contract expires, the Customer shall give the transferred hardware back to us. The return shall be conducted by the Customer delivering the transferred hardware to us at our place of business in Darmstadt, Germany.
5. The Customer shall be obligated to notify us in writing or via telefax of the intended return of the transferred hardware fourteen (14) calendar days prior to the return, insofar as a fixed-term of use has not been stipulated from the outset. If the notification is effected verbally or over the telephone, then the Customer shall have to confirm it in writing or by telefax within three (3) calendar days.
6. If the Customer does not give the transferred hardware back to us after the expiration of the respective Individual Contract, then we shall have the right – but shall not be obligated to – collect such at the premises of our Customer and to enter, for this purpose, the custodial or use location of the transferred hardware. The Customer waives any claims to which it could be entitled arising from infringement of property rights.

## **IV. Warranty for defects**

1. PROFI AG shall be obligated to retain the hardware made available for the duration of the term in a condition suitable for use pursuant to the contract and to carry out the requisite maintenance and repair work. This obligation shall pertain only to the condition of the software pursuant to the contract, set forth in the respective Individual Contract.
2. If the Customer is entitled to claims for defects against us for defects in the lease object, then the limitation period for warranty claims shall be one (1) year from the statutory commencement of the limitation period. The statutory limitation periods shall however remain unaffected in the event of malicious concealment of a defect, in the event of assumption of a guarantee of quality, in the event of injury to life, body, or health, and in the event of willful intent or gross negligence. Sent. 1 of this Sect. IV para. 2 shall be without prejudice to § 548 para. 2 BGB.
3. Any claims of the Customer due to defects in the lease object shall be precluded to the extent the lease object's fitness for use pursuant to the contract is significantly affected by these defects only to an insignificant degree.
4. The strict liability of PROFI AG in the event of initial defects as set forth in § 536a para. 1 BGB shall be precluded. In this regard, PROFI AG shall be liable only in the event of gross negligence or willful intent.

5. It is expressly clarified that any warranty claims of the Customer arising from an Individual Contract (e.g., due to defects in the delivered hardware) shall not extend to any other Individual Contracts entered into in connection therewith (e.g., concerning the purchase of Standard Software), unless expressly otherwise stipulated in the respective Individual Contract.
6. A warranty for defects shall not apply to defects caused by the hardware being used in a hardware or software environment which is not suitable to the requirements set forth in the Individual Contract, or to changes and modifications which the Customer has performed on the hardware delivered by PROFI AG, without having the right to do so under law, these AGB, or on the grounds of prior written consent of PROFI AG.
7. The Customer shall notify PROFI AG in writing or via telefax without undue delay of any defects occurring during the term.
8. expenses which arise to PROFI AG resulting from unjustified complaints of defect by the Customer are to be reimbursed by the Customer, if the Customer, while applying reasonable care, could have been able to discern that the complaint of defect is not justified.