

# General Terms and Conditions of IMAGO Technologies GmbH

## 61169 Friedberg, Strassheimer Strasse 45

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### **Validity**

All offers, deliveries and services rendered by IMAGO Technologies GmbH shall be effectuated exclusively on the basis of the following General Terms and Conditions. Any amendments and additions thereto shall only be binding upon our written confirmation thereof. Deviating terms and conditions of the customer shall be deemed excluded. In any case, the service acceptance shall constitute a simultaneous acceptance of our General Terms and Conditions.

### **Conclusion of the Contract**

All offers shall be subject to the written order acceptance submitted by us; in particular, we explicitly reserve the right to perform technical changes in cases of custom manufacturing. Information regarding the materials, colors, dimensions, etc. are to be understood herein as being similar. Delivery and invoicing shall be equated with a written confirmation of an order.

### **Patent Rights and Copyrights**

We hereby reserve copy and proprietary rights to circuit diagrams, drawings, designs, descriptions and software developed by us, as well as to any similar documents. They may be disclosed to third parties only upon our written consent. Any form of reproduction shall be prohibited unless specifically authorized. Upon request, the documents must be returned to us immediately. Any liability for a breach of a patent or other intellectual property shall be excluded.

### **Delivery and Grace Period**

Supply agreements shall be considered binding only upon our written confirmation. They shall only commence following a complete clarification of the technical and commercial details which are relevant for the execution of the order and after a punctual provision of free services by the customer and punctual self-deliveries. A delayed delivery shall require a written notice and a grace period of 6 weeks. In case of shipment, the risk of payment and performance together with the delivery of the goods shall pass onto the shipper, the carrier or to any other specific person responsible for sending the shipment to the customer.

### **Payment Terms**

All specified prices shall be non-binding and subject to the addition of the applicable VAT. Offsetting and retention rights against our invoices shall be excluded, unless a counterclaim thereto is legally established or recognized by us.

### **Extended Reservation of Title**

All our deliveries are subject to an extended retention of title. Ownership is only transferred onto the customer upon a full settlement of our claims. Any treatment or processing shall be carried out for us as the manufacturer within the meaning of § 950 BGB (German Civil Code), without constituting an obligation for IMAGO Technologies GmbH. In the case of a combination or processing, we shall be the co-owners of the new item in proportion of the value of the reserved goods against the value of the new item. Pledging or security assignment shall remain prohibited prior to the final settlement of our claims. During the period of retention of title, our goods shall be insured by the customer at their own expense against fire, water, theft and burglary, with simultaneous assignment of rights to us under the insurance contract, whereby the acceptance of the assignment is already explained.

### **Warranty**

The customer shall be obligated to notify us immediately of any defects, whereby a suspension or interruption shall not be covered by the warranty period. For defects of goods and services at the time of transfer of risk, and with the exception of the software, we shall be entitled to decide at our own discretion whether to improve the defective supply

condition or to make compensation by replacement. The warranty period shall be that of 12 months as calculated from the delivery to the customer. In the event that we perform the installation, the period shall begin with the written communication of operational readiness submitted by us. The warranty shall be voided in case of an unauthorized modification of the delivery item or its improper use. Regarding equipment from sub-suppliers, our warranty shall be limited to the scope of the warranty obligation that exists between us and the sub-supplier in question. In collaborative projects, no overall function warranty shall be borne by us. The same applies to the customer's specifications on the type of system concepts and procedures. In this case, we may also be unable to assume any function warranty or give assurance of compliance with the performance features. For development samples, prototypes or pre-series deliveries, any warranty shall be excluded. Executed warranty work at a particular place indicated by the customer shall take place at their own cost.

### **Compensation for Damages**

Claims for damages, regardless of the legal reason behind them, especially due to a positive breach of contract, tort, negligence in concluding the contract or underdelivery shall be excluded. The exclusion shall also extend to all claims for compensation for loss of profit, missed savings, indirect damages, consequential damages or loss of data, unless they are based on intentional behavior or gross negligence of our legal representatives or vicarious agents. This exclusion shall not apply in the absence of written warranted characteristics or a breach of significant contractual obligations and a delay in performance, subject to our right to perform a rectification.

### **Software**

All exploitation rights for the software generated by us shall remain with IMAGO Technologies GmbH. In the event of a violation of our license agreement, we shall be entitled to terminate the license and to demand the surrender of the software with all its components and copies thereof. With delivery of the software, the license shall be deemed as granted. With the acceptance of the delivery, the software conditions shall be deemed as accepted. A claim to surrender the source program shall not exist. The right of use shall be restricted according to the actual usage possibilities of a book. In the event of any substantial defects, an instruction to avoid the effects of the defect shall be considered as a sufficient act of rectification. We shall assume no guarantee for the proper cooperation of the program functions in the selection performed by the user. According to the current state of technology, an uninterrupted or error-free operation of the system or the complete elimination of any errors in the context of program services cannot be guaranteed. Any guarantee for the replacement or loss of data that has arisen due to a software delivery shall be excluded. The customer shall be obliged to protect their data accordingly and keep them free of computer viruses.

### **Final Conditions**

There are no verbal subsidiary agreements. Contract amendments shall require the written form to gain validity. Place of performance shall be 61169 Friedberg. If the customer is a merchant, legal entity under public law or public-law separate estate, 61169 Friedberg / Hessen shall be agreed as a place of jurisdiction for disputes arising from the contractual relationship. Should any of these General Terms and Conditions prove wholly or partially invalid, the validity of the remaining provisions shall not be affected thereby.

January 2017