

Complaint Procedure of Sense Arena LLC, only for consumers, applicable from _____

Preamble

This **Complaint Procedure** shall apply to all goods and services sold via the website www.sensearena.com operated by Sense Arena s.r.o., company with a registered office at Krátká 2408/6, 100 00 Praha 10, Czech Republic, IČ: 24260576 (hereinafter referred to as the “**Provider**”) and its customers in the field of purchase and use of software products (the Product), the related Hardware and Licenses (the Object of Performance) and provision of services (Support and Support+) (hereinafter referred to as the “**Provider**”).

This Complaint Procedure is an integral part of the General Business Terms and Conditions of the Provider.

This Complaint Procedure is available at the Provider’s establishment or in electronic form at www.sensearena.com. Where the goods or services are purchased via the Provider’s website, the Complaint Procedure is part of the confirmation of acceptance of the Order from the Acquirer. At the request of the Acquirer, the Provider shall provide the Complaint Procedure to the Acquirer in text form.

By submitting the Order, the Acquirer confirms that he/she is familiar with this Complaint Procedure in the version in force and effect at the moment of submitting the Order.

Definitions of terms contained in the General Business Terms and Conditions of the Provider shall apply, mutatis mutandis, to the terms referred to in this Complaint Procedure.

1. Introductory provisions

The Acquirer is entitled to exercise his/her rights from defective performance (hereinafter referred to as the “complaint”) in accordance with this Complaint Procedure.

The Provider shall not be held liable for any defects:

- a) due to which a lower purchase price of the goods has been agreed;
- b) occurred as a result of the wear and tear of the goods caused by normal use of the goods;
- c) of used goods which correspond to the degree of use and wear and tear of the goods upon acceptance thereof by the Acquirer;
- d) if it follows from the nature of the goods (e.g. reaching the end of the life of the goods);
- e) occurred due to incorrect use, storage, maintenance, unauthorized intervention by the Acquirer or mechanical damage.

2. Making a complaint

The Acquirer is entitled to make a complaint with the Provider in person at the Provider’s establishment or he/she may make a complaint at the registered office or place of business of the Provider, without undue delay after the detection of the defect. For such cases, the Provider ensures presence of an employee responsible for the receipt of complaints at the Provider’s establishment during opening hours. The Acquirer may make a complaint with any other person designated by the Provider for repairs (e.g. in the warranty card, in the confirmation issued by the Provider on the basis of a notice given to the Acquirer with respect to the rights of the Acquirer arising from the defective performance) at the Provider’s place or at a place closer to the Acquirer. In such cases, the Acquirer shall follow the instructions of the Provider or the person designated by the Provider. The Acquirer is also entitled to make a complaint via the transport service.

Where the complaint is made via the transport service, the Acquirer shall send the goods under complaint to the address of the Provider's establishment or to the address of the person designated by the Provider in accordance with the previous paragraph. For this purpose, the goods should be packed for transport in suitable packaging to prevent their damage and they should be clean and complete (if required by the nature of the defect and the method of carrying out the repair) and clearly labeled with the text "**COMPLAINT**".

When making a complaint, the Acquirer shall prove that he/she has the right to make a complaint, proving in particular the date of purchase (e.g. by submission of a receipt, warranty card, confirmation issued by the Provider on the basis of a notice given to the Acquirer with respect to the rights of the Acquirer arising from the defective performance, or in a similar credible manner). No defects which the Acquirer claimed with the Provider in the past and for which the Provider granted a reasonable discount from the purchase price can be claimed again.

Where the Acquirer makes the complaint via the transport service, he/she shall provide his/her details, specify the defect of the item and the right from the defective performance which he/she has chosen (the way of handling the complaint).

In accordance with Articles 5 and 6 of the Complaint Procedure, the Acquirer may use the following form to exercise his/her rights from the defective performance:

3. Duration of warranty

The warranty period in which the Acquirer may exercise his/her rights from the defective performance shall be twenty-four (24) months and shall start upon the acceptance of the goods by the Acquirer. The Provider reserves the right to reduce the warranty period down to half, i.e. twelve (12) months, in the case of sale of used goods. In such a case, the Provider shall indicate the period in the receipt or in the confirmation issued by the Provider on the basis of a notice given to the Acquirer with respect to the rights of the Acquirer arising from the defective performance

The right from the defective performance cannot be exercised against the Provider upon the expiry of the above-mentioned periods unless the parties agree otherwise or unless the Provider, the manufacturer or binding legal regulations stipulate a longer warranty period for the goods or unless the Provider or the manufacturer provides a special quality guarantee for the goods sold beyond the statutory obligations of the Provider or the manufacturer.

The Acquirer shall exercise the right from the defective performance without undue delay after the detection of the defect of the goods.

Where the Acquirer is aware of the defect of the goods but keeps using the goods with the defect, the Provider shall not be held liable for the scope of damage caused by the defect to the goods due to the continued use of the goods. Where the exercise of the right from the defective performance by the Acquirer is justified, the warranty period shall not run for the time for which the Acquirer could not use the goods. Where the Provider (or the person designated by the Provider) notifies the Acquirer that the complaint has been handled (see below) and that it is possible to collect the goods, the warranty period shall start again on the date following the receipt of the notice by the Acquirer unless the parties agree otherwise. Where the complaint is settled by replacement of the goods, the Acquirer shall not have a new period for the exercise of the right from the defective performance and the warranty period shall be only extended by the duration of the complaint procedure.

The life of the goods differs in particular with regard to the product characteristics, correct handling and maintenance and it differs from the warranty period for the exercise of rights from the defective performance.

4. Procedure and method of complaint handling

The period for complaint handling shall start upon handover/delivery of the goods to the Provider or to the place designated to carry out the repair.

The Provider shall decide on the complaint without delay but no later than within three (3) business days. A reasonable period of time, according to the type of the goods, necessary for an expert evaluation of the defect shall not count towards that period. Within that period, the Provider shall inform the Acquirer about the necessity of carrying out the expert evaluation.

The Provider shall issue a written confirmation to the Acquirer, specifying when and where the Acquirer exercised the right from the defective performance and describing the claimed defect and the required way of handling the complaint. The Provider shall further issue a written confirmation to the Acquirer specifying the date and the way of handling the complaint, including a confirmation of the performed repair and its duration or, where appropriate, the written explanation of the reasons for rejecting the complaint. This obligation shall also apply to other persons designated to carry out the repair.

The Provider shall handle the Acquirer's complaint, including the remedy of the defect, without undue delay but no later than within thirty (30) days of making the complaint unless the Provider and the Acquirer agree on a longer period in writing. Where the period expires to no avail, it shall be considered a serious breach of the Contract by the Provider.

The Acquirer is not entitled to change the chosen way of complaint handling with the consent of the Provider unless it is impossible, either at all or in time, to handle the complaint in the way chosen by the Acquirer.

The Acquirer shall accept the goods under complaint within thirty (30) days of the day following the notification of complaint handling by the Provider. Where the Acquirer fails to comply with this obligation, the Provider (or other person designated by the Provider) shall follow, mutatis mutandis, the procedure described in the provisions on the Buyer's delay in the acceptance of goods under Article 6 of the General Business Terms and Conditions of the Provider.

5. Quality upon acceptance

The Provider shall be held liable to the Acquirer for the fact that at the time of acceptance of the goods by the Acquirer:

- a) the goods have the characteristics agreed by the parties, and where there is no such agreement, the characteristics described by the Provider or the manufacturer or expected by the Acquirer given the nature of the goods and the advertising by the Provider or the manufacturer;
- b) the item is fit for the purpose which is stated as the purpose of its use by the Provider or for which an item of this type is normally used;
- c) the quality or design of the goods comply with the agreed sample or model if the quality or design was determined by an agreed sample or model;
- d) the goods are in the appropriate quantity, size or weight; and
- e) the item meets the requirements of legislation.

Unless it is unreasonable given the nature of the defect, the Acquirer may require that a new item be delivered; where this is impossible, the Acquirer may withdraw from the Contract and claim full refund of the purchaser price. Where the defect concerns only a part of the item, the Acquirer may only require that the part of the item be replaced. In other cases, the Acquirer has the right to have the defect remedied free of charge and without undue delay.

Where the defect can be remedied, the Acquirer has the right to delivery of a new item or to replacement of the part, or to withdraw from the Contract if he/she cannot use the item properly due to reoccurrence of the defect after repair or due to multiple defects.

Where the Acquirer does not exercise any of the above-mentioned rights, he/she has the right to a reasonable discount from the purchase price of the goods. The Acquirer has the right to a reasonable discount also where the Provider is unable to deliver new goods free from defects, replace a part of the goods or repair the goods, as well as where the Provider fails to provide a remedy within a reasonable period of time or where the provision of a remedy would cause serious problems to the Acquirer.

The Acquirer has no rights from the defective performance if the Acquirer had known about the defect of the item before he/she accepted the item or if the Acquirer caused the defect himself/herself.

Where a defect manifests itself within six (6) months of the acceptance of the goods by the Acquirer, the item shall be considered defective already at the time of its acceptance.

The Provider is not obliged to meet the Acquirer's claim if it proves that the Acquirer had known about the defect of the goods before he/she accepted the goods or that the Acquirer caused the defect himself/herself.

6. Provider's liability arising from defective performance

Any defects of the goods which are not subject to the liability for quality upon acceptance under Article 5, shall be subject to the liability for defective performance constituting a serious or a minor breach of the Contract. A defect constituting a serious breach of the Contract shall mean a defect due to which the Acquirer would not have entered into the Contract had he/she known about it when entering into the Contract. Other cases constitute a minor breach of the Contract.

Where the defect constitutes a serious breach of the Contract, the Acquirer has, at the Acquirer's choice, the right to delivery of a new item free from defects or to delivery of the missing item, to remedy of the defect by repairing the item, to a reasonable discount from the purchase price, or the right to withdraw from the Contract and be refunded the purchase price in full. Where the defect constitutes a minor breach of the Contract, the Acquirer has the right to remedy of the defect or to a reasonable discount.

When reporting the defect, the Acquirer shall inform the Provider about the right arising from the defective performance chosen by the Acquirer. The Acquirer may not change his/her choice without the consent of the Provider. The foregoing sentence shall not apply where the Acquirer requires repair of a defect which proves to be non-repairable. Where the Provider fails to remedy the defects within a reasonable period of time or fails to inform the Acquirer that it will not remedy the defects, the Acquire may claim, instead of remedy of the defects, a reasonable discount from the purchase price or he/she may withdraw from the Contract. Where the Acquirer fails to choose his/her right arising from the defective performance in due time, he/she shall have the same right as in the case of a minor breach of the Contract.

7. Costs of complaint procedure

Where the complaint is admitted as a justified one, the Acquirer is entitled to reimbursement for the well-spent costs related to the exercise of his/her right.

8. Dispute resolution

Any disputes between the Acquirer and the Provider arising from the complaint shall be resolved by state courts of Allegheny County, Pennsylvania USA. The Acquirer and the Provider agree that Pennsylvania law shall govern the contract and all complaints. The Acquirer and the Provider consent to exclusive jurisdiction in the state courts of Allegheny County, Pennsylvania USA

9. Contractual quality guarantee

Where the Provider has provided a quality guarantee beyond the scope of its statutory obligations, the calling of the guarantee shall be governed by this Complaint Procedure unless otherwise stipulated in the confirmation of Provider's obligations arising from the defective performance (warranty card) or in the purchase or other similar agreement.