



TERMS AND CONDITIONS



Article I. General

This agreement establishes the rights and obligations of each of the parties.

By purchasing or using any product or service from Imagilys SPRL (“Imagilys”), the customer (hereinafter referred to as the “Customer”) confirms their agreement with these terms and conditions.

Imagilys shall provide no other warranty nor bear any liability other than those specified herein.

Any legal provision or stipulation made between the parties or by third parties that result in more favorable conditions for Imagilys shall apply.

Finally, these provisions shall not prejudice the conditions of use that apply to the software licenses as provided for herein or that are to be provided for in other instruments. In any event, the provisions most favorable for Imagilys shall apply.

Imagilys reserves the right to modify the present terms and conditions at any time.

These terms and conditions supersede the purchasing terms and conditions from the customer and any other agreement.

Article II. Prices

A detailed offer shall be provided for any products sold or services provided.

Unless otherwise stipulated, the prices shall be quoted exclusive of VAT and import taxes, if applicable, and shall not be modified or subject to compensation.

Article III. Purchase Orders

The order form or the accepted offer contains the variable items of the contract, namely:

- Names of the products and service ordered
- Quantity
- Price, without and with taxes, if applicable
- Special requirements, if any
- Expected delivery date
- VAT ID, if applicable.



Article IV. Payment Conditions

Unless otherwise expressly stipulated or already established between the parties as a result of prior agreements, the payment of the price and all other amounts due to Imagilys by the Customer shall be made within 30 days of the invoice date.

Unless otherwise stipulated, the amounts due shall be transferred by wire transfer to the bank account of Imagilys, and the Customer shall be deemed to have fulfilled their obligation to pay when the sums have been credited to the aforementioned account.

Unless expressly agreed otherwise, a down payment of thirty percent (30%) of the value of the order shall be payable at the time of placing the order. It shall be credited to the bank account of Imagilys within 10 days of the purchase order date.

Article V. Interest on late payments

In the event that one of the parties fails to pay the amount that is owed at the due date, interest shall, automatically and without any further notification, accrue for the benefit of the other party from that date until the date on which the payment is actually received.

Unless otherwise stipulated, the interest rate shall be equal to that provided for in Article 5 of the Belgian law of August 2, 2002, namely 8% per annum.

Article VI. Contractual date of delivery

Delivery shall be made to the Customer's site on the date mutually agreed.

The Customer shall be entitled to rescind the sale of those products and services not delivered within three months of the agreed date after having sent Imagilys a formal notice ordering it to deliver within 30 days.



Article VII. Guaranteed Obligations

The only contractual obligations for which Imagilys shall be liable, as subscribed to by means of this agreement or any subsequent amendments, according to the conditions stated hereinafter, are exclusively specified as follows:

- a) Sale of a medical imaging software;
- b) Sale of brain stimulation hardware, the manufacturer's warranty and liability alone being provided in this case;
- c) Performance of a service in medical imaging.

No warranty shall be provided on any other product or service, even if stipulated or performed.

Imagilys' warranty assumes normal operation in the technical environment existing on the date of the contract.

The warranty assumes that the conditions of use as defined at the time of the system installation or testing will remain completely unchanged.

The warranty assumes the acceptance of a margin of error for which Imagilys cannot be held liable, given the known limitations of each technique.

Imagilys supplies tools but provides no guarantee regarding the accuracy of the diagnosis or therapy indicated.

The interpretation of the data that are produced by the tools is not guaranteed in any case and is the sole responsibility of the user or their radiologists and clinicians.

The warranty shall not extend to operating errors. The Customer commits to reading and respecting the user manual and instructions for use of each product, especially those provisions pertaining to safety.

Imagilys does not provide a guarantee against risks that are undetectable by tests conforming to reasonable practice.



Article VIII. Limitation of Liability

Imagilys' liability with respect to the obligations referred to in article 7 hereinabove is determined as follows:

Imagilys shall only be liable for the customer's own damages.

Indirect or repercussive damages are excluded.

Similarly, third-party damages (patient, subrogated institution, dependent, tool operator) are also excluded, even in the form of a warranty claim by the Customer.

In any event, the total of all claims against Imagilys' warranty shall not exceed the value of the contract price or the maximum limit of Imagilys' professional liability insurance, if higher, on the condition that the said claims are covered by the insurance policy.

These limitations shall apply in the event of a fault committed by an organ or an employee of Imagilys' organization, and all legal and regulatory provisions benefiting the organs or employees shall also be extended to Imagilys.

Prior or subsequent limitations of liability as stipulated by the parties or by a third party shall also benefit Imagilys.

Manufacturers' warranties or the limitations of warranty of the manufacturers or suppliers of the installed equipment shall thus be extended to Imagilys if they are more favorable.

Similarly, if the customer relieves itself of its liability towards the recipient of its own products and services, the said limitation of liability shall also be extended to Imagilys.

The above provisions shall not apply in the event of fraud on the part of Imagilys but shall continue to apply to its employees.

Gross negligence is not considered as fraud for the application of this provision.

Imagilys disclaims all responsibility once the subscription plan or the maintenance contract has expired and has not been renewed.



Article IX. Warranty Claims

This contract shall be exclusively governed by Belgian law and international treaties relative to the object of the contract.

On pain of nullity, all warranty claims shall be made by registered letter and by email (together with a transmission report), containing an accurate description of the alleged contractual violation and its consequences as well as the amount of the claim.

Any warranty claim made more than three months after the damage became known or six months after the fault was committed shall be time-barred.

Article X. Customer Declaration

The Customer accepts that it is informed of and proficient in the use of the software and equipment provided.

It accepts that it has been adequately informed and is capable of determining for itself the suitability of the functionalities of the software and equipment provided to meet its requirements.

The user accepts that it has been adequately informed concerning the nature of the data generated and their possible exportability to other software or hardware environments. In particular, Imagilys does not guarantee the exportability of the generated data to treatment planning systems.

The Customer accepts that, when products or features are labeled “For testing purposes only”, “For research purposes only”, or “For investigational use only”, their use is limited to non-clinical purposes only.

The Customer accepts that it has been informed of the requirement to regularly produce backup copies of its software applications, of its system and data.



Article XI. Software License

The software license gives the Customer a non-exclusive, non-transferable right to use the software program within its institution. The number of setups is, unless otherwise stipulated, limited to one.

The duration of the license is limited to the duration of the subscription. The subscription is contracted for a period of 1 year from the effective date of the agreement. At the end of each subscription term, the subscription is automatically extended for successive renewal periods of the same duration, at the same price, unless the Customer cancels the subscription at least 3 months prior to the end of its term, by sending a registered mail to Imagilys. In case of the cancellation of the subscription, the software license expires. In no case shall the subscription fees that have already been paid to Imagilys be reimbursed.

The purchase of a time-unlimited license of the software program is only available in some countries, and under specific conditions as defined by Imagilys. In this case, the license is granted for a time-unlimited duration.

The use of BrainMagix is limited to clinical purposes, if and as permitted by the local laws, academic non-commercial research, and training purposes. The Customer is not allowed to use BrainMagix in the framework of clinical trials, to sell derived services to other organizations, or to perform commercial research without the prior written consent of Imagilys.

The Customer shall have no intellectual property rights over any software that may be licensed to them. Imagilys shall remain the sole owner of all the intellectual and industrial property rights relating to its products.

The Customer may not reverse engineer, decompile, disassemble, translate, or create any derivative work of the software program (or any part thereof).

Article XII. Trial and Free Software Versions

Imagilys distributes certain trial versions or free software programs. These software programs are provided as is, with no guarantee. Imagilys disclaims all responsibility regarding the download and use of these software programs. Use of these software programs is limited to experimental, non-clinical purposes only, and is prohibited in the US and Canada. The publication of results collected with a trial version of BrainMagix is not permitted without the prior written consent of Imagilys. The publication of results collected with BrainMagix SPM Viewer is permitted.



Article XIII. Lifetime, Duration of the Warranty and Maintenance Contract

For purchased products, unless specified otherwise, the maintenance contract and warranty are valid for one (1) year. The maintenance contract can be extended, in agreement with Imagilys, by paying a yearly fee. At the end of each period, the maintenance contract is automatically extended for a period of one year, at the same price, unless the Customer cancels the maintenance contract at least 3 months prior to the end of its term, by sending a registered mail to Imagilys. If interrupted by the Customer, the maintenance contract cannot be further renewed.

The maintenance contract includes:

- online support, including additional training;
- on-site support (limited to one session per year);
- updates and upgrades of purchased software modules;
- warranty on purchased software programs.

For the subscription plan, the maintenance contract is not applicable. The warranty is, in this case, limited to the duration of the subscription.

The lifetime of Imagilys' software programs, as medical devices, is defined as the longest of the following:

- one year after the purchase of the program;
- the expiration of the maintenance contract on the program;
- the termination of the subscription plan including the program.

The lifetime of the hardware components of Imagilys' medical devices is 3 years after the purchase of the device, even if there is an active maintenance contract.

If the Customer uses a device beyond its lifetime, they will use it at their own risk without any warranty that the device still meets the applicable regulatory requirements.

Article XIV. Software Update and Support

The subscription plan includes all updates, upgrades, and new modules of the software program. It includes online training and remote support. It includes on-site support, when necessary, and no more than once a year.



The maintenance contract for software includes updates of the purchased software modules and remote support. It does not include on-site visits, major upgrades, new modules, or new products that are developed by Imagilys.

Imagilys welcomes suggestions for enhancements and new feature requests from its customers. Excepted in case of bugs or nonconforming products, Imagilys has no obligation to implement such enhancements and new features.

If a software update is necessary, as part of a product recall or to comply with any regulatory obligation, the Customer shall allow Imagilys to perform the update, at no cost and within the time frame foreseen by said regulatory obligation. The update shall be performed by Imagilys via remote control of the workstation or screen sharing, with the assistance of a local computer scientist. If the remote setup is not allowed by the Customer, the Customer agrees to either cover the costs of an on-site software update or to uninstall the software program and renounce its use, in writing.

Article XV. Communication with the Customer and Vigilance

For each Customer, a Main Contact is mutually agreed upon. The Main Contact's name, email address, and phone number are stored in Imagilys' database of customers. The Main Contact acts as the main communication channel with Imagilys. They are responsible for:

- the proper use of the product within their institution;
- ensuring that all end-users have been properly trained;
- promptly reporting to Imagilys any bug, (potential) hazard, or adverse event related to its products;
- receiving, broadcasting to all (potentially) affected parties, and promptly acting upon any notification of a product recall, advisory notice, or field safety notice.

If the Main Contact is absent, the head of the department or, if not available, the institution shall act as their substitute.

If the Customer is not the end-user of the product, the Customer shall be responsible for the transmission and execution of regulatory requirements, throughout the supply chain, to the end-user.



Article XVI. Force Majeure

A party shall not be held liable for the failure to perform its obligations on condition that it can be established that:

- a) The non-performance is due to an impediment beyond its control,
- b) It could not reasonably be expected to foresee the said impediment and the effect on its ability to perform its obligations at the time of concluding the contract,
- c) It could not reasonably avoid or overcome the said impediment or at the very least its effects without major inconvenience for itself, seriously upsetting the equilibrium of the contract.

If the reasons for exemption continue to apply beyond a period of six months, each party shall be entitled to rescind the contract without indemnity.

Article XVII. Indemnification

The Customer agrees to and shall indemnify, hold harmless, and defend Imagilys from and against any and all charges, actions, and proceedings arising from any type of breach of contract allegations against the Customer and/or Imagilys related to the duties performed by Imagilys, or its subcontractors, except to the extent that the said claims, actions, or proceedings involve willful misconduct, violation of the law, gross negligence, or bad faith on the part of Imagilys.

Article XVIII. Confidentiality

Imagilys and the customer may exchange confidential information. Neither party will disclose the confidential information received from the other party to any third party or use it for its own benefit or for the benefit of any third party without the prior written consent of the disclosing party.

Article XIX. Election of Domicile

The parties elect the domicile at their respective registered head offices.



Article XX. Severability

If any term or provision or part thereof of these Terms & Conditions is declared invalid, illegal or unenforceable, the remainder of such term or provision shall be enforced to the fullest extent possible consistent with applicable law and the invalidity, illegality or unenforceability thereof will not affect the remaining terms or provisions of these Terms & Conditions.

Article XXI. Resolution of Disputes

In the event of a dispute, only the courts of Brussels will be competent, even if a third party is involved in the case.

If either party is required to retain the services of any attorney to enforce or otherwise litigate or defend any matter or claim arising out of or in connection with the agreement, then the prevailing party shall be entitled to recover from the other party, in addition to any other relief awarded or granted, its reasonable costs and expenses (including reasonable attorney fees) incurred in the proceeding.