

General Terms and Conditions of EasternGraphics GmbH for pCon.catalog („pCon.catalog GTC“)

(As of 2024-05-29)

I. Scope of application

(1) The General Terms and Conditions of EasternGraphics GmbH, Albert-Einstein-Strasse 1, 98693 Ilmenau, Germany ("EGR") for pCon.catalog ("pCon.catalog GTC") shall apply to contracts for the use of the online service pCon.catalog by providers (e.g. producers) and shall be deemed an integral part of the contract, unless otherwise agreed in writing in an individual agreement between EGR and the provider.

(2) pCon.catalog is available to providers (e.g. producers) and users (e.g. architects and specialist planners) as an online service, whereas these pCon.catalog GTC exclusively regulate the contractual relationship between the providers and EGR.

(3) These pCon.catalog GTC shall apply exclusively. Any deviating, conflicting or supplementary terms and conditions of business or contractual conditions of a provider shall only become part of the contract if and insofar as EGR has expressly consented to their validity in writing. This requirement of consent shall apply in each case, and in particular if EGR provides or makes available a service to the provider without reservations in the knowledge of the provider's terms and conditions of business or contractual conditions.

(4) Furthermore, by using pCon.catalog, the user shall tacitly agree to these pCon.catalog GTC.

II. pCon.catalog

(1) pCon.catalog is an online service accessible via the Internet, enabling providers (e.g. producers) to publish data (e.g. illustrations, CAD models, graphics, texts) and thus make it accessible to third parties (e.g. specialist planners, architects; also referred to as "users") via the Internet.

(2) No user manual or operating instructions for pCon.catalog shall be owed.

(3) pCon.catalog shall operate on an infrastructure provided by EGR. This online service is generally accessible via the Internet using standard browsers.

(4) After registering via the pCon.catalog login page, the provider shall receive a provider access to upload his data and thus publish it in pCon.catalog.

(5) The provider shall be responsible for the procurement and maintenance of the system infrastructure required for the use of pCon.catalog outside the infrastructure of EGR (in particular hardware, e.g. computer; operating system; software, e.g. browser) as well as the creation and maintenance of access to the Internet.

(6) The user interface of pCon.catalog shall conclusively indicate the functions and services of these online services when used in accordance with the contract. Public statements, promotions or advertising shall not constitute an indication of performance or quality.

(7) EGR shall undertake to maintain the online service for the duration of the contract and to maintain availability in accordance with clause VI. hereof. This obligation shall not apply to providers to whom pCon.catalog is made available free of charge. EGR shall be entitled to terminate the provision of pCon.catalog free of charge at any time with immediate effect and without prior notice.

(8) pCon.catalog shall not be used as a place or system in which data can be filed or stored for backup purposes.

(9) For the user, pCon.catalog shall constitute an online product catalog accessible via standard browsers over the Internet, in which the data uploaded by the providers can be viewed and downloaded.

III. Rights of Use (License)

(1) The owner of all rights to and producer of the software and operator of pCon.catalog shall be EasternGraphics GmbH, Albert-Einstein-Strasse 1, 98693 Ilmenau, Germany (licensor).

(2) With the conclusion of the contract between EGR and the provider regarding pCon.catalog, EGR shall grant the provider on the basis of these pCon.catalog GTC the non-exclusive, non-transferable and non-sublicensable right, limited in time to the duration of the contract for pCon.catalog, to use pCon.catalog for its own purposes by natural persons via the user interface of pCon.catalog in accordance with the provisions hereof ("license"). Automated use shall not be permitted.

(3) This right of use is subject to the proviso that the provider

- shall comply with the provisions of clause V. paragraphs (1) and (2),

- shall grant each user the rights in accordance with clause V. paragraphs (3) and (4) and

- shall pay the agreed remuneration to EGR in full and on time.

(4) EGR shall be entitled to revoke the right of use for the free provision of pCon.catalog at any time.

(5) In the event of non-compliance with one or all of the provisions of clause V. and clause VI. paragraphs (3), (4) and (5) hereof by the provider or by a third party whom the provider has enabled to use the service, the provider's rights of use shall expire immediately.

(6) The rights of use shall also expire if and for as long as the agreed remuneration for the use of pCon.catalog has not been paid to EGR or has not been paid on time. In addition, EGR shall be entitled to block pCon.catalog and/or the online access to pCon.catalog and/or the provider's data immediately and without reminder and to revoke the rights of use in the event of non-payment or late payment of the agreed remuneration.

IV. Remuneration and terms of payment

(1) The remuneration to be paid by the provider to EGR and the payment terms applicable thereto shall be stated separately (e.g. as part of the offer, the commissioning or the setting up of access to pCon.catalog).

(2) EGR shall have the right to adjust the remuneration annually on January 1 by the annual average change in the total consumer price index (CPI) in Germany published by the Federal Statistical Office in the last calendar year in relation to the calendar year before last, expressed as a percentage (rate of change), to the extent that this is reasonable. If EGR exercises this right, the provider shall be credited or charged the difference between the remuneration already invoiced or already paid. Prices shall be commercially rounded to full euros. If the consumer price index is no longer continued by the Federal Statistical Office, it shall be replaced by the one determined by law or, alternatively, by the cost of living index applicable in the Federal Republic of Germany which most closely corresponds to the consumer price index at the time of its replacement.

(3) EGR shall be entitled to increase the remuneration with effect from the next calendar year with three months' notice. On receipt of EGR's statement concerning the increase in remuneration, the provider shall have the right to terminate the pCon.catalog contract with two months' notice to the end of the then current calendar year. If the provider does not exercise this right, it shall thereby declare its consent to the increase in remuneration from the next calendar year.

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V. Granting of rights by the provider

(1) The provider assures that it is entitled to grant each user the rights in accordance with clause V. paragraphs (3) and (4) hereof. The Provider shall indemnify each user upon first request against all claims and demands asserted by third parties against the user due to the infringement of rights to the data.

(2) The provider shall declare that EGR may forward the provider's statements in accordance with clause V. paragraphs (3) and (4) to each user in a legally binding manner, and in particular include them in the terms of use for users.

(3) The provider grants each user the personal, temporally and geographically unlimited, after downloading irrevocable, in accordance with the provisions in clause V. paragraph (4) limited, non-sublicensable and non-transferable right to use the data available in pCon.catalog, in particular to download, store, reproduce, edit, forward, publish, distribute and delete this data.

(4) The user may not grant, permit, enable or transfer his rights of use to anyone. The user shall only be entitled to process or modify the data to the extent that its original character, specific features and identifiers are preserved. The user shall not be entitled to incorporate the data into a collection or make it available for this purpose. The user shall not be entitled to label, present, pass on or publish the data as his own or disguise its origin. The user shall not in any way claim or give the impression that the user is the author or owner of the data. This shall also apply to data that the user has derived from the data available in pCon.catalog.

VI Further obligations of the provider

(1) The provider shall be obliged to take all customary and reasonable actions within its sphere of influence and responsibility that are necessary for the use of pCon.catalog at its own expense.

(2) The provider shall be responsible for ensuring that the hardware and software used within the scope of the contract is and remains suitable for the use of pCon.catalog.

(3) The provider shall protect its access to pCon.catalog from third parties.

(4) The provider shall refrain from any actions that could endanger or jeopardize pCon.catalog or its performance. In particular, the provider shall refrain from retrieving or sending data automatically (e.g. by scripts or BOTs) and thereby transferring data volumes or initiating calculation processes that exceed those carried out by users as natural persons in the context of normal use.

(5) The provider shall be prohibited from uploading any data or other data with illegal, violent or war-glorifying, immoral, misanthropic, racist, pornographic or political content to pCon.catalog.

VII. Availability

(1) EGR shall guarantee the availability of pCon.catalog from the server infrastructure of EGR or the computer center to the transfer point to the Internet or the public data network of 99% on an annual average for each calendar year. This shall not apply to times in which pCon.catalog cannot be reached due to technical or other problems that are not within EGR's sphere of responsibility or influence (e.g. force majeure, natural disasters, pandemics, war, strikes, industrial disputes, fault of third parties, government orders, etc.).

(2) EGR shall have the right to restrict or block access to pCon.catalog if technical changes, maintenance, the security of network operation, the

maintenance of network integrity, in particular the avoidance of disruptions to the network, the online services, the software or stored data so require or if the provider fails to comply with one or more of its obligations referred to in clause VI. paragraphs (3), (4) and (5) hereof or if there is a suspicion of a breach of these obligations.

(3) Online services which are provided free of charge may be discontinued at any time, in whole or in part, temporarily or permanently.

VIII. Data backup

The provider shall be responsible for backing up its data and restoring or uploading it again in the event of loss.

IX. Copyrights

All rights to the contents (e.g. texts, pictures, graphics, videos, sounds, animations) of pCon.catalog, with the exception of data uploaded by the provider, shall be held by EGR or the respective authors. These contents may only be used within the scope of the authorized use of pCon.catalog according to clause III. hereof and under the conditions of the respective author.

X. Trademark rights

pCon.catalog may contain names and trademarks that are protected by law. The rights to the names or trademarks belong exclusively to the respective owner.

XI. Data protection

If the provider collects, processes or uses personal data itself or through EGR in the context of the use of pCon.catalog as the responsible body within the meaning of data protection law, it shall first ensure that it is entitled to collect, process or use this data in the specific way in accordance with applicable law, in particular data protection law, and in the event of a breach of this, shall indemnify EGR against claims by third parties on first demand.

XII. Warranty and liability

(1) The provider is aware that online services, such as pCon.catalog, are very complex and cannot be developed absolutely error-free. Not every error shall be a defect. EGR shall not be liable for errors that are not defects.

(2) Any defects shall be notified to EGR without delay in a comprehensible manner in writing, by e-mail or by means of a function provided for this purpose in pCon.catalog, if any. EGR shall remedy the defect within a reasonable time after receipt of such notification.

(3) If and insofar as tenancy law is applicable, EGR's strict liability shall be excluded in accordance with section 536 I of the German Civil Code. The provider's right to terminate the contract on the grounds of non-provision of use of the service in accordance with section 543 (2) no. 1 of the German Civil Code and the right to reduce the remuneration shall be excluded as long as the accessibility and/or use of the provider's access to pCon.catalog is not restricted or excluded for more than 48 consecutive hours because of the rectification of defects.

(4) EGR shall not be liable for defects based on operating errors and/or occurring a7 (e.g. via a link/hyperlink). EGR has no influence on the third parties accessible via pCon.catalog and on the content (e.g. text; design) of their pages and services. EGR therefore expressly dissociates itself from all contents of third parties which are accessible via the online services of EGR.

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(11) The liability of EGR for damage caused intentionally or by gross negligence, for personal injury and for damage caused by the breach of an essential contractual obligation (cardinal obligation) shall be governed by the statutory provisions. Essential contractual obligations shall be those obligations the fulfilment of which is essential to the proper performance of the contract and on the observance of which the contractual partner may regularly rely. In the event of a breach of a material contractual obligation, EGR's liability shall be limited to the foreseeable damage typical of the contract. In all other respects, the liability of EGR, on whatever legal grounds, shall be excluded.

(12) EGR's liability for direct, indirect, special or other damage and consequential damage caused by the use of free online services or due to a defect in free online services shall be excluded.

(13) EGR shall not be liable for the loss of data if the damage would not have occurred if data had been properly backed up in the provider's area of responsibility. Data shall be deemed to have been properly backed up if the provider demonstrably backs up its data stocks daily and up-to-date in machine-readable form, thus guaranteeing that this data can be restored with reasonable effort. EGR's liability for loss of data – unless caused intentionally or by gross negligence on EGR's part – shall be limited to the typical cost of restoration which would have been incurred if data had been properly backed up.

(14) EGR shall not be liable for the dissemination of confidential data stored in EGR's system if and insofar as the dissemination of such data is due to misuse of passwords and logins for which EGR is not responsible.

(15) Insofar as EGR's liability is excluded or limited, this shall also apply to the personal liability of EGR's staff and employees and to third parties acting on EGR's behalf.

(16) Liability under the German Product Liability Act shall remain unaffected.

XIII. Control rights of EGR

(1) EGR shall have the right to read, check, process and store the data transmitted and retrieved via the provider's access to pCon.catalog if it is to be feared that such data is connected with illegal acts or that the content of the data violates applicable law or morality or these pCon.catalog GTC.

(2) EGR shall be permitted access to the data transmitted and retrieved via the provider's online access if and insofar as this is necessary to check the system.

XIII. Commencement, term and termination of contract

(1) The provisions of this clause XIV regarding commencement, term and termination of the contract shall apply if and to the extent that nothing to the contrary has been agreed:

(2) The contract shall commence when EGR provides the service. It shall run for an indefinite period and may be terminated with three months' notice to the end of a calendar year, but not before twelve months have elapsed from the beginning of the contract. The right of termination pursuant to clause IV. paragraph (3) shall remain unaffected.

(3) The contract for online services, software and apps provided free of charge shall commence with their use and may be terminated at any time without notice; it shall end in any event as soon as EGR discontinues the services or the provider no longer uses them.

(4) The right to extraordinary termination and, if applicable, termination without notice for good cause remains unaffected.

(5) Termination shall require the form set out in clause XV, paragraph (3).

(6) The provisions concerning the limitations and exclusions of EGR's liability shall continue to apply after termination of the contract or the end of the use until the expiry of the limitation periods for claims for damages and/or reimbursement of expenses.

XV. Miscellaneous provisions

(1) The law of the Federal Republic of Germany shall apply exclusively. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is excluded.

(2) To the extent legally permissible, the place of jurisdiction for both contractual partners shall be Erfurt (Germany).

(3) All agreements between the contractual partners must be in writing in order to be effective, whereby the e-mail with sender identification and name signature of the sender satisfies this requirement.

(4) Should individual provisions not be legally effective or lose their legal effectiveness due to a later circumstance, or should a regulatory gap be identified, this shall not affect the legal effectiveness of the remaining provisions. In such cases, both contractual partners shall immediately replace the ineffective provisions with such effective provisions or fill in regulatory gaps with such provisions that correspond to the economic purpose of the contract. Should the contractual partners not succeed in doing so despite proven serious efforts, the statutory provisions of the Federal Republic of Germany shall apply in place of the invalid provisions or regulatory gaps.