

General Terms and Conditions of Imagic Bildverarbeitung AG, Glattbrugg, Switzerland

§1 Scope of the General Terms and Conditions

1. These General Terms and Conditions (hereinafter: "**GTC**") apply to all current and future deliveries of goods and services carried out by Imagic Bildverarbeitung AG, Glattbrugg, Switzerland (hereinafter: "**Imagic**"). They replace any existing agreements and apply to all contracts between Imagic and the Customer (hereinafter: "**Customer**") unless agreed otherwise in writing in the individual case. Stipulations deviating from or supplementing these GTC – particularly any conflicting purchasing conditions of the Customer – shall only apply if they have been expressly acknowledged in writing by Imagic with reference to the fact that they represent an amendment or supplement to these GTC. The application of such purchasing conditions is excluded even if Imagic does not expressly object to them.
2. Unless otherwise provided in these GTC, in the event of contradictions between these GTC and provisions in an offer from Imagic, in an order confirmation from Imagic or in an individual agreement between Imagic and the Customer, the following order of precedence shall apply:
 - Individual agreement between Imagic and Customer
 - Order confirmation from Imagic
 - Offer from Imagic
 - These GTC
3. Other or supplementary agreements, including conflicting terms and conditions of purchase of Customer, shall only apply if Imagic expressly confirms them in writing, stating that they are an amendment or supplement to the GTC, and in particular shall not apply even if Imagic does not expressly object to the terms and conditions of purchase.

§2 Contractual Conditions

1. The offers of Imagic are non-binding.
2. The Customer confirms by way of its order that it has read these GTC and agrees to them without reservation.
3. The minimum order value is CHF 200.00 per order. If the customer orders goods at a price of less than CHF 200.00, Imagic will not issue an order confirmation. If a Customer, after having sent his order to Imagic, reduces his order to a value of less than CHF 200.00, Imagic is entitled to cancel the order.
4. The contract between the Customer and Imagic is concluded by Imagic sending the order confirmation/confirmation email. Even where no offer has been made, the contractual relationship shall commence no later than the time at which the product/service is put to use. Delivery of the order confirmation or other documents by fax, email or via the Customer portal shall be binding on the parties and shall be equivalent to delivery by post. The transmission report of the sender's fax machine shall constitute confirmation of receipt by the addressee. Imagic reserves the right to refuse to conclude the contract without indicating reasons.
5. Service assignments cancelled or postponed by the Customer at short notice shall be invoiced to the Customer by Imagic as follows:
 - Cancellation/postponement >9 working days before the planned date = no charge
 - Cancellation/postponement 6-9 working days before the planned date = 50% of the planned working time will be charged
 - Cancellation/postponement <6 working days before the planned date = 75% of the planned working time will be charged
 - If the cancelled or postponed appointment can be substituted by another customer appointment, the substituted portion will not be invoiced.

§3 Prices and Reservation of Title

1. All agreed prices are net ex works Glattbrugg, excluding the statutory value added tax applicable, at the time of concluding the Contract, in the respective country where the Customer's invoice address is located, and excluding transport costs. Unless agreed otherwise in writing, the costs of packaging, insurance, freight, installation and training are not included in the price and are to be borne by the Customer
2. Until payment in full, all goods delivered are subject to a reservation of title by Imagic which may be entered into the Reservations of Title Register at any time.

§4 Payment Period, Default and Rescission of the Contract

1. Invoices are payable within 30 days of the invoice date without deduction.
2. Imagic is entitled to issue partial invoices for deliveries and services rendered.
3. On expiry of the payment period, the Customer will be in default of payment without reminder. Interest at a rate of 5% per annum will be payable from that date.
4. Where the purchaser defaults on payment, Imagic shall be entitled to rescind the contract with the Customer and/or claim damages for non-performance and recover the goods.
5. Only claims which are subject to a final court order or are undisputed can be set off by the Customer against Imagic's claims.

§5 Delivery Date and Delay in Delivery

1. The delivery periods specified by Imagic shall not commence until all technical questions have been clarified and the Customer's obligations have been discharged in full and on time. Imagic endeavours to comply with the carefully calculated delivery dates but does not give any guarantee in this respect.
2. Where Imagic exceeds the delivery date, the Customer shall grant Imagic an extension of time amounting to at least 4 weeks. Where delivery does not take place within the grace period set and, as a result, the Customer wishes to rescind the contract, Imagic must be notified of this in writing, setting a further reasonable grace period.. Only after expiry of this additional grace period the Customer may withdraw from the respective contract. These are all rights and remedies of the Customer in the event of default by Imagic. All other legal remedies and claims due to default, in particular claims for damages, are excluded.
3. The Incoterms FCA (Free Carrier) Glattbrugg, Switzerland shall apply to delivery, dispatch and risk of loss. If the parties have not agreed on Incoterms, the risk of loss and damage to the Goods shall pass to the Customer as soon as the Goods are made available for dispatch by Imagic at Imagic's warehouse/plant or the supplier of the Hardware.

§6 Software Licence

1. Where the contractual goods are made up entirely or partly of software and its documentation (hereinafter: "**Contractual Software**"), Imagic grants the Customer an open-ended, non-exclusive, non-transferable and non-sublicensable licence exclusively for internal use of the Customer, under the terms of these GTC or any other contract concluded between the parties.
2. The Customer shall not be entitled to make the Contractual Software available to third parties without the prior written consent of Imagic, and the same applies to any accompanying documentation and other information supplied to the Customer under the scope of these GTC.
3. The Customer shall be entitled to make a copy of the Contractual Software, for the sole purpose of filing and back-up, or for replacement or trouble-shooting purposes. However the Customer undertakes to affix at least the following copyright notice to the copy: "Copyright Imagic Bildverarbeitung AG, Switzerland. All rights reserved".
4. The Contractual Software is protected by copyright. In particular, the Customer may not: a) modify, translate, reverse engineer, decompile or dismantle the Contractual Software in whole or in part; b) create any works derived from the Contractual Software, or reproduce the accompanying written material; c) copy or otherwise duplicate the Contractual Software in whole or in part, in original or modified form or in a form which is mixed with or embedded in other software (this does not include the creation of copies of the computer programs for normal use or for back-up purposes as referred to above); d) modify or remove labels and copyright notices attached to the Contractual Software and data carriers, e) defeat, disable or circumvent any protection mechanisms of the Contract Software, f) sell, licence, sub-licence, rent, distribute, disclose, permit access to or transfer the Contract Software in whole or in part to any third party, g) publish or otherwise communicate any evaluation of the Contract Software without Imagic's prior written consent, and h) export, use or download the Contract Software in violation of any applicable law or regulation.

§7 Intellectual Property Rights

1. Intellectual property rights (hereinafter referred to as "**Intellectual Property Rights**") within the meaning of these GTC are all registered and unregistered rights worldwide in connection with patents, copyrights, trademarks, domains, designs, software and its source and object code, web designs, graphics, photographs, animations, videos, texts, documentation and operating instructions, concepts, databases and know-how, regardless of whether these can be protected or not.
2. Imagic shall remain the sole and exclusive owner of all Intellectual Property Rights in the Contract Software. The Customer shall have no right, title or interest therein, except for the limited licence expressly set forth in these GTC.
3. If and to the extent that Intellectual Property Rights are created or developed under these GTC or any other contract between Imagic and the Customer (hereinafter "**New Intellectual Property Rights**"), Imagic shall be the sole and exclusive owner of the New Intellectual Property Rights. The Customer hereby assigns and transfers to Imagic all right, title and interest in and to the New Intellectual Property Rights, to the extent not originally created by Imagic, in full at the time such rights are created, together with all related intellectual property rights, without restriction as to subject matter, time or geography.
4. If the Customer has rights, title and interest in the New Intellectual Property Rights that cannot be transferred to Imagic due to mandatory legal provisions, the Customer hereby automatically grants Imagic an exclusive, irrevocable, perpetual, worldwide, transferable, sub-licensable, fully paid-up and royalty-free licence to such New Intellectual Property Rights without any restriction as to subject matter, time or geography, including but not limited to the right to use them in any manner whatsoever, fully paid-up and royalty-free licence to these New Intellectual Property Rights without restriction as to subject matter, time or geography, including but not limited to the right to use, disclose, export, make available, reproduce, distribute, exploit, modify and further develop them in any manner whatsoever.
5. The Customer shall assist Imagic in any way, including signing and filing documents with the relevant authorities and providing information reasonably required both during and after the term of the Agreement to obtain and enforce all Intellectual Property Rights in respect of the New Intellectual Property Rights.
6. The Customer shall ensure that the Customer and its employees or affiliates involved in the creation or development of New Intellectual Property Rights under these GTC or any other contract entered into between the parties waive any moral rights in such New Intellectual Property Rights and hereby grant Imagic the perpetual, irrevocable, exclusive and royalty-free right to exercise such moral rights.
7. Each party retains all rights, titles and claims to pre-existing Intellectual Property Rights created or acquired by each party prior to the conclusion of these GTC or created or acquired by each party independently of these GTC or any other agreement entered into between the parties.

§8 Product Details

1. The properties of all Imagic products are determined according to the details contained in the offer.
2. Irrespective of this, during the decision-making phase and following delivery, the Customer is obliged to carry out its own examination of the Imagic goods and services as to their fitness for the intended purpose. The deployment of the products and their use for a specific purpose is exclusively a matter for the Customer for which the Customer shall take responsibility. The Customer is also solely responsible for all data that is generated through the use of or access to the Contractual Software or that is stored in the Contractual Software (hereinafter: "**Customer Data**").
3. Where the contractual products consist of software, the purchaser must ensure, at its own expense, that the computer hardware required for the proper functioning of the Contractual Software and other associated operating systems and software, are available in accordance with Imagic's recommendations and binding specifications. The same also applies to hardware components e.g. cameras and microscopes and their drivers.

§9 Warranties

1. Immediately upon receipt, all delivered goods and services must be comprehensively examined by the Customer to ensure that they are correct and in good working order. Where, in relation to obvious and easily remedied defects,

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no substantiated written complaint, including a detailed description of the defects, is received from the Customer within two weeks of handover or readiness for acceptance, the (partial) delivery shall be deemed to have been approved and/or accepted. If there are hidden defects, i.e. defects that were not recognisable at the time of acceptance and proper inspection, a substantiated written notice of defects must also be submitted within 2 weeks of discovery, otherwise the goods shall also be deemed approved with regard to these defects. 2. Where the contractual goods consist entirely or partially of Contractual Software, Imagic and the Customer agree that the Contractual Software represents, in each case, a specific stage of development and by its nature cannot be defect-free. A defect in the Contractual Software only exists where it fails to comply with the product specifications as defined in Clause 8. The Customer must prove the defect in the Contractual Software is a deviation from the product details under Clause 8 and report it to Imagic in writing by means of a record of type and occurrence. It is also a requirement that Imagic be able to reproduce the defect at any time. Except in cases where the Contractual Software deviates from the product specifications defined in §8 in accordance with this §9 (2), Imagic provides the Contractual Software on an "AS IS" and "AS AVAILABLE" basis, excluding any warranty, and the Customer accepts this. In particular, Imagic does not warrant (i) the accuracy of the results, analyses and information obtained through the use of Artificial Intelligence ("AI"), (ii) the function or use of the Services, (iii) merchantability or fitness for a particular purpose, (iv) that the Contractual Software will meet Customer's requirements, or (v) that the use of the Services will be uninterrupted, timely, secure and error-free. Furthermore, no warranty is given that the Contractual Software, including any open source software, licensed software and the results, analyses and information obtained through the use of the AI used therein, do not infringe any third-party property rights.

3. The contractual warranty is limited to a period of 12 months from handover and/or acceptance. Only the direct Customer is entitled to bring claims under warranty and they are not assignable.

4. In the event of a justified notice of defects, Imagic may, at its discretion, either make a subsequent delivery or rectify the defect. Imagic must be given a reasonable period of time, which must be at least 2 weeks. Where subsequent performance fails, the Customer may reduce the price or rescind the contract. Rescission is, however, only permitted where the Customer previously gave Imagic a written warning thereof as well as an additional reasonable extension of time. Further legal remedies and claims, in particular claims for damages, are excluded. There is no warranty for used goods.

5. In order to make a claim under warranty, the Customer must ensure that a) the product has been used (stored, transported, connected) properly at all times (according to the operating instructions, directions attached to the device, other accompanying documents); b) the product has not been opened without authorisation or by an unauthorised third party, modified in its configuration (software, firmware and hardware), extended, repaired or been subject to improper interference; c) no intervention into the file documents and databases managed by the Contractual Software – bypassing the Imagic Server application – has occurred; d) in the case of hardware, the product is sent together with the delivery note, signed by the seller of the hardware and indicating the date of sale, at the Customer's expense, to the hardware manufacturer's representative office in the Customer's respective country of domicile.

In the event of a failure to meet all warranty conditions, Imagic reserves the right not to provide a warranty or to do so only in return for full compensation of the costs.

6. Certain Contractual Software provides a programming interface ("API") for the customer to create applications himself or have them created by third-party companies that allow to create, modify and/or delete data in the image databases. When using such applications, the Customer assumes full responsibility for any new creation, modification and/or deletion of data in the image databases according to §8.

§10 Liability

1. Imagic is not liable for results, analyses and information obtained through the use of AI. The liability of Imagic – irrespective of the legal basis – is further limited to the following cases, subject to the following provisions set out below: a) loss due to intent or gross negligence; b) breach of a material contractual condition due to slight or medium negligence, in which case liability is limited to half the net price according to § 3 clause 1.

2. In the event that the products are not intended for private use, Imagic shall not be liable, in addition to the foregoing limitations, for lack of commercial success, loss of profit or other consequential damages and indirect damages as well as claims for compensation by third parties.

3. Imagic shall only be liable for the loss or modification of data caused by product defects in accordance with the aforementioned provisions if the Customer has produced back-ups of this data in time intervals (at least once a day) that are compatible with their use and has made sure that the data can be reproduced with an acceptable expenditure.

4. The limitations of liability of this §10 shall not apply to losses or claims for damages caused by deliberate or grossly negligent behaviour of Imagic or if they contradict applicable mandatory law.

§11 Indemnification

The Customer shall indemnify Imagic against any liability, claims, proceedings, costs, expenses and losses arising out of any actual or alleged allegation by a third party that Customer Data infringes that third party's rights (including intellectual property rights and privacy rights) or that the Customer Data is false or misleading.

§12 Statutory Period of Limitation

The statutory period of limitation for claims in respect of defects in deliveries of goods and services or claims for compensation shall be one year since delivery or provision of services.

§13 Force Majeure

1. For the purposes of these GTC and all contracts concluded under these GTC, "**Force Majeure**" means any event or circumstance beyond a party's reasonable control that prevents or delays the party from fulfilling its obligations under these GTC and the contracts concluded under these GTC. Such events include, but are not limited to, natural disasters, war, civil unrest, strikes, epidemics and pandemics, shortages of raw materials or power, industrial disputes, official

decisions, transport or operational disruption or in the event of a sub-supplier failing, for the foregoing reasons, to deliver to Imagic, or failing to deliver on time or in due form.

2. In the event of disruption of performance due to Force Majeure, Imagic's contractual obligations shall be suspended; if a material change in the circumstances existing at the time of conclusion of the contract occurs or if an event of Force Majeure lasts continues for more than 3 months, Imagic shall be entitled to rescind the contract.

§14 Secrecy

1. The Customer is obliged to treat all information and data of any kind which Imagic discloses or has already disclosed to the Customer in connection with these GTC or any other contract concluded between the parties or which has become or will become known to the Customer (hereinafter "Confidential Information**"), irrespective of the form of disclosure, as strictly confidential and to use it only for the fulfilment of these GTC or any other contract concluded between the parties.**

2. The obligation to keep Confidential Information confidential shall not apply to Confidential Information that (i) was previously known without an obligation of confidentiality, or (ii) was independently developed by the Customer without using the Confidential Information, (iii) is/was obtained on a non-confidential basis from a third party who was not prevented from disclosing such information by contract or by law, (iv) is disclosed because it is necessary to enforce the rights of the receiving party under these GTCs, (v) is/was disclosed due to a regulatory or legal obligation to keep such information confidential, (iv) is disclosed because this is necessary to enforce the rights of the receiving party under these GTC, (v) must be disclosed due to an official or court order or (vi) is or becomes generally known.

§15 Miscellaneous Contractual Provisions

1. The Customer consents to be named as a reference customer.

2. All contracts, subsequent additions and agreements or amendments must be in writing or electronic form. The provision requiring the written or electronic form can be waived only by written agreement.

3. Where individual provisions of these GTC, or of a contract with the Customer, are or become wholly or partially invalid, they shall be replaced by valid provisions whose purpose comes closest to the original purpose. The same applies mutatis mutandis where there is an omission in the GTC or a contract.

4. The Customer may not assign any rights or obligations under these GTCs or any other contract concluded under these GTC without Imagic's prior written consent.

5. These GTC and any other contract concluded under these GTC are subject to Swiss law, to the exclusion of international provisions on the conflict of laws and the UN Convention on the International Sale of Goods. For all conflicts arising directly and indirectly from a contractual relationship between Imagic and the Customer, the city of Zurich, Switzerland shall be the place of exclusive jurisdiction - including for international matters.