

General Terms of Use & Terms of Delivery and Payment

1. Preliminary Remarks

- 1.1. Marks: InterMedia Solutions and IMS are names of IMS-InterMedia Solutions Inc. Wherever InterMedia Solutions or IMS are named, the legal and business contract partner referred to is IMS-InterMedia Solutions Inc., hereafter called "IMS".
- 1.2. Validity: All business relationships between "IMS" and the contractor (i.e. orderer/customer) are subject to the following terms of use, in their form at the time of contract begin.
- 1.3. Exclusive applicability: All deliveries, work and services shall be based on our General Terms of Delivery and Payment. We shall not recognise differing agreements, in particular contradictory terms of business of the Orderer, even if we have not expressly objected to them. Differing Agreements shall require our express consent.
- 1.4. Acceptance: Other terms of the contractor will not be recognised by "IMS" unless expressly agreed to by "IMS" in written form.
- 1.5. Software license conditions: The acquisition/use of software underlies supplemental conditions. Please see the [software licence agreement](#).

2. Preliminary Remarks

- 2.1. Offer: Your order constitutes an offer to us to conclude a purchase contract.
- 2.2. E-Shop: In the case of electronic orders, you will receive an automatically generated e-mail confirming receipt of your order and listing the details. This e-mail merely confirms the receipt of your order and does not imply acceptance thereof.
- 2.3. Contract: The contract only becomes binding when the order is expressly accepted, through a confirmation of the order and/or the shipment of software/download information. In the case of service provision, the contract becomes binding with the provision of the service and/or the supply of download information.
- 2.4. Date of Delivery: Other terms of the contractor will not be recognised by "IMS" unless expressly agreed to by "IMS" in written form.
- 2.5. Delivery/Component Changes: Resulting from a background of continuous development of the products and services, "IMS" reserves the right to change contractual products and services at any time, providing that an equal functionality and service is guaranteed. Fundamental changes will be performed in agreement with the customer.

3. Updates and Support Conditions

- 3.1. Service: As part of this agreement, you will receive, free of charge, service packs and updates for the software modules which you have purchased. Furthermore, you can receive free support from our helpdesk.
- 3.2. Duration: The duration begins at the respective billing date, and ends after one year.
- 3.3. Shipping: The Orderer can receive their updates and service packs through the customer portal. The Orderer receives information about updates etc. in an e-mail sent to the address given to us for this purpose. The e-mail particulars (address, content etc.) are the responsibility of the contractor. Should you not hear from us for a period of six months, please contact us.
- 3.4. Support Entitlement: Only one (1) user per customer/account is entitled to use our free support. The unlimited software version entitles three (3) users per customer/account to free support. The names of those entitled to free support can change every 12 months and will be supplied by the contractor at the time of order. Should no persons be named, the name/names of the first/first three person/persons receiving free support will be noted and given the entitlement to future free support.

4. Prices, Payment and Shipping Conditions

- 4.1. Prices: The prices stated in the sales order confirmation shall apply to all deliveries. The value-added tax (VAT) rate valid on the date of delivery shall be charged additionally.
- 4.2. Due: Payments will fall due according to the conditions agreed to in the offer/order. Should there be no previous arrangement, services and shipments are payable at the time of billing. Deductions are not possible.
- 4.3. Shipping: Shipment follows, unless otherwise agreed upon, only after payment. Should payment be four weeks overdue, the order will be automatically cancelled.

- 4.4. Payment: The Orderer may not withhold payment, unless specifically allowed to do so in the pertaining contract. Compensation is only possible for claims which are unchallenged or have been legally confirmed.
Method of payment: The details regarding method of payment will be stored in the customer's data. Should further payments arise from new orders or monthly debits, these will be carried out according to this information.
Accounts receivable through direct debit: The authority for direct debit refers to all future debts of "IMS" toward the customer. Should the authorized and warranted withdrawal of sums accountable not take place due to false declarations, unauthorized revocation or lack of funds, the customer shall pay a processing fee of \$ 25,- plus value-added tax (VAT). The authorization to withdraw funds per direct debit can only be revoked in writing.
- 4.5. Shipping Costs: The Orderer shall bear all shipping costs. The respective shipping costs can be found in the order information.
- 4.6. Delivery through download: The delivery can take place through the supply of a download link. In this case the customer receives login data, which allows the access to the download link. The download will be available for 30 days.

5. **Retention of title**

- 5.1. Retention of Title: We shall retain ownership of the goods or services delivered until all current or future claims resulting from the business relationship with the Orderer are met in full.
- 5.2. Resale: The Orderer shall be entitled, at any time, to resell the items delivered, revocably, within the framework of regular business. The Orderer hereby, at this early point, assigns claims resulting from resale, amounting to the invoice value of the goods or services sold subject to retention of title, to us, together with all subsidiary rights and rights to establish, alter or terminate the legal relationship. We hereby accept this assignment of rights at this early point. The Orderer shall be entitled to and obliged to collect the assigned claims until we revoke this authorisation.

6. **Guarantee/ Liability/ Repair**

- 6.1. Guarantee: We ensure that the delivered articles are free of errors after the respective state of the art. The legal guarantee period amounts to 24 months for all products supplied by us. A liability for normal abrasion is excluded. The length of warranty for used products is 12 months from delivery date. This applies especially for an operation of the objects with wrong current or voltage as well as connection to unsuitable power sources.
- 6.2. We don't take over any guarantee for damage or lack which results from incorrect or careless treatment or inappropriate use, non-observance of the application notes. This applies especially for an operation of the objects with wrong current or voltage as well as connection to unsuitable power sources. The same applies for damages and defects, which can be explained with fire, lightning ,explosion or net dependent overvoltages, humidity of any origin, wrong or lacking program-software and/or processing data, except the customer proves, that these conditions are not causal for the criticized defects.
- 6.3. The guarantee expires, if the customer makes interferences or repairs or has these made through persons not authorized by us. Likewise any guarantee expires if the customer makes interferences or repairs or has these made through persons not authorized by us.
- 6.4. "IMS"´s total liability for imputably failing to perform the Agreement shall be limited to compensating direct damage, up to at most the amount of the price (exclusive of VAT) stipulated for that agreement. If the agreement is primarily a continuing performance agreement with a term exceeding one year, the price stipulated for the agreement shall be set at the total of the fees (exclusive of VAT)stipulated for one year.
- 6.5. In case of a replacement within the scope of the guarantee no new guarantee terms and warranty terms come into force.
- 6.6. Liability: The Buyer shall have no claim to compensation in damages. Consequently, we cannot be held liable for damage or loss not incurred on the delivery item itself. In particular, we cannot be held liable for loss of profit or other economic loss on the part of the Customer. The disclaimer of liability shall not apply in the case of intent or gross negligence, to claims resulting from a warranty, to claims pursuant to §§ 1, 4 of

the German Producer Liability Act or to slight negligence in relation to violation of essential contractual obligations. In the case of slightly negligent violation of essential contractual obligations however, liability shall be restricted to compensation for typical damage or loss foreseeable on conclusion of the contract. The same shall apply to grossly negligent action on the part of simple vicarious agents. Inasmuch as we are excluded from liability or our liability is restricted, this shall also apply to personal liability on the part of our employees, workforce, staff, agents and vicarious agents.

7. User - right of withdrawal

- 7.1. Definition user: According to section 13 BGB (German Civil Code) the consumer / user is defined as every natural person entering into a legal transaction for a purpose attributed neither to a commercial nor a self-employed occupational activity.
- 7.2. Valid only for consumer: The right of withdrawal is only valid for consumer of the European union.
- 7.3. Time Limits: Orderers can revoke their contractual agreement without reason within two weeks. This must be declared in written form (e.g. letter, e-mail), or implied through the return of the goods. The time limit begins with the delivery of the goods and not with the receiving of this information. The taking advantage of the cancellation period requires the timely dispatch of the cancellation notice and/or the return of the goods.
- 7.4. Adress: The notice of revocation must be sent to:
IMS-InterMedia Solutions Inc., 1770 Royal Palm Square Blvd., Fort Myers, FL 33931
or online at service@intermedia-solutions.net
- 7.5. Return of Goods: Goods should be returned to the following address:
IMS-InterMedia Solutions Inc., 1770 Royal Palm Square Blvd., Fort Myers, FL 33931
- 7.6. Consequences of revocation: In case of a valid revocation, all mutually received performances as well as emoluments taken (e.g. interest), if applicable, are to be restituted by either side. If you are unable or partially unable to retribute the merchandise to us or can only retribute it in a deteriorated condition, then you have to insofar compensate for its value where applicable. This does not apply if the deterioration is exclusively due to examining the merchandise – as for instance in a retail store – or putting the merchandise to its intended use. In addition, you can avoid indemnification if you have not used the product as an owner and have avoided anything that could affect the value of the product.
- 7.7. Cost of return shipment: The orderer is obliged to bear the costs of the return shipment, if the merchandise delivered corresponds to the merchandise ordered, and if the price of the merchandise to be sent back does not exceed an amount of forty euros or if, where the price is higher, you have at the date of the revocation not yet rendered consideration or given a part payment. In all other cases, the return shipment for you is free of charge. All reimbursement obligations must be fulfilled within 30 days of the declaration of revocation.
- 7.8. Exclusion of right of withdrawal: Revocation is ruled out in the case of deliveries of software and services, via the internet, for example through download or e-mail, as well as software, CDs, DVDs, CD-ROMs and videos, which were unsealed by the customer. Furthermore the revocation is ruled out in the case of special order for the customer and in the case of custom products according to customer specifications. Return or revocation of services is not possible, as soon as the service has begun.

8. Non-availability

- 8.1. Non-availability: We reserve the right not to fulfill an order when the goods or services are sold out, out of stock or no longer available. In this case we shall inform the orderer of this non-availability within a period of ten days.

9. Special conditions for workshops, seminars and training

- 9.1. Services: In the prices for workshops, seminars and trainings, following services are included: Supply of needed hardware, software, rooms for the duration of the workshops / seminars / training, realisation of the workshops, seminars and trainings according to the workshop-, seminar- and training description, documents and beverages during breaks.
- 9.2. Registration: We ask for a written application via e-mail, fax, post. After we have received a notification, the customer receives a confirmation via e-mail. Due to the

limited number of participants, we consider the registrations in the order of their arrival. The registrations in conjunction with the written confirmation through the InterMedia Solution is binding.

- 9.3. Terms of payment: The Workshop fee will be invoiced immediately after registration and is due to be paid without deduction, immediately on receipt of invoice. All prices are subject to value added tax. A temporarily participation in workshops, seminars and trainings does not entitle a reductions of fees. We reserve the right to alteration in prices.
- 9.4. Cancellation of participants: If a cancellation is made through the participant (also without one's fault) 10 working days before the workshop-, seminar- or training date, than a service charge of \$ 50,. plus VAT is charged for the cancellation.
- 9.5. Cancellation through the organizer: If a cancellation is made through the "IMS", than the total fee will be refunded. Claims over and aboved that are excluded. If the event is cancelled due to sickness of the speaker, an act of god or other unpredictable incidence, no claim exists for realisation of the event. The "IMS" can not be obliged to replace travel - and expenses for overnight accommodation, as well as loss of working hours. Liability for indirect damages, especially loss of revenue as well as claims of third parties is impossible.

10. **Special conditions for workshops, seminars and training**

- 10.1. Provided services: "IMS" agrees to provide the Orderer with streaming services and the use of software solutions, as well as other additional services as described in the conditions for, and for the duration of, the streaming services contract. The Orderer carries the responsibility for the connection to this communications network. In as much as "IMS" provides free services and provisions, can these be discontinued or made accountable at any time subject to prior notice. The Orderer has no right to claim for damages, refund or rebate resulting from such changes. The Orderer agrees that the IP address of his (server) account may change during the duration of the contract.
- 10.2. Liability: "IMS" accepts liability for claims resulting from the contract and other agreements in so far as these claims fall under the following specifications:
 - a. In full for intentional damage to health and/or life and limb. In full within the conditions of the product liability laws.
 - b. In full for damage through the gross negligence of a company representative, employee or hired help.
 - c. In the case of the customer being an entrepreneur, a public servant in the eyes of the law or representing public assets, "IMS" is liable, for damage caused by an employee's gross negligence, only for typical damages which could be foreseen at the time of signing the contract. In this case the liability is limited to the contractually agreed sum already paid by the contract partner in the two years preceding the damaging event. Liability for gross negligence against consumers is not affected.
 - d. By damage due to a simple negligent violation of a contractually agreed upon obligation, foreseeable at the beginning of the contract.
 - e. In case of simple negligence, the liability is limited to the contracually agreed sum paid by the customer in the two years prior to the damaging event. Liability will not be accepted for damage caused by indirect negligence.
- 10.3. Compensation claims: Except in the case of gross negligence resulting in danger to health and/or life and limb, all rights to claims for compensation lapse after the period of one year after the knowledge of the damaging event. This is not applicable to claims arising out of enforcement of paragraph 44 of the German telecommunications law. In this case, according to paragraph 8 of the telecommunications laws for the protection of consumer rights, these claims lapse after a period of three years.
- 10.4. Customer obligations: The customer is obliged to keep the password, which he was given by "IMS" to facilitate entry, absolutely secret. He must immedialtely inform "IMS" as soon as it comes to his knowledge that an unauthorised person possesses the password. If, through the fault of the customer, a third party uses the password to unlawfully take advantage of "IMS" services, the customer will be held liable for resulting costs and violation of rights of use. The customer is herewith notified that he has the responsibility to save his data inventory after each working day on which the data inventory has been altered by himself or a person appointed to do so. In particular the customer must save his data inventory before any work carried out by "IMS" or the installation of software or hardware which he has had delivered.

- 10.5 Content: The customer is held responsible that the data and/or media files which he stores on "IMS" servers violates neither legal regulations nor the rights of third parties. The customer is reminded that, especially in the case of international domains, laws of other countries may differ.
- a. The customer commits himself that no media data, or inhalt thereof, which he makes publically available contains extremist content (especially right-wing extremism) or other content of pornographic or commercial erotic nature. This also applies to such content which the customer makes available by way of hyperlinks or other methods of data retrieval which he includes in the web pages of third parties.
- 10.6 Rights of use: The Orderer has the right to use the agreed upon hosting and/or software services as well as the update and support services, as described in Section 7, for the duration of the agreement. The rights of use are expressly only for the duration of the agreement and only for the Orderer. Usage is limited to the Orderer only, the usage by/through third parties (except for demonstration or testing purposes) is strictly prohibited. Furthermore, the Orderer is not allowed to sell or rent-out the software and/or services with which he has been provided. At the end of the agreement the software must be uninstalled and its use ended. This must be confirmed in writing. It is prohibited to use the software after the end of the agreement. The account payable as described in the agreement remains in force until a written confirmation of software uninstallation and/or cessation of use of services is received. A software delivery can also take the form of a provision of a download link.
- Billing of additional costs: If, during a calendar month, the amount of traffic or storage volume exceeds that which has been stated in the service package, then this over-usage will be billed as follows unless no other agreements have been made. The customer can change to a larger streaming package in the following month (upgrade) - or purchase additional storage packages.
- Additional traffic: additional traffic is billed with 1,49 \$ for On-Demand streaming, or 2,49 \$ for Live streaming per GB in packages of 100 GB.
- Additional storage space: Additional storage requirements are billed with 2,50 \$ per GB, in packages of 25 GB.
- Demo/test package: If, in the case of a free of charge Demo/test Package, the "free traffic" or "free storage" limits are exceeded, then the customer shall cover the extra costs as described above.
- "IMS" reserves the right to reduce or stop the provision of services should the amount of extra traffic and/or storage exceed 100%.
- 10.8 Billing - Invoicing: Payment for "IMS" services is due monthly in advance. The date due is the date of the invoice. Also known as date of service. Billing is at the beginning of the month. Only the first invoice will be dated according to the actual beginning of the service. Calculated on the number of days in the month before the start of service provision (1 month = 30 days). Billing takes the form of a PDF sent by e-mail. All services are provided on a monthly basis starting with the date of service. Service provision begins only after the receipt of the prepayment.
- 10.9 Date of begin: You can suggest a date on which the service should begin. If you have no particular starting date, then your account will be set up at once and will be available to you within 1-2 working days. If the start date is in a current month, than the due fee will be invoiced proportionate.
- 10.10 Duration/Cancellation: The duration of the agreement is open-ended but is at least the agreed minimum duration. The period of notice is fundamentally three months from the end of a month or, in the case of an agreement with a duration of only one month, one month. "IMS" reserves the right to cancellation without notice (e.g. by non-payment). At the end of an agreement all customer accounts and hosting services will be nullified and all data and files will be deleted. The customer is responsible at all times for a back-up of his data.

11. Provision of services: Support and trainings

- 11.1. Engagements: Services can take the form of a general agreement or be assigned as a separate project. The beginning of the activity and the start of the accountable period is the date of the engagement, should no other date have been agreed upon.
- 11.2. Payment: Services will be invoiced according to the time taken up and to the conditions of the respective price lists, or an individual quotation. In lieu of other agreed upon stipulations, the duration of the services provided will be timed to the minute and billed on an hourly basis and/or parts thereof. The resulting amount will

be payable directly at the end of the service period, or part of the service period, or at the latest at the end of the month. All provided services will be documented and accumulated for the relative time period. Parts of an hour will be rounded up to the next quarter hour. Daily rates are based on an 8 hour working day. The time for which payment is to be made not only includes the duration of the service provision but also the time spent on taking part in conferences/meetings, consultations, pre and post production, documenting the provided services and travel time.

- 11.3. Expenses: Expenses incurred during the provision of services such as postal charges, telecommunication costs, travelling, overnight stays and catering are to be paid for or recompensed in full by the Client/Orderer/Customer. Travelling costs accrued through the use of our own vehicles will be billed at a rate of \$ 0,50 per driven kilometer.
- 11.4. Contact person - Approval: The client shall name a project manager who has the authority to issue instructions and make complaints with regards to the services provided. Services made use of are understood to be free of fault or deficiency. Should the services be faulty or deficient, "IMS" is only liable to make amends within an acceptable period of time. Should the faults or deficiencies not be rectified, i.e. this is not possible or is not acceptable to the Client, or if "IMS" refuses or delays without due cause, then the Client has the right to demand a reduction in the accounts due to be paid. "IMS" has the responsibility to provide the services on-time and in an orderly manner. "IMS" is not liable or responsible for any commercial success or otherwise which the client hoped to achieve as a result of the services provided. Further, the conditions described above in Section 10, Paragraph 2 are applicable.
- 11.5. Qualified service personnel: "IMS" will decide which employee, freelancer or contractor is to be charged with the execution of the provided services. In whichever case, the person or persons shall have the necessary qualifications and will be subject to recurring scrutiny by "IMS".

12. Data privacy, Right to include a notification

- 12.0 Storage: The storage and use of customer data by "IMS" takes place under the strict observance of the Federal Laws for the Protection of Data. This also applies to any neutral service providers who are engaged by "IMS" and companies with business relations with "IMS". The stored customer data takes the form of name and home or business address.
- 12.1 Change of Address: The customer agrees that the Post has the authority to inform "IMS" of the new address, should a mail delivery at the old address not have been possible, as described in Federal Law, § 4 of the Postal Service Data Privacy Regulations.
- 12.2 Reference: The customer gives "IMS" the right, to name the services performed for him or for a third party as reference and to use it as self-advertisement.
- 12.3 Right to include a notification: "IMS" has the right to include or require to include a notification in the form of a hyperlink on all web content created or designed by "IMS" e.g. HTML code and websites or parts thereof, Media Portals, Video Player, etc.. The form, URL link and the position of this notification is to be determined by "IMS", taking into consideration justified interests of the customer.

13. Closing remarks

- 13.1 Applicable law: State of Florida law applies.
- 13.2 Court of jurisdiction: Place of performance and court of jurisdiction for traders is Fort Myers, Florida.

IMS-InterMedia Solutions Inc.
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Fort Myers, FL 33931