

## **General Terms and Conditions (hereafter GTC) for iMODELER-Services & CONSIDEO-Websites**

### **§1 General Terms**

1. These GTC apply to our iMODELER-Services and to all CONSIDEO-Websites (covering main domains like CONSIDEO.com, CONSIDEO.de, iMODELER.de, iMODELER.net, iMODELER.info, CONSIDEO-MODELER.de, CONSIDEO-MODELER.com etc., sub-domains, aliases of these domains and all CONSIDEO owned Websites worldwide). These GTC shall govern the contract relationship between the user and CONSIDEO, irrespective of which CONSIDEO-Website the user is registered with or logged on to.

2. The user accepts these GTC by a) using the iMODELER-Services or CONSIDEO-Websites, or by b) registering or logging on to one of the CONSIDEO-Websites.

3. Divergent conditions of the customer, which have not been explicitly acknowledged by the company CONSIDEO GmbH (hereafter CONSIDEO) in writing, are in any case not binding. All agreements require the written confirmation by CONSIDEO in order to be binding.

4. CONSIDEO reserves the right to change these GTC at any time, without giving reasons, unless an amendment is unreasonable to the user. CONSIDEO will inform the user about changes and user's right to object and of the relevance of the objection deadline. If the user does not object to the applicability of the revised GTC within two (2) weeks after receipt of said notice, the amended GTC shall be deemed to be accepted by the user.

5. As long as the user complies with these GTC, CONSIDEO grants you a personal, non-exclusive, non-transferable, limited privilege to enter and use the CONSIDEO-Websites or iMODELER-Services.

**6. If you do not agree to these GTC, please do not access or use our iMODELER-Services or the CONSIDEO-Websites.**

### **§2 Conclusion of Contract, Registration, Accounts, Passwords, Security**

1. The user consents to enter the agreement to use the iMODELER-Services of CONSIDEO by completing the registration process. By activating the user account for using the iMODELER-Services CONSIDEO accepts this offer. The agreement takes effect with the aforementioned acceptance by CONSIDEO.

2. The user must register before using any of the iMODELER-Services of CONSIDEO (see above). By registering the user warrants, that a) he or she is of full age and contractually capable, b) all of the data provided for registration is accurate and complete, c) no pseudonyms or pen names have been used, d) he or she will report any changes in the registration data to CONSIDEO without any delay, and e) he or she will register only once.

3. You as the user are entirely responsible for maintaining the confidentiality of your account information, including your password and models, and for any and all activity that occurs under your account. You as the user are obliged a) to keep the access data of your user account and password secret and not to forward it to someone else, b) to inform CONSIDEO immediately of any unauthorized use of your account or password, or any other breach of security. However, you may be held liable for losses incurred by CONSIDEO or any other user of the iMODELER-Services or visitor of the CONSIDEO-Websites due to someone else using your password or account.

4. You as the user may not use anyone else's password or account at any time without the express permission and consent of the holder of password or account. CONSIDEO will not be liable for any loss or damage arising from your failure to comply with these obligations.

### **§3 iMODELER-Services**

1. CONSIDEO offers registered users the following two options: a) several free versions (with time limit or a limited feature set or hereinafter referred to as "Test Accounts"), and b) several paid versions (hereinafter referred to as "Membership").

2. Events beyond CONSIDEO's control (e.g. disruptions in public communication networks, power failures etc.) as well as events related to maintenance, security or capacity requirements may result in temporary malfunctions or interruptions of the iMODELER-Services or CONSIDEO-Websites. Therefore, the user agrees

that it is technically impossible to achieve 100% availability of the CONSIDEO-Websites or iMODELER-Services.

3. CONSIDEO reserves the right to modify the iMODELER-Services at any time, without giving reasons, unless this is unreasonable for the user.

#### **§4 Prices and payment**

1. Details about the applicable fees for the Membership are set forth on the Online-Shop of CONSIDEO ([www.consideo-shop.de](http://www.consideo-shop.de)).

2. The user can choose from the following payment options: a) the user will give a direct-debit authorization with the scope of his or her order. The payments will be due to the beginning of a month in advanced, or b) the user will pay for a fixed minimum runtime of the Membership (e.g. 12 months) by invoice or by credit-card (paypal in the CONSIDEO-Shop) in advanced.

3. If CONSIDEO is unable to collect any fees from an account designated by the user due to lack of funds, the user shall bear all costs arising there from, including bank charges related to any debit entries or similar charges.

4. During the payment the user warrants, that all of the data provided is accurate and complete for the electronic invoicing of CONSIDEO. In case of incorrect data the user will cover the invoicing costs (10 EUR) for creating and sending a new invoice to the user.

#### **§5 Content, Models, Data or other Information of the User**

1. The user is solely responsible for the content, models, data or other information provided or made available by him or her on any of the CONSIDEO-Websites (including iMODELER-Services and forums). CONSIDEO does not make any warranties or representations regarding the content, models, data or other information provided or made available by any user on any of the CONSIDEO-Websites (including iMODELER-Services and forums) or on any external websites linked to them.

2. The user is obliged not to use the CONSIDEO-Websites, iMODELER-Services or CONSIDEO-Forums a) to promote any communities or associations which are under surveillance by authorities responsible for public safety or the protection of minors, b) for actions violating these GTC and the law, or c) to carry out or promote illegal activities.

3. The user shall not manipulate identifiers in order to disguise the origin of any message, model or content published on the CONSIDEO-Websites, iMODELER-Services or CONSIDEO-Forums. The user may not pretend that he or she is, or that he or she represents, someone else, or impersonate any other individual or entity.

4. You as the user are obliged to comply with all applicable legislation, and respect all third-party rights. The user are obliged not to use a) any insulting or defamatory contents or any pornographic materials or any contents that violate any applicable legislation for the protection of minors, or b) any contents protected by law without authorization.

5. The user is obliged to report any activities of any other user which violate applicable laws or any of the terms and conditions of these GTC (including the use of pseudonyms or false identities) using the contact form available at all CONSIDEO-Websites.

6. CONSIDEO is entitled to remove any illegal or prohibited data and/or information from CONSIDEO-Websites without prior notice to the user.

#### **§6 Restrictions**

1. The user shall not, a) gain unauthorized access to any portion or feature of the iMODELER-Services or CONSIDEO-Websites or to any content of the user-accounts, b) unreasonably annoy any other user (particularly with spam), c) use or promote any commercial practices considered unfair competition, or d) use or distribute without authorization any contents of other users or third parties.

2. The user agrees not take any action that a) imposes an unreasonable or disproportionately large load on the CONSIDEO's infrastructure (iMODELER-Services, CONSIDEO-Websites, server, networks), or any systems or networks connected to the CONSIDEO-Websites or iMODELER-Services or CONSIDEO-Forums, or b) to interfere or attempt to interfere with the proper working of the CONSIDEO's infrastructure (iMODELER-Services, CONSIDEO-Websites, server, networks), or any other person's use of it.

3. The user shall not a) probe, scan or test the vulnerability of the iMODELER-Services, CONSIDEO-Websites, CONSIDEO-Forums or any network connected to it, nor breach the security or authentication measures on the iMODELER-Services, CONSIDEO-Websites, CONSIDEO-Forums or any network connected to it, b) reverse look-up, trace or seek to trace any information on any other user of or visitor of the iMODELER-Services, CONSIDEO-Websites, CONSIDEO-Forums, or any other customer or user of CONSIDEO, including any CONSIDEO user account not owned by the user, to its source, or exploit the CONSIDEO-Websites, CONSIDEO-Forums or iMODELER-Services or information made available or offered by or through the Site, in any way where the purpose is to reveal any information, c) use any device, program, algorithm or methodology, or any similar or equivalent manual process, to access, acquire, copy or monitor any portion of the CONSIDEO-Websites, iMODELER-Services, CONSIDEO-Forum or any content, or d) modify, adapt, copy or translate the iMODELER-Service, CONSIDEO-Websites, CONSIDEO-Forums or any contents. The user shall not reverse engineer, decompile, disassemble or otherwise attempt to discover the source code.

4. Per User-Account (Membership) not more than 500 MB storage/memory capacity are available.

### **§7 Ordinary Notice of Cancellation of the Contract**

1. Test-Accounts are limited in time. The contract will end automatically by the end of the runtime mentioned on the CONSIDEO-Websites in the course of the registration process. A separate cancellation of the contract by CONSIDEO or by the user is not needed.

2. The user may terminate without cause the paid Membership to the end of the minimum runtime chosen by the user in the course of the registration process, or to the end of any renewal period after said minimum runtime expires, by giving notice of ten (10) business days – by using the contact form available on all CONSIDEO-Websites, or by sending a fax or letter to CONSIDEO. The termination notice shall include the registered name of the user and an email address of the user registered on the CONSIDEO-Websites. For meeting the cancellation deadline, the date of dispatch of the cancellation notice is decisive. After the runtime the user account will be blocked automatically and deleted after one (1) week. Hereby, the user will get a last chance to get her or his user account activated again by renewing the runtime or ordering a new membership.

3. The user agrees that her or his user account (including all of the contents, models, data etc.) will be deleted completely and unrecoverable one (1) week after the end of the runtime (see under § 7 section 2). The user is solely responsible to save all of his or her contents of her or his user account (including data, models, information etc.) on an external memory or data carrier or on his or her personal PCs or server etc. before the end of the runtime of the contract.

4. The provisions of this section shall not affect the right of both parties to terminate the agreement for good cause (see under § 8).

### **§8 Extraordinary Notice of Cancellation of the Contract**

1. Both parties have the right to terminate the agreement for good cause. A good cause is defined as an event which makes it unacceptable for one party to continue the agreement to the end of the termination period, taking into account all circumstances of the individual case and weighing the interests of CONSIDEO against the user's or vice versa. A good cause includes e.g. any of the following events: a) the user fails to comply with any applicable legal provisions, b) the user breaches a contractual obligation, or c) CONSIDEO breaches a basic/cardinal contractual obligation.

2. In the event of a good cause in accordance with this section and notwithstanding CONSIDEO's right to terminate the contract in accordance with this section, CONSIDEO is entitled to: a) issue a warning, b) block the user's access to the iMODELER-Services or to his or her user-account, or c) delete the contents posted by the user violating these GTC and the law.

3. The user's right to claim reimbursement of any advance payments shall not be excluded in this case if the user has terminated the agreement for a good cause attributable to CONSIDEO.

4. The user can cancel the contract for a good cause by using the contact form available on all CONSIDEO-Websites, or by sending a fax or letter to CONSIDEO. The termination notice shall include the registered name of the user and an email address of the user registered on the CONSIDEO-Websites. CONSIDEO may submit the extraordinary notice of cancellation of the contract to the user by email, fax or post to the addresses given in the user's current contact data in his or her user account.

5. In the event of a valid extraordinary notice of cancellation of the contract the user-account will be blocked and deleted one (1) week after a valid cancellation.

6. The user agrees that her or his user account (including all of the contents, models, data etc.) will be deleted completely and unrecoverable one (1) week after a valid cancellation (see under § 8 section 5). The user is solely responsible to save all of his or her contents of her or his user account (including data, models, information etc.) on an external memory or data carrier or on his or her personal PCs or server etc. before the end of the runtime of the contract.

### **§9 Right of Cancellation for End-Consumer**

1. Right of Cancellation: In accordance with § 13 BGB (German Civil Code) end-consumer, who are using the products or services of CONSIDEO for private purposes only, have a right of withdrawal for 14 days.

2. Premature Lapse of the Right of Cancellation: In accordance with §312d Par. 3 BGB (German Civil Code), the end-consumer's right of cancellation lapses before the end of the right of cancellation period cited in the previous section, in the following cases: a) CONSIDEO has begun performing the CONSIDEO services for which the end-consumer is registered with the express consent of the end-consumer, or b) the end-consumer has initiated the CONSIDEO services for which the end-consumer is registered (e.g. by accessing the user account or using the iMODELER-Services). In addition, the end-consumer has no right to withdraw from contracts for goods manufactured to the end-consumer's specifications.

3. Consequences of Cancellation: In the event of a valid cancellation, both parties shall be obliged to restore any benefits already received in accordance with legal provisions, and issue any gains. If the end-consumer is unable or partially unable to restore the benefits, or only able to restore them in poor condition, to CONSIDEO, then the end-consumer must reimburse CONSIDEO for the corresponding value. The end-consumer must fulfill obligations for reimbursement within 30 days after dispatch of the cancellation notice.

### **§10 Property Rights, Intellectual Property Ownership, Copyright Protection**

1. The Software License Agreement of CONSIDEO as well as the General Terms and Conditions of CONSIDEO are integral parts of these GTC.

2. You as the user grants CONSIDEO an unlimited, irrevocable and assignable right of use for your postings and contribution to a CONSIDEO-Forum, which CONSIDEO is entitled to utilize for any purpose. In particular, CONSIDEO is entitled to keep said contribution on the forum, and on CONSIDEO-Websites, or use it for marketing purposes in any other way. Consequently, CONSIDEO has a right of use over all contributions to discussion forums it operates. Duplication or the use of these contributions or their contents in other electronic or printed publications is prohibited without the express written consent of CONSIDEO.

3. Any other content and models belong to the user and CONSIDEO fully recognizes this rights. Duplication or the use of these content and models of the user by third parties or CONSIDEO is prohibited without the express written consent of the user.

### **§11 Liability, Indemnity**

1. CONSIDEO is liable for losses or damages that are caused by a deliberate and/or gross negligent infringement or by culpable breach of the contractual obligations – limited in its amount to the foreseeable, typically occurring damage or loss.

2. CONSIDEO'S aggregate liability and that of its suppliers under or in connection with this agreement shall be limited to the amount paid for the CONSIDEO-Websites or iMODELER-Services used by the user, if any. The foregoing limitations and exclusions apply to the extent permitted by applicable law in your jurisdiction.

3. CONSIDEO will not be liable for damages, insofar as the user could have prevented the occurrence thereof by for him or her acceptable measures, especially programme and data security (saving data on an external memory or data carrier).

4. Insofar as CONSIDEO's liability for damages is excluded or limited, this shall apply also in respect of the personal liability for damages of the employees, workers, staff, representatives and agents of CONSIDEO.

5. The user agree to indemnify and hold CONSIDEO, its officers, directors, shareholders, predecessors, successors in interest, employees, agents, subsidiaries and affiliates, harmless from any demands, loss, liability, claims or expenses (including attorneys' fees), made against CONSIDEO by any third party due to or arising out of or in connection with use of the CONSIDEO-Websites or iMODELER-Services by the user.

The user shall indemnify and exempt CONSIDEO from all actions, asserted by other users or third parties against CONSIDEO resulting from an infringement of their rights a) by the contents posted by the user on CONSIDEO-Websites, or b) regarding the use of the iMODELER-Services by the User.

The user is obliged a) to cover all reasonable costs CONSIDEO incurs due to an infringement of third party rights, including all reasonable legal-defense costs, b) to discontinue such use of the iMODELER-Services or CONSIDEO-Websites that violates these GTC and the law immediately, c) to obtain the right to use said contents at its own expense or to render said contents free of any infringement. All other rights, including damage claims by CONSIDEO, are hereby unaffected.

The aforementioned obligations shall not apply to the extent the user is not responsible for the infringement.

### ***§12 Place of jurisdiction, place of performance and application of law***

For all possible disputes with CONSIDEO from a business relation or its initiation – insofar legally admissible – the head office of CONSIDEO is agreed upon as place of jurisdiction. The place of performance is the head office of CONSIDEO.

### ***§13 Final clause, miscellaneous, partial ineffectiveness***

1. Should individual items of these clauses be ineffective, this does not affect the effectiveness of the other clauses. The ineffective clause is replaced by the valid clause which in its economic effect comes closest to the clause which is not effective.
2. These GTC shall be governed by and construed in accordance with German Law, excluding international private law and the provisions of the United Nations Convention on Contracts for the International Sale of Goods that have been adopted by German Law.
3. The Software License Agreement of CONSIDEO as well as the General Terms and Conditions of CONSIDEO are integral parts of the General Terms and Conditions for iMODELER-Services & CONSIDEO-Websites of CONSIDEO.
4. The German Version of this agreement will be used when interpreting or construing this Agreement.
5. Unless otherwise stated in these GTC, CONSIDEO may submit all notices to the user by email, fax or post to the addresses given in the user's current contact data in his or her user account.

Date: 23rd of April 2012