

General Terms and Conditions for the Sale of Software

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General Terms and Conditions of Business of foremost.decor Buaubol - Christl GbR, Gottfried-Böhm-Ring 42, 81369 Munich, hereinafter referred to as "foremost.decor", for the sale and use of software products.

§ 1 General

(1) The following General Terms and Conditions apply to the business relationship between foremost.decor and the customer, insofar as the customer purchases software from foremost.decor. They apply to the sale of software, to services agreed within the scope of the corresponding purchase contract and to pre-contractual obligations. The version valid at the time of conclusion of the contract shall be authoritative in each case. Even if no further reference is made to this when concluding similar contracts, the General Terms and Conditions of Business of foremost.decor shall apply exclusively in the version made available to the customer when submitting the declaration, unless the contractual partners expressly agree otherwise.

(2) The delivery of the software is subject to §§ 433 ff. BGB (GERMAN CIVIL CODE). For supplementary services (e.g. installation, parameterisation, training) §§ 611 ff. BGB SHALL APPLY.

(3) Entrepreneurs within the meaning of these Terms and Conditions are natural or legal persons or partnerships with legal capacity who, when concluding the legal transaction, act in the exercise of their commercial or independent professional activity. Customers within the meaning of these Terms and Conditions are entrepreneurs or is any natural person who concludes a legal transaction for a purpose that can predominantly be attributed neither to his commercial nor to his independent professional activity.

(4) Individual contractual agreements take precedence over these General Terms and Conditions. Deviating, conflicting or supplementary general terms and conditions shall not become part of the contract unless their validity is expressly agreed.

§ 2 Conclusion of contract

(1) All offers made by foremost.decor are subject to change and non-binding, unless expressly stated otherwise in the respective offer. Minor deviations due to technical reasons remain reserved within the scope of what is reasonable.

(2) An order for the software by the customer can be placed by e-mail, an online shop or also in writing. The customer's order constitutes a binding offer to conclude a contract for the purchase of the software to the extent desired by the customer. Unless otherwise separately agreed between the parties, foremost.decor shall be entitled to accept the contractual offer contained in the order within one week of receipt. Acceptance may be declared in total by written declaration of acceptance or by any other declaration by which the intention to accept the order placed becomes apparent. Acceptance shall be deemed to have taken place if foremost.decor provides the commissioned service. As a rule, a legal obligation is established by a contract signed by both parties or by written order confirmation from foremost.decor.

(3) The contract is concluded subject to the reservation that in the event of incorrect or improper self-delivery, foremost.decor will not perform or will only perform in part. This shall only apply in the event that foremost.decor is not responsible for the non-delivery and has concluded a specific covering transaction with due diligence. foremost.decor shall undertake all reasonable efforts to be able to provide the service. Otherwise, the

consideration will be refunded without delay. In the event of non-availability or only partial availability, the customer will be informed immediately.

(4) foremost.decor shall provide maintenance services for the purchased software in accordance with the attached General Terms and Conditions for Software Maintenance. Reference is made to § 1 para. 1 of these General Terms and Conditions for the Sale of Software. Separate contracts shall be concluded for deliveries and services of other types (e.g. maintenance for third-party software, consulting on the setup and installation of the software).

§ 3 Subject matter of the contract

(1) The subject of the contract is the delivery of software to the customer for use and the granting of the corresponding rights of use in accordance with these General Terms and Conditions, the product descriptions of foremost.decor and in accordance with any individual contractual agreements made by the parties within the framework of the order.

(2) Before concluding the contract, the customer must check whether and to what extent the specification of the software corresponds to his wishes and needs. In this respect, he must keep himself informed about the essential functional features and- conditions of the software. The scope of the software functions regularly depends on the agreed hardware and software environment of the customer currently available at the time of the conclusion of the contract. It is expressly pointed out that the trouble-free and unrestricted quality and functionality of the software are regularly also dependent on software and hardware components of third party providers. Any changes in such components or in the customer's hardware and software environments may lead to restrictions in the functionality of the software to be supplied by foremost.decor.

(3) The concrete scope of services, type and quality of the deliveries and services as well as the concrete functional scope of the software shall be determined by the agreements made between the parties in the individual case in accordance with the contractual offer contained in the order and the order confirmation by foremost.decor based thereon. The quality and functionality of the software is also determined by the corresponding product descriptions, which are not to be understood as guarantees. A guarantee is only granted if it has been expressly designated as such.

(4) The customer is entitled to the transfer of ownership of the software consisting of the machine program and a corresponding user manual. The technique of delivery of the software shall be governed by the agreements made between the parties. Unless otherwise agreed separately, the software consisting of the machine programme and user manual shall be delivered digitally and as a download via the Internet. If expressly agreed between the parties, the services owed may also be provided via a data carrier. The customer has no right to be provided with the source code.

(5) foremost.decor shall provide all deliveries and services in accordance with the current state of the art.

§ 4 Rights of use

(1) The customer shall have the non-exclusive right to use the software in unmodified form to the extent of the agreed type of use on the devices for which it is intended. The software may only be used by a maximum of the type and number of authorised users (so-called clients) corresponding to the

licences of the software acquired by the customer. The customer may make one copy of each software product for data backup purposes. In doing so, the customer must copy alphanumeric identifiers, trademarks and copyright notices unchanged and keep records of the whereabouts of the copies. Documentation may not be duplicated. The customer may use the software on any hardware available to him. However, if he changes the hardware, he must delete the software from the hardware previously used. The customer may duplicate the software product supplied insofar as the respective duplication is necessary for the use of the software. The necessary reproductions also include the installation of the software from the original data carrier to the mass storage of the hardware used as well as the loading into the main memory. The customer may sell and give away the software, including the manual and other accompanying material, to third parties on a permanent basis, provided that the acquirer also agrees to the continued validity of these contractual terms and conditions vis-à-vis him. In the event of a transfer, the customer must hand over to the new user all copies of the programme, including any existing backup copies, or destroy the copies not handed over. The retranslation of the programme code into other code forms as well as other types of retranslation of the various manufacturing stages of the software including a programme modification for the customer's own use is permissible, in particular for the purpose of error correction. If the action is taken for commercial reasons, it is only permissible if it is indispensable for the creation, maintenance or functioning of an independently created computer program and the necessary information has also not been published and/or is otherwise accessible. The customer shall ensure that the products, their reproductions and the documentation are not passed on to third parties without the written consent of foremost.decor.

(2) The number of licences as well as the type and scope of use shall otherwise be determined in accordance with the contractual offer of the customer contained in the order and the order confirmation of foremost.decor based thereon, the product descriptions of foremost.decor as well as in accordance with any individual contractual agreements of the parties. Any use beyond the contractual agreements, taking into account § 4 of these General Terms and Conditions, is generally not permitted. The customer is generally not permitted to make the software available to third parties for use beyond the contractual agreements.

(3) No further acquisition of rights is associated with this granting of rights of use. The customer may not circumvent or remove any digital rights management (DRM), other technical safeguards and/or rights management information.

(4) The customer is entitled to decompile and reproduce the software insofar as this is necessary to establish the interoperability of the software with other programs. However, this shall only apply under the condition that foremost.decor has not made the necessary information available to the customer upon request within a reasonable period of time.

(5) If the customer uses the software to an extent which exceeds the acquired rights of use qualitatively (with regard to the type of permitted use) or quantitatively (with regard to the number of acquired licences), the customer shall immediately acquire the rights of use necessary for permitted use. If he fails to do so, foremost.decor shall assert the rights to which it is entitled.

(6) Ownership of delivered items and the rights pursuant to § 4 shall not pass to the customer until the contractual remuneration has been paid in full. Prior to this, he shall only have a provisional

right of use, which is only under the law of obligations and revocable.

(7) foremost.decor may terminate the rights under § 4 for good cause. Good cause shall be deemed to exist in particular if foremost.decor cannot reasonably be expected to continue to adhere to the contract, in particular if the customer fails to pay the remuneration or breaches § 4 in a significant manner.

(8) If the rights under § 4 do not arise or if they end, foremost.decor may demand from the customer the return of the items provided or the written assurance that they have been destroyed, in addition the deletion or destruction of all copies of the items and the written assurance that this has been done.

§ 5 Remuneration

(1) The prices quoted by foremost.decor are binding. The prices are always exclusive of statutory value-added tax in accordance with § 19 UStG. Unless otherwise stated, prices are exclusive of VAT and any other taxes. foremost.decor is a small business and the invoice amount does not include VAT in accordance with § 19 UStG.

(2) Insofar as this was agreed upon conclusion of the contract, customers may regularly pay the remuneration owed on account.

(3) Depending on the individual agreements made between the parties, the customer may be allowed to pay the agreed total price in monthly instalments. In this case, the parties shall agree separately on the payment modalities applicable in the individual case with regard to any down payments as well as further monthly instalments. Unless otherwise agreed between the parties, the customer shall make the first instalment or a correspondingly agreed down payment within 14 days of receipt of the order confirmation or invoice. Unless otherwise agreed separately, the subsequent instalments shall be due for payment by the third working day of a respective month at the latest.

(4) Unless otherwise agreed separately between the parties, possibly by way of an instalment agreement, the customer shall pay the total price within 14 days of receipt of the order confirmation or the invoice.

(5) After expiry of the agreed payment periods, the customer shall be in default of payment. During the period of default, the customer shall pay interest on the debt at a rate of 9 percentage points above the base interest rate. foremost.decor reserves the right to claim higher damages for default. The customer must in principle accept the agreed payment terms. In the event of default in payment, foremost.decor shall be entitled, subject to further claims, to temporarily block access to the agreed services in whole or in part. The customer shall be informed of this immediately by e-mail.

(6) The customer shall only have a right of set-off if its counterclaims have been legally established, recognised or not disputed by foremost.decor. The customer's right to offset against contractual and other claims arising from the initiation or implementation of this contractual relationship remains unaffected by this. The customer may only exercise a right of retention if his counterclaim is based on the same contractual relationship.

(7) foremost.decor is entitled to make a partial delivery, insofar as a partial delivery is reasonable for the customer, taking into account its interests. The customer shall not incur any additional costs as a result.

§ 6 Time and place of performance

(1) Insofar as performance times are agreed between the parties, these shall be extended, if necessary, by the period in which the customer is in default of payment under the contract and by the period in which foremost.decor is prevented from delivering or performing due to circumstances for which it is not responsible, such as force majeure and industrial disputes. Delivery and performance times may also be extended by the period in which the customer acts in breach of contract by failing to fulfil its obligations to cooperate, e.g. by failing to provide essential information necessary for the performance of the service, by failing to provide access, by failing to supply materials or by failing to make employees available.

(2) If the contracting parties subsequently agree on other or additional services that affect agreed deadlines, these deadlines shall be extended by a reasonable period of time.

(3) The place of performance for services is the place where the service is to be provided. Otherwise, the place of performance for all services arising from and in connection with this contract is the registered office of foremost.decor.

§ 7 Obligations of the customer

(1) The customer is obliged to inspect the software supplied by foremost.decor or have it inspected by an expert without delay from the time of delivery or from the time of making it available in accordance with the provisions of commercial law (§ 377 of the German Commercial Code (HGB)) and to give notice of any defects detected with a precise description of the defect. The customer must thoroughly test the intended use of the software before commencing productive use.

(2) The customer shall promote the proper use of the software in each case through active and appropriate cooperation. The customer shall provide foremost.decor with the information and data necessary for the proper performance of the service. The customer is responsible for ensuring that the technical requirements for the use of the subject matter of the contract are met, in particular with regard to the hardware and software used, the connection to the Internet and up-to-date browser software. Insofar as the customer uses software from foremost.decor in the area of software asset management, it is expressly pointed out that the customer must correctly maintain the existing software and licence inventory in order for it to function properly. The software can only deliver correct and plausible results if complete and accurate information is provided. foremost.decor shall not be liable for incorrect results of the licence check, insofar as these are based on incorrect information provided by the customer. In addition, the customer shall in particular carry out regular data backups and use up-to-date virus protection software. foremost.decor shall not be liable for virus damage which could have been prevented by the use of appropriate software. The limitations of liability pursuant to § 11 of these General Terms and Conditions shall also apply in this respect.

(3) The customer shall take reasonable precautions in the event that the software does not work properly in whole or in part (e.g. through data backup, fault diagnosis, regular testing of results, emergency planning). It is his responsibility to ensure the operability of the working environment of the software.

(4) As a matter of principle, the customer shall observe the applicable law of the Federal Republic of Germany, in particular data protection and youth protection regulations, criminal law

provisions and these General Terms and Conditions. In particular, the customer is obligated on his own responsibility:

(a) to protect access data provided as well as corresponding identification and authentication mechanisms from access by unauthorised third parties and not to pass them on to such third parties;

(b) not to infringe the rights of third parties, in particular copyrights and ancillary copyrights, trademark, patent and other property rights as well as personal rights;

(c) to respect the privacy of others, i.e. not to disseminate any defamatory, threatening, violence-glorifying, harassing, harmful, racist or otherwise reprehensible content;

(d) not to run applications that may lead to a change in the physical or logical structure of the networks, such as viruses;

(e) not to use the infrastructure made available to it for unauthorised advertising purposes, in particular for the unsolicited transmission of electronic mail.

(5) Insofar as the customer provides for the collection, processing and use of personal data within the framework of the use of the contractual services of foremost.decor, without this already being permitted under applicable data protection provisions or other legal provisions, the customer shall obtain the necessary consent of the respective person concerned. Personal data is data that contains information about the personal and factual circumstances of an identified or identifiable person.

(6) Insofar as storage space is made available to the customer, the customer may not store any illegal content, content that violates laws or official regulations or content that violates the rights of third parties. In particular, the infrastructure provided by foremost.decor or the storage space provided by foremost.decor may not be used for commercial property rights (such as trademark, patent, utility model and design patent rights), copyrights and ancillary copyrights as well as other rights (such as the right to one's own image, name and personal rights), their advertising or distribution. The same applies to pornographic material and material harmful to minors, propaganda articles and products bearing the marks of unconstitutional organisations.

(7) If the Customer becomes aware of the misuse of his access data or the identification and authentication mechanisms, he must inform foremost.decor of this immediately. In the event of misuse, foremost.decor is entitled to block access to its services. The block may only be lifted by written application from the customer. The customer shall be liable for any misuse for which he/she is responsible.

§ 8 Blocking of access

(1) foremost.decor reserves the right to delete information from servers and to block user accounts if these General Terms and Conditions are violated. In the event of a breach of applicable laws, foremost.decor is entitled to forward the relevant information to the competent state authorities.

(2) foremost.decor reserves the right to temporarily block access to the agreed services in whole or in part if and insofar as the customer uses these services unlawfully or violates the obligations anchored in § 7 of these General Terms and Conditions. The customer shall be informed of this immediately by e-mail.

§ 9 Exemption

foremost.decor is not responsible for the customer's own content. In particular, foremost.decor is not obliged to check the content for possible infringements of the law. The customer shall indemnify foremost.decor against all justified claims asserted against it by third parties due to the infringement of their rights and for which the customer is responsible. In this respect, the customer shall also bear the costs of legal defence incurred by foremost.decor, including all court costs and lawyers' fees in the amount of the statutory fees. The customer shall provide foremost.decor with a reasonable advance payment for this purpose.

§ 10 Warranty

(1) foremost.decor shall initially provide warranty for defects in the goods at its discretion by rectification or replacement delivery.

(2) If the supplementary performance fails, the customer may, at its discretion, demand a reduction of the remuneration (abatement), rescission of the contract (withdrawal) or damages instead of performance. In the case of only insignificant defects, the customer - taking into account the interests of both parties - shall not be entitled to withdraw from the contract. Instead of damages in lieu of performance, the customer may demand reimbursement of futile expenses within the scope of § 284 of the German Civil Code (BGB) which he has incurred and could reasonably be expected to incur in reliance on the receipt of the goods. If the customer chooses compensation for damages instead of performance, the limitations of liability pursuant to § 11 para. 1 of these General Terms and Conditions shall apply.

(3) The customer must report obvious defects in the delivered goods within a period of 2 weeks from receipt of the goods; otherwise the assertion of the warranty claim is excluded. Timely dispatch or notification shall be sufficient to meet the deadline. For merchants, § 377 HGB (German Commercial Code) shall apply.

(4) In principle, only the product description on the part of foremost.decor is deemed to be agreed as the quality of the goods. Public statements, promotion or advertising do not regularly represent a contractual quality of the goods.

(5) The warranty period is 1 year from delivery. The one-year warranty period shall not apply if foremost.decor can be accused of gross negligence, nor in the event of bodily injury or damage to health attributable to foremost.decor and in the event of loss of life of the customer, in the event of a guarantee and in the event of delivery recourse pursuant to §§ 478, 479 BGB. The liability of foremost.decor in accordance with the Product Liability Act remains unaffected by this.

(6) Notwithstanding para. 5, the regular limitation period shall apply if foremost.decor has fraudulently concealed a defect.

(7) foremost.decor does not provide any guarantees to the customer in the legal sense, unless expressly agreed otherwise.

(8) The contents placed in the infrastructure provided by foremost.decor, if applicable, are third-party contents for the latter. The legal responsibility in this respect lies with the customer.

(9) Data communication via the Internet cannot be guaranteed to be error-free and / or available at all times according to the current state of technology. Therefore, foremost.decor does not

assume any liability for technical defects and the availability of downloads or documentation for which it is not responsible, in particular for the constant and uninterrupted availability of the databases and their contents or for the complete and error-free reproduction of the contents posted by the customer, if applicable.

§ 11 Limitations of liability

(1) foremost.decor accepts no liability for the uninterrupted availability of systems or for system-related failures, interruptions and disruptions to technical equipment and services for which foremost.decor is not responsible. foremost.decor is in particular not liable for disruptions to the quality of access to its services due to force majeure or events for which it is not responsible. This includes, in particular, strikes, lockouts, lawful internal company industrial action and official orders. Furthermore, this also includes the complete or partial failure of the communication and network structures and gateways of other providers and operators, which are necessary for the provision of services by foremost.decor. foremost.decor is entitled to postpone the services incumbent upon foremost.decor for the duration of the impeding event plus a reasonable start-up period. foremost.decor shall not be liable for insignificant interruptions.

(2) In the case of slightly negligent breaches of duty, liability is limited to the foreseeable, contract-typical, direct average damage according to the type of goods. This also applies to slightly negligent breaches of duty by the legal representatives or vicarious agents of foremost.decor. foremost.decor shall not be liable for slightly negligent breaches of immaterial contractual obligations. foremost.decor shall, however, be liable for breaches of material contractual legal positions of the customer. Essential contractual legal positions are those which the contract must grant the customer according to the content and purpose of the contract. foremost.decor is also liable for the breach of obligations, the fulfilment of which is essential for the proper execution of the contract and on the observance of which the customer may rely.

(3) The above limitations of liability do not affect claims of the customer arising from guarantees and/or product liability. Furthermore, the limitations of liability do not apply in the event of fraudulent intent, breach of material contractual obligations or in the event of bodily injury or damage to health attributable to foremost.decor or in the event of loss of life of the customer.

(4) foremost.decor shall not be liable for the loss of data and/or programmes insofar as the damage is due to the fact that the customer has failed to carry out a data backup and thereby ensure that lost data can be restored with reasonable effort.

§ 12 Data protection

(1) The contracting parties shall observe the applicable data protection provisions, in particular those valid in Germany, and shall separately oblige their employees deployed in connection with the contractual relationship and its implementation to maintain data secrecy, insofar as they are not already generally obliged to do so.

(2) If the Customer collects, processes or uses personal data, it warrants that it is entitled to do so in accordance with the applicable provisions, in particular those relating to data protection law, and shall indemnify foremost.decor against claims by third parties in the event of a breach.

(3) Personal data collected by foremost.decor in the course of the performance of its contractual obligations shall be treated confidentially and shall only be collected, processed and used to the extent that this is permitted on the basis of data protection provisions or the customer consents thereto.

§ 13 Right of withdrawal

The customer has the right to withdraw from the purchase contract within fourteen days without giving reasons. The withdrawal period is fourteen days from the day on which the customer, who is not the carrier, has taken possession of the goods. This may take the form of making the download available. In order to exercise the right of withdrawal, the customer must inform foremost.decor by means of a clear declaration (e.g. a letter sent by post, website contact form or e-mail) of his/her decision to withdraw from the purchase contract. The customer may use the contact form of the website for this purpose, which is, however, not mandatory. If the customer makes use of this option, foremost.decor will immediately send the customer (e.g. by e-mail) a confirmation of receipt of such revocation. In order to comply with the revocation period, it is sufficient that you send the notification of the exercise of the right of revocation before the expiry of the revocation period.

Consequences of revocation:

If the customer revokes the purchase contract, foremost.decor shall repay to the customer all payments received from the customer, including delivery costs (with the exception of additional costs resulting from the fact that you have chosen a type of delivery other than the most favourable standard delivery offered by foremost.decor), without undue delay and at the latest within fourteen days from the day on which foremost.decor received notification of the revocation of the contract. For this repayment, foremost.decor will use the same means of payment that the customer used for the original transaction, unless expressly agreed otherwise with the customer; in no case will the customer be charged any fees due to this repayment. foremost.decor may refuse repayment until the goods have been received back. The customer must return or hand over the goods to foremost.decor without delay and in any case no later than fourteen days from the day on which the customer was informed of the revocation of the contract. In doing so, all local copies including backup copies must be deleted. The deadline is met if the customer sends the goods or confirms their digital deletion before the expiry of the fourteen-day period. The customer shall bear the direct costs of returning the goods. The customer shall only be liable for any loss in value of the goods if this loss in value is due to handling of the goods that is not necessary for testing the quality, characteristics and functioning of the goods.

§ 14 Mobile terminals

Insofar as mobile end devices are accessed via the software of foremost.decor within the framework of the fulfilment and execution of the contract, the customer shall be responsible for ensuring that any ownership positions of the respective users or other third parties are not encroached upon. In this respect, the customer must also ensure that it has the necessary declarations of consent for such access - insofar as it does not own the corresponding mobile end devices.

§ 15 Amendment of these General Terms and Conditions

(1) foremost.decor reserves the right to amend these General Terms and Conditions at any time, subject to a reasonable notice period of at least six weeks. foremost.decor shall notify the Customer of any such amendment in text form.

(2) If the customer does not object, the amended terms and conditions shall be deemed accepted. In the event of an objection, the contract shall continue unchanged with the previous terms and conditions, but foremost.decor shall be entitled to terminate the contract without notice.

§ 16 Final provisions

(1) The law of the Federal Republic of Germany shall apply. The provisions of the UN- Sales Convention shall not apply.

(2) If the customer is a merchant, a legal entity under public law or a special fund under public law, the place of jurisdiction for all disputes arising from this contract shall be the competent court at the place of business of foremost.decor, unless an exclusive place of jurisdiction is given. foremost.decor shall, however, also be entitled to sue the merchant at the court at his place of residence or business. Jurisdiction on the basis of an exclusive place of jurisdiction shall remain unaffected by this.

(3) The EU Commission has created an internet platform for online dispute resolution. The platform serves as a contact point for the out-of-court settlement of disputes concerning contractual obligations arising from online sales contracts. More information is available at the following link: <http://ec.europa.eu/consumers/odr>. We are neither obliged nor willing to participate in a dispute resolution procedure before a consumer arbitration board.

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