

General Terms and Conditions of Pie Medical Imaging B.V.

1. APPLICABILITY

- 1.1 These general terms and conditions (**General Conditions**) shall govern and form an integral part of all offers of Pie Medical Imaging B.V. (**Licensor**) and Agreements (as defined hereafter). In the event that the Agreement conflicts or is incompatible with any of the provisions of the general terms, the provisions of the Agreement shall prevail.
- 1.2 The customer (**Licensee**) shall place orders for the Licensed Software through the use of an irrevocable purchase order, in the form as indicated by Licensor (the **Purchase Order**). All Purchase Orders are subject to acceptance by Licensor. Upon acceptance of the Purchase Order by Licensor, a Purchase Order shall constitute an Agreement between Licensor and Licensee with respect to the purchase of the Licensed Software specified therein. Any failure of Licensor to confirm a Purchase Order within 10 (ten) working days, shall be deemed an acceptance of such Purchase Order. In the event that the Agreement conflicts or is incompatible with any of the provisions of these General Conditions, the provisions of the Agreement shall prevail.
- 1.3 Additions to or deviations from these General Conditions shall only apply where agreed in writing between Licensee and Licensor (**Parties**).
- 1.4 Any general or specific terms and conditions of Licensee, whether included in the offer, invoices or any other document, are rejected.
- 1.5 If any provision of these General Conditions is null and void or is voided, the other provisions of these General Conditions will remain fully in effect. In such case, the Parties shall consult with one another to agree on a new provision to replace the void or voided one. In doing so, the purpose and meaning of the void or voided provision will be taken into account as far as possible.

2. LICENSED SOFTWARE

- 2.1 Licensor shall deliver the post-processing software (**Licensed Software**) specified in the Agreement in accordance with these General Conditions to Licensee on the basis of a non-exclusive, non-transferable license, without any sub-license rights (unless specifically agreed in writing by Licensor), to use the Licensed Software (the **License**). Any updates to the Licensed Software by Licensor are not included in the License, unless agreed by both Parties in writing.
- 2.2 Licensor's obligation to deliver and Licensee's right of use based on the Agreement extend only to the Licensed Software's object code. Licensee's right of use does not extend to the Licensed Software's source code.
- 2.3 Licensee shall always comply with the restrictions of use of the Licensed Software as indicated by Licensor in the user manual, regardless of the nature or content of such restrictions.

3. DELIVERY AND ACCEPTANCE

- 3.1 Licensor shall deliver the Licensed Software by means

of a secured electronic transfer or on a physical data carrier, as specified by Licensee or otherwise as may be mutually agreed by the Parties. At Licensor's discretion, any agreed documentation, and manuals for the use of the Licensed Software shall be made available in a printed or digital form in a language determined by Licensor.

- 3.2 Licensee shall only install the Licensed Software at Licensee's premises and/or the same company network.
- 3.3 The Licensed Software is intended to be used with a specific operating system and specific computer hardware in accordance to the documentation communicated by Licensor. The availability of such operating system and/or hardware may limit the lifetime of the Licensed Software.
- 3.4 Licensee shall accept the Licensed Software in the state that it is in when delivered ('as is, where is'), therefore with all visible and invisible Defects (as defined in clause 5.2). The Licensed Software shall be deemed accepted by Licensee upon delivery.
- 3.5 The Licensed Software delivered to Licensee shall remain Licensor's property until full payment of all amounts owed by Licensee for the Licensed Software delivered or to be delivered or work performed or to be performed by Licensor under this Agreement.

4. INTELLECTUAL PROPERTY RIGHTS

- 4.1 All intellectual and industrial property rights to the Licensed Software, websites, data files, equipment or other materials (such as training, testing and examination materials) developed or provided under the Agreement, or in connection with any product, such as analyses, designs, documentation, reports, offers, as well as preparatory materials in that regard (**IP Rights**), shall be held solely by Licensor, its suppliers or its licensors. Licensee shall only acquire such non-exclusive and non-transferable rights of use of IP Rights expressly granted in the Agreement, these General Conditions and by law.
- 4.2 Licensee shall not be allowed to remove or modify any designation concerning the confidential nature or the IP Rights from the Licensed Software, websites, data files, equipment or other materials.
- 4.3 Licensor may always take technical measures to protect the Licensed Software, data files, equipment or other materials made available in connection with the limitation of the right of use of the Licensed Software agreed between the Parties. Licensee may not remove or bypass such technical measures or have such technical measures removed or bypassed.

5. GUARANTEE

- 5.1 Licensor shall use its best efforts to fix any Defect reported by Licensee within a reasonable time, provided that such Defects are reported in writing providing sufficient details and within a period of 12 (twelve) months following the delivery of the Licensed Software or, by Licensee (**Guarantee**). Licensor does not guarantee that the Licensed Software shall operate without interruption or Defects, or that all Defects shall

be corrected. The Guarantee shall not include fixing mutilated, corrupted or lost data in the possession of Licensee.

- 5.2 In these General Conditions a **Defect** means: substantial failure of the Licensed Software to meet the functional or technical specifications of the Licensed Software expressly made known by Licensor in writing and, if all or a part of the Licensed Software concerns a customised Licensed Software, to meet the functional or technical specifications expressly agreed between the Parties in writing.
- 5.3 Licensor may charge for the costs of fixing Defects in accordance with its usual rates if such work is required as a result of improper use on the part of Licensee or as a result of causes that cannot be attributed to Licensor.
- 5.4 The obligations of Licensor under the Guarantee shall end, if Licensee makes any changes or has changes made to the Licensed Software without a prior written permission of Licensor.
- 5.5 Licensor shall fix the Defects at a location and in a manner as determined by Licensor. Licensor is entitled to install temporary solutions, program bypasses or problem-avoiding limitations in the Licensed Software.

6. LIMITATION OF LIABILITY

- 6.1 Licensor's total liability due to an attributable failure in the performance of the Agreement or on any legal basis whatsoever, expressly including each and every failure to fulfil a warranty obligation agreed with Licensee, shall be limited to compensation for only direct loss and up to a maximum of the price stipulated for the Agreement concerned (excluding VAT and local levies).
- 6.2 The Supplier's liability for injury or damage through death or bodily injury or because of material damage to objects shall never exceed agrivated total of EUR 1,250,000 (one million two hundred and fifty thousand euros).
- 6.3 Licensor's liability is excluded for indirect loss, consequential loss, loss of profits, lost savings, reduced goodwill, loss due to business interruption, loss as a result of claims of Licensee's End Users or the sublicensees of Licensee, loss arising from the use of items, materials or software of third parties prescribed by Licensee to Licensor, loss arising from the engagement of a supplier prescribed by Licensee to Licensor, loss arising from corruption, destruction or loss of data or documents, and loss resulting from use or misuse of access, identification codes or certificates relating to the Licensed Software.
- 6.4 The exclusions and limitations referred to in these General Conditions shall cease to apply, if and insofar as the loss is the result of deliberate intent or recklessness on the part of Licensor.
- 6.5 Unless performance by Licensor is permanently impossible, Licensor shall only be liable due to an attributable failure in the performance of the Agreement, if Licensee declares Licensor to be in default in writing without delay and grants Licensor a reasonable term to remedy the breach, and Licensor culpably fails to fulfil its obligations also after this term has passed. The notice of default must describe the breach as comprehensively and in as much detail as

possible in order to give Licensor the opportunity to respond adequately.

- 6.6 For there to be any right to compensation, Licensee must always report the breach to Licensor in writing as soon as possible after the breach has occurred. Each claim for compensation against Licensor shall be barred by the mere expiry of a period of 24 (twenty-four) months following the inception of the claim, unless Licensee has instituted a legal action for damages prior to the expiry of this period.
- 6.7 Licensee indemnifies Licensor against any and all claims of third parties due to product liability as a result of a defect in a product or system that Licensee supplied to a third party and that consisted in part of the Licensed Software, equipment or other materials delivered by Licensor, unless and insofar as Licensee is able to prove that the loss was caused by the Licensed Software, equipment or other materials referred to.
- 6.8 The provisions of this clause 6 shall also apply for the benefit of all natural persons and legal entities that Licensor engaged in the performance of the Agreement., including but not limited to any sub-contractors used by Licensor and authorized in advance by Licensee. Pursuant to this article, the limitation of liability shall also be applicable to (and extend to) the natural persons and legal entities that Licensor engaged for any performance under the Agreement.
- 6.9 Regarding Licensee's liability, if according to the Agreement Licensee consists of several natural persons or legal entities, each of these natural persons or legal entities shall be jointly and severally liable towards Licensor for the performance of the Agreement.

7. CONFIDENTIALITY

- 7.1 Both Parties must ensure that all information received from the other Party that the receiving Party knows or should reasonably know is confidential is kept secret. This duty of confidentiality shall not apply to Licensor if and insofar as Licensor is required to provide the information concerned to a third party in accordance with a court decision or a statutory requirement, or if and insofar as doing so is necessary for the proper performance of the Agreement by Licensor. The Party that receives the confidential information may only use it for the purpose for which it was provided. Information shall in any case be deemed confidential, if it has been qualified as such by one of the Parties.
- 7.2 Licensee acknowledges that the Licensed Software originating from Licensor is always confidential in nature and that such Licensed Software contains trade secrets of Licensor and its suppliers.

8. DATA PROTECTION – GDPR COMPLIANCE

- 8.1 Licensor shall process Licensee's data in compliance with regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 (GDPR) and applicable local regulations in force. Capitalized terms in this clause not otherwise defined shall have the meaning as ascribed to them in the GDPR.
- 8.2 With regards to the activities relating the execution of this Agreement service Licensee appoints Licensor as Data Processor under the following conditions:

- a. personal data shall be processed only within the activities relating to the performance of the Agreement and according to the specific privacy policy available on Licensor's website <https://www.esaote.com/privacy-policy/>;
- b. preservation of the confidentiality of any personal data provided;
- c. ensuring that the persons authorised to process personal data, acting under the authority of the Data Processor, shall be bound by confidentiality obligations concerning the processed data;
- d. training of the persons who are authorised to process personal data, acting under the authority of the Data Processor, on the subject of data protection and to provide them with the adequate instructions on data processing, while at the same time guaranteeing that they are complied with;
- e. technical and organisational measures will be taken to ensure a level of security appropriate to the risk, in compliance with art. 32 GDPR;
- f. assistance to Licensee by appropriate technical and organisational measures, insofar as this is possible and applicable, with the fulfilment of the data Licensee's obligation to respond to requests for exercising the data subject's rights covered by Chapter III of the EU Regulation;
- g. assistance to Licensee in carrying out the data protection impact assessment, insofar applicable, in compliance with art. 35 GDPR, and also to assist Licensee with the prior consultation of the supervisory authority in compliance with art. 36 of the GDPR;
- h. appointment of System Administrators;
- i. reporting to Licensee, during the term of the technical assistance obligations, any critical issue and irregularity relating to the protection of personal data;
- j. communication of any personal data breach to Licensee;
- k. inform to Licensee of any preliminary hearing or investigation started by the Data Protection Authority;
- l. maintenance of a record of all categories of processing activities carried out on behalf of Licensee in compliance with art. 30 GDPR;
- m. where the Data Processor is obliged to transfer data to a third country or to an international organisation, under EU laws or under the laws of the Member State to which the Data Processor is subject, information to Licensee of Data Processor legal obligation before processing, unless the laws concerned prohibit that disclosure for grounds of public interest;
- n. for the purpose of processing personal data under the technical assistance services obligations, the Data Processor wishing to engage other Data Processors, or in the case of changes concerning the information already supplied, is obliged to inform Licensee beforehand and in writing, clearly disclosing at least the identity, contact details and processing activities of the other Data Processors. Should Licensee fail to object within 15 (fifteen) days from the receipt of such information, the contracting of Sub-Suppliers shall be deemed approved.

- 8.3 Licensee shall not provide Licensor with any Personal Data that qualifies as sensitive personal data within the meaning of the GDPR. Licensee shall at all times and under any circumstance ensure that, prior to providing Licensor with any documentation and/or other means including the relevant Personal Data that are to be provided in light of the Agreement, any sensitive personal data within the meaning of the GDPR contained therein is anonymized Personal Data are dealt with in strict confidentiality and the Parties shall take all appropriate technical and organizational security measures against its loss or unlawful processing.

9. IT SECURITY

- 9.1 The method of information security (**IT Security**) provided by Licensor shall meet a standard that is not unreasonable in terms of the state of the art, the sensitivity of the information and the costs associated with such IT Security. If the Agreement required Licensor to provide a specified IT Security, Licensor does not guarantee that the IT Security provided is effective under all circumstances.
- 9.2 The access or identification codes and certificates provided by Licensor to Licensee are confidential, and may only be made known to authorised personnel in Licensee's own organisation.
- 9.3 Licensee must adequately secure its computer systems and infrastructure and have active antivirus software protection with respect to the Licensed Software at all times.

10. CODE OF CONDUCT

- 10.1 Licensee acknowledge that they adopted the Licensor code of conduct in the performance of the obligation set out in this Agreement(<https://www.esaote.com/about-esaote/corporate-governance/code-of-conduct/>)

11. FORCE MAJEURE

- 11.1 Licensor shall not be obliged to perform any of its obligations, including any statutory or agreed warranty obligations, and shall not be in default in respect of such obligations under the Agreement or these General Conditions, to the extent that the failure of Licensor to perform such obligations is due to a force majeure situation. A force majeure situation shall include a situation of force majeure for Licensor's suppliers, improper performance of obligations by suppliers prescribed by Licensee for Licensor, as well as defects in objects, materials or software of third parties which Licensee has required Licensor to use.
- 11.2 Either Party shall have the right to terminate the Agreement in writing if a situation of Force Majeure continues for longer than 60 (sixty) days. In such event, all that has already been performed under the Agreement shall be paid for by Licensee on a proportional basis without the Parties owing each other anything else.

12. APPLICABLE LAW AND DISPUTES

- 12.1 Dutch law shall govern these General Conditions and any Agreement. The Vienna Sales Convention of 1980 shall not apply.

- 12.2 Disputes arising between the Parties shall be settled through arbitration in accordance with the Arbitration Regulations of the Foundation for the Settlement of Automation Disputes (*Stichting Geschillenoplossing Automatisering* or *SGOA*) which has its seat in The Hague, the Netherlands, all of this without prejudice to the Parties' right to request relief in interlocutory arbitration proceedings and without prejudice to the Parties' right to take protective provisional measures. Arbitration proceedings shall take place in The Hague.
- 12.3 In order to attempt to achieve an amicable resolution of an existing or potential future dispute, either Party may always initiate IT mediation pursuant to the IT Mediation Regulations of the Foundation for the Settlement of Automation Disputes in The Hague. The provisions in this clause 12.3 shall not preclude a Party that so desires from not initiating an IT mediation procedure and immediately pursuing the dispute procedure mentioned in clause 12.2.

