

## ICPicture TERMS OF USE

### 1 GENERAL INFORMATION

#### 1.1

Christoph Miethke GmbH & Co. KG (in short: MIETHKE) aims to help medical experts to evaluate their measurement data with the support of the browser-based conversion software *ICPicture* in order to make research results visible in an even more flexible manner even more quickly.

#### 1.2

All information about us as a contracting party/service provider can be found at: <https://www.miethke.com/impressum/>

#### 1.3

The contract language is German. You can view, download, save and/or print out these Terms of Use at any time at: <https://icpicture.miethke.com/nutzungsbedingungen.html?readonly=true>. We may amend the Terms of Use at any time with effect for the future. We will inform you of any changes in good time before they enter into force.

#### 1.4

With *ICPicture*, data can be collected, compiled, displayed and evaluated (e.g. mean, amplitudes, histogram) for research purposes and archived in order to convert the data for commonly used evaluation software in the field of science.

#### 1.5

*ICPicture* is conversion software. It is not a medical device and must not be used to diagnose and treat patients. *ICPicture* may be used for research purposes only. Only medical experts who carry out research may use the software.

### 2 SUBJECT OF THE CONTRACT

#### 2.1

MIETHKE provides users with SaaS services via the internet in the form of conversion software, which is for research purposes only. In this regard, the SaaS service can be specifically defined as importing/exporting, collecting, compiling, displaying, analysing, archiving and converting measurement data.

#### 2.2

The subject of the contract is the provision of the conversion software called '*ICPicture*' (hereinafter referred to as the 'SOFTWARE'). *ICPicture* may be used for research purposes only. Only medical experts who carry out research may use the software.

### 3 PERMISSION TO USE THE SOFTWARE

#### 3.1

We provide users with the respective current version of the SOFTWARE via the internet in return for payment for data. Please see our data protection provisions to find out what data we collect (<https://icpicture.miethke.com/datenschutz.html>).

#### 3.2

The current version of the SOFTWARE is available online at <https://icpicture.miethke.com>. The users must register first and, during the registration process, they must provide their name, email address, institution and profession and choose a password. After their data has been reviewed, MIETHKE will inform them that their access has been activated. They can then log in at any time using their access data from their initial registration. Users can change their password at any time.

### 3.3

The functional scope of the SOFTWARE includes: Import functions, display functions, analysis functions, archive function and export functions.

### 3.4

We cannot guarantee that the SOFTWARE will work without any errors. An error is deemed to exist when the SOFTWARE does not perform the functions specified in the performance specification, provides incorrect results or does not work properly in any other way so that the use of the SOFTWARE is impossible or restricted.

### 3.5

In the event a user notices any errors, they can contact us at [icpicture@miethke.com](mailto:icpicture@miethke.com) or via the contact form at: <https://icpicture.miethke.com>. We endeavour to rectify any errors as quickly as possible where technically feasible.

### 3.6

MIETHKE continuously develops the SOFTWARE and improves it by performing updates and upgrades. However, users shall not have any entitlement to this. Please feel free to send us information regarding improvements via the contact form at: <https://icpicture.miethke.com>.

### 3.7

The service life of the SOFTWARE is not specified. However, MIETHKE has the right to withdraw the SOFTWARE at any time. Users will be informed of this promptly in order to allow them to protect their data via a backup.

## 4 RIGHTS OF USE TO THE SOFTWARE

### 4.1

We grant users the non-exclusive and non-transferable right to use the SOFTWARE as intended within the scope of the SaaS service.

### 4.2

Users may only edit the SOFTWARE if this is covered in the proper use of the SOFTWARE according to the performance specification/functional scope according to point 2 Subject of the contract and point 3 Permission to use the software.

### 4.3

Users may only duplicate the SOFTWARE if this is covered in the proper use of the SOFTWARE according to the performance specification/functional scope according to point 2 Subject of the contract and point 3 Permission to use the software. Necessary duplication includes loading the SOFTWARE in the working memory of our servers. However, it does not include installing or storing the SOFTWARE on data carriers (such as hard disks etc.) of the hardware used by the user, not even temporarily.

### 4.4

Furthermore, users are not permitted to make the SOFTWARE available to third parties for use free of charge or in exchange for payment. Users are expressly prohibited from subleasing the SOFTWARE.

## 5 SUPPORT

### 5.1

We provide users with support at [icpicture@miethke.com](mailto:icpicture@miethke.com) or via the contact form at: <https://icpicture.miethke.com>.

5.2

We will answer your enquiries during normal business hours.

**6 INTERRUPTION/IMPAIRMENT OF ACCESSIBILITY**

6.1

Since this is browser-based software, the accessibility of the SOFTWARE may be interrupted/impaired by the internet at any time.

6.2

Adjustments, changes and additions of the SaaS services that are the subject of the contract as well as measures used to determine and rectify malfunctions shall only lead to a temporary interruption or impairment of accessibility if this is absolutely necessary for technical reasons.

**7 YOUR DUTIES AS A USER**

7.1

As a user, you are obliged to prevent the unauthorised access of third parties to the protected areas of the SOFTWARE by taking suitable precautions. For this purpose, you shall ask your employees, where required, to observe the copyright.

7.2

You store your data locally on your hardware, therefore it is your duty to secure the data. We recommend performing regular back-ups using the export function.

7.3

You shall have sole responsibility for entering and maintaining the data and information necessary to use the SOFTWARE.

7.4

You as the user are also obliged to check your data and information for viruses or other harmful components before entering it and to use state-of-the-art virus protection programmes.

7.5

You are also obliged to keep your access data, including your password, secret and to prevent third parties from accessing them.

**8 LIABILITY, EXCLUSION OF GUARANTEES**

8.1

We cannot guarantee the operational capability, availability, continuation and further development of the SOFTWARE.

8.2

If our services are used by unauthorised third parties with your access data incl. password, you are liable for all damages incurred as a result within the scope of civil liability until we receive your request to change the access data/password or report the loss or theft if you are at fault for the access of the unauthorised third party.

8.3

We are entitled to immediately block access if there are reasonable grounds to suspect that the data being used is

unlawful and/or violates third-party rights. Reasonable grounds to suspect unlawfulness and/or a violation particularly exist if courts, authorities and/or other third parties notify us thereof. We will inform you about the blocking of your access and the reason therefor immediately by email. The block shall be lifted as soon as the suspicion is invalidated.

## 8.4

Claims for damages against us are excluded regardless of the legal reason unless we, our legal representatives or vicarious agents have acted with intent or gross negligence. We are only liable for slight negligence if we, our legal representatives or executives or vicarious agents have violated essential contractual obligations. We are only liable for foreseeable damages that can be typically expected. Essential contractual obligations are such obligations that form the basis of the contract, that are significant for entering into the contract and on the fulfilment of which the user may rely.

## 8.5

We are not liable for the loss of data to the extent that the damage was caused by the user not performing data back-ups, thereby ensuring that lost data can be restored with reasonable effort.

## 8.6

We are only fully liable for intentional or grossly negligent damages arising from injury to life, limb or health caused by MIETHKE, its legal representatives or vicarious agents insofar as the SOFTWARE has been used in accordance with the contract pursuant to point 2.2. Liability for any non-contractual usage of the SOFTWARE pursuant to point 2.2 shall be excluded.

## **9 TERM AND TERMINATION**

### 9.1

The parties enter into the contract on the use of the SOFTWARE for an unlimited period of time. The contractual relationship shall commence upon your login and registration and may be terminated by either party at any time giving 4 weeks' notice.

### 9.2

This shall not affect the right of every party to terminate the contract without notice for good cause. We are particularly entitled to terminate the contract without notice if we obtain knowledge that the user is not using the SOFTWARE for research purposes only or violates other provisions on the use of the SaaS services.

## **10 DATA PROTECTION/CONFIDENTIALITY**

Users are responsible for obtaining the necessary consent of your test subjects, patients and contracting parties according to the provisions of the German Data Protection Act. The protection of our users' data is very important to us. Information about this can be found at: <https://icpicture.miethke.com/datenschutz.html>.

## **11 MISCELLANEOUS**

### 11.1

No verbal ancillary agreements have been made. Changes, amendments and additions are only valid if they have been agreed in writing between the parties. This also applies to changing this written form clause.

### 11.2

German law applies to this contract to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

11.3

The exclusive place of jurisdiction for disputes resulting from this contract is Potsdam.

11.4

If a provision of this contract is or becomes invalid, this shall not affect the validity of the remaining provisions.

Potsdam, 17/12/2021