



HIMA FRANCE SARL  
1 ALLEE LORENTZ  
PARC DE LA HAUTE MAISON  
77420 CHAMPS SUR MARNE

## GENERAL TERMS AND CONDITIONS OF SALES “CG vente HFR rev2”

### 1. General

These General Terms and Conditions of Sales aim to rule the contractual relations between the company HIMA FRANCE, hereinafter referred to as “the Company”, headquartered in 1 Allée de Lorentz, Parc de la Haute Maison, 77420 Champs sur Marne, with a share capital of 100.000,- Euros, registered in the Companies and Trade Register (Registre du Commerce et des Sociétés) of Meaux under the SIREN number 450 453 899, and its customers, hereinafter referred to as “the Customer”, as part of its professional activity.

### 2. Purpose and field of application

Accepting a quote or placing an order implies the full adherence of the Customer to these General Terms and Conditions of Sales, which prevail over any other document of the Customer, subject to the specific terms that would have been transmitted to him by any means, or that would result from a negotiation that both Parties approved.

### 3. Orders

*3.1. Placing orders:* Orders are definitive once they have been confirmed by signing a commercial offer made by the Company with the Customer’s legal representative or with any authorised person for this purpose. Any order directly expressed by the Customer will only be valid once the Company has made a commercial offer and once this offer has been signed by the Customer. The Company demands a minimum order value of 500 (five hundred) Euros, including shipping and packing costs.

*3.2. Commercial documents:* Prices and specific terms in catalogues, brochures, web sites and any other commercial medium issued by the Company, and the ones that have been verbally transmitted by the Company to the Customer are only indicative information and cannot be considered as commercial offers, however the manner they have been transmitted to the Customer. Only the offers that correspond to the previous description and signed by the Company’s management may be invoked against the Company.

*3.3. Offers validity:* The commercial offer is valid during 3 (three) months as from its signing date, except for specific terms mentioned in this offer.

*3.4. Modification:* the terms of the orders transmitted to the Company are irrevocable for the Customer, except in case of express written acceptance of the Company. In case of a change in the initial order, periods and negotiated terms will be extended according to the Company’s possibilities.

*3.5. Order refusal:* If the Customer places an order from the Company without having fulfilled his obligations related to his previous orders or in case of a change in the Customer’s situation, the Company reserves the right to refuse or to honour an order. In these cases, the Customer may not claim any compensation, whatever the reason.

### 4. Liability

The Company’s liability is limited to the lowest amount among the following sums: the order value or 5 million Euros. Whether in contract, in tort or otherwise at law, the Company is not liable for any special, indirect, incidental or consequential loss or damage, including loss of use of the work or any part thereof, loss of anticipated profits, loss of use of the Customer’s property, loss of contracts and loss of use of manpower resulting from these aforementioned loss and damage.

The aforementioned limitations of liability do not apply in cases of mandatory law such as product guarantee or in case of an important negligence or intentional fault.



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## 5. Transfer of risks and titles

Transfer of risks of the goods sold by the Company shall comply with INCOTERM 2010 EXW.

The Company remains the owner of the sold goods until their full payment, including principal and all related interests. In case of non-payment of the price on its due date, the Company shall take back the goods, shall have the right to cancel the sale, and shall retain the down-payments that would have been paid by the Customer in return for his use of the goods.

## 6. Delivery times

Goods delivery times or fulfilment of services times are indicative information and for reference only. They notably depend on the goods' availability, the organisation of order processing, the constraints of carriers, the intervention schedule, and the technical complexities that has been faced, etc. In case of long delivery delays exclusively due to the Company, penalties and default interests shall not exceed 2% (two per cent) of the order value excluding taxes per week of delay, within the limits of 10% (ten per cent) of the order value, excluding taxes, including compensations of any kinds.

## 7. Guarantee and Warranty

The Company warrants and accepts liability, within the aforementioned limitations, for the careful workmanship and proper characteristics and design of its products and services and for their compliance with the order and with the statutory regulations applicable (Article 1641 of the French Civil Code).

In the event of defective products, the Customer may require prompt remedy of such defects. Efforts to remedy defects shall be deemed to have failed after the second unsuccessful attempt. In the event of the Company failing to fulfil its warranty duties, the Parties will negotiate about the termination of the contract.

The warranty period shall end when the first of the following events occurs: 24 (twenty-four) months as from the goods delivery or 12 (twelve) months as from the order placing date.

Complaints about non-conforming delivered goods according to the ordered goods must be expressed by registered letter with acknowledgement of receipt or by hand-delivered letter against a receipt, within 8 (eight) days as from the delivery of the goods. No complaint shall be accepted after this deadline, whatever the negligence of the Company.

## 8. Services executions

*8.1. Obligations of the Company:* in order to execute the obligations and services negotiated between the Parties, the Company commits to using its most relevant human and technical resources to achieve the defined objectives. Hence, the Company only commits to a best endeavour obligation for its services executions.

*8.2. Obligations of the Customer:* Whatever the case, services can only be executed within the agreed period if the Customer has fulfilled all his obligations with regard to the Company. In addition to the price payment obligation as described hereinafter, the Customer commits to making every needed resource available to the Company to execute its order. The Customer must show particular caution in order to make sure that, if necessary, the content and the information transmitted to the Company as part of the execution of its services are copyright free or that he has acquired all necessary rights of use.

*8.3. False information:* The services execution implies the complete involvement of the Customer's collaborators. If incorrect information is transmitted by these collaborators, the Company shall not be responsible for veracity of data used as a basis for the accomplishment of the services.



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**8.4. Full or partial non-execution, additional costs:** If the settled mission according to a defined planning cannot be executed or is executed with additional costs relative to the Customer's oversight, owing to the Customer's unavailability or to his collaborators' non-involvement, the Company will have the right to apply a price increase corresponding to the additional costs generated by these oversights, or to invoke the breach of the contract without the Customer having the possibility to invoke any prejudice, after having informed the Party about the causes of non-fulfilment of the contract by recorded letter.

## **9. Tariffs and validity of prices**

**9.1. Prices and related expenses:** Prices are set according to tariffs in force, excluding taxes. The Customer is solely charged with any tax, levy, right or any other service to pay according to French law or to an importing or transfer country and with any amendment of these between the order date and the delivery or executing date. Fees and expenses invested by the Company are charged according to a flat fee set by both Parties or according to the costs proof presentation. The Customer is also charged with shipping costs, except in case of written approval of the Company. Prices are in Euros, reference currency used for the complete relationship between the Parties.

**9.2. Variability:** Goods are delivered and services are executed at the price set on the order placing date. Our prices can vary anytime according to supply conditions and to raw material costs used for the goods production. This also holds true for hosting services, domain name, and statistics: they can vary anytime according to the terms of purchase from which the Company benefits.

## **10. Invoicing and payment terms**

The Company will charge the Customer for any purchase of goods and services. The goods will be delivered upon completion of the sale, according to the article L. 441-3 of the French Commercial Code. The Parties agree that the sale shall be paid on due date as mentioned on the invoice, corresponding to the negotiated terms, not exceeding 30 (thirty) days as from the invoice is issued. No discount is granted to the Customer for payment in advance, except in case of a contrary clause stipulated on the invoice.

## **11. Late payment**

**11.1. Penalties:** Any sum not paid when owed will give rise to the following penalties without any formal notice to the Customer being necessary: 1% (one per cent) per month or per part of month of the sums owed to the Company. This penalty is increased by a 40 (forty) Euro legal compensation for recovery fees set by decree.

**11.2. Liquidated Damages:** Beyond a one-month delay and after an unsuccessful formal notice, the Customer will have to pay the following late payment penalties: 15% (fifteen per cent) of the initial amount of the order for damages.

**11.3. Consequences:** Whatever the origin and the economic, legal and financial situation of the Customer, any late payment automatically generates the immediate suspension of current orders and productions for the Customer. The Company cannot be responsible for any production or delivery delay that would result from this situation.



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## 12. Intellectual property

The Company shall remain the owner of intellectual property rights of standards goods.

The Customer can become exclusive licensee or owner of intellectual property rights related to the customised applications or to the products exclusively produced for him.

The Company guarantees that third parties will not endure any infringement of intellectual property rights.

In case of intellectual property rights infringement, the Company's obligations shall be limited to seek to obtain a license to allow the Customer to use the product for its intended purpose, or change it in accordance with the clauses of the contract, in such a manner that the product does not conflict with any third party's rights, at the Company's sole discretion and expense. The Company shall indemnify the Customer for damages subject to the liability clause of this contract.

## 13. Force majeure

The occurrence of a force majeure event suspends the executions of the Company's contractual obligations. Force majeure is defined as any event outside the control of the Company which prevent the performance of the normal producing or goods delivery process, including but not limited to, total or partial strikes hampering the Company's normal production or the one of its supplier, subcontractor or carrier, interruption in transport or in supply of energy, raw materials or spare parts.

In such circumstances, the Company shall warn the Customer in writing or in any appropriate form as soon as possible. Consecutively to this suspension of the contract, the Customer shall not be entitled to compensation of any kind whatsoever, nor shall he have the right to cancel the order.

## 14. Suspension and termination of the contract

*14.1. Suspension and termination of the contract by the Company:* In cases hereinafter described, suspension or termination of the contract by the Company shall occur without delay and shall not give rise to any compensation. Within 8 (eight) days as from suspension or termination of the contract unilaterally decided by the Company, it has to inform the Customer by recorded letter about its decision and about its motives.

*14.2. Termination agreed by both parties :* In case of successive services executions for which the Parties agreed on a minimal commitment period, each Party have the possibility to terminate the contract on its negotiated renewal date, by informing the other Party by recorded letter 3 (three) months before the end of the contract. In this situation, the termination should not be amended and should not give rise to any compensation.

*14.3. Termination by the Customer:* Except in case of force a majeure event making the services execution impossible, or in case of the termination of the contract as mentioned in the previous paragraph, the Customer's decision to cancel the offer that he previously accepted shall give rise to the following compensations.

*14.4. Termination compensations:* whatever the origin, termination of the contract shall entail the immediate payment of the balance due to the Company and of a 50% (fifty per cent) indemnity for remaining services that should have been executed.

## 15. Applicable law and settlement of disputes

All disputes which arise in connection with the sales of the Company or with the interpretation of these General Terms and Conditions of Sales will be exclusively settled by the jurisdiction where the Company is headquartered. The contractual relationship between the Company and the Customer is subject exclusively to French law.



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## 16. Partial invalidity and severance

If any provision of these General Terms and Conditions of Sale is held to be invalid or unenforceable, it shall be deemed to be severed from these General Terms and Conditions of Sales and shall be of no force and effect and shall not affect the validity and enforcement of the remaining provisions of these General Terms and Conditions of Sales.

## 17. Embargo

In accordance with European law, official authorizations are mandatory for exports in case of the following uses of the Company's goods:

- chemical, biological, nuclear weapons, or any other weapon such as missile or explosives;  
or
- in nuclear power plants, if the purchasing country or the country of destination is listed as a prohibited country:  
Algeria, India, Iran, Iraq, Israel, Jordan, Libya, Democratic People's Republic of Korea (North Korea), Pakistan, Syria.
- for classical military uses in embargoed countries ; or
- for classical military uses if the purchasing country or the country of destination listed as a prohibited country :  
Iran, Cuba, Lebanon, Mozambique, Democratic People's Republic of Korea (North Korea), Pakistan, Syria.

The Company reserves the right to cancel its offer if the exports should be prohibited according to the aforementioned laws, without any compensation. As such, the Customer commits to informing the Company about the use of equipment, the kind of applications and implementations, and the name of the end customer.

Name, Surname and function of the Signatory:

Hervé Bodinier,  
Country Manager

Place, date: Champs sur marne, France  
April 7, 2016