

General Terms and Conditions of Immergut GmbH & Co. KG

§ 1 Scope of application

- Our below General Terms and Conditions form the basis and are part of any obligations, legal transactions and legal acts (contract) in the context of the distribution of our in-house products and our contract filling services.
- They shall apply exclusively. Differing or contrary terms of the contractual counterpart shall not apply, except if expressly consented to by us in writing on an individual basis.
- Any terms subsequently presented by the contractual counterpart shall have no effect on the contractual relationship.
- Any agreements entered into with the contractual counterpart/customer on an individual basis (including any side agreements, amendments and additions) shall always prevail over these General Terms and Conditions. The content of any such agreement shall be laid down in a written contract and/or our written confirmation.
- Any legally binding declarations and notifications to be made towards us after conclusion of the contract (e.g., fixing of a time limit, reminder, declaration of withdrawal) shall require written form to be valid.
- References to the application of statutory law are made for clarification purposes only. Therefore, even in the absence of such clarification, statutory law shall apply, unless directly amended or expressly excluded by these General Terms and Conditions.

§ 2 Conclusion of contract, contract

- Our offers are noncommittal and subject to change. This shall also apply if we have provided - whether in electronic or other form - any technical documentation (e.g., calculations, recipes, cost estimates, references to DIN standards) or other product specifications or files the ownership and copyright of which is reserved by us.
- A contract into which our General Terms and Conditions are incorporated shall be validly entered into between us and the contractual counterpart only upon our declaration. Our acceptance shall only be valid if declared in writing or if we have performed a principal contractual service.
- Ordering or commissioning by the contractual counterpart shall constitute a binding contractual offer. Unless otherwise stipulated in the order, we may accept such contractual offer within 21 calendar days from its receipt by us.
- Rights based on changes in the circumstances on which the contract was based (§ 313 of German Civil Code) can only be claimed by the contractual counterpart if the relevant circumstances were notified to us in writing prior to conclusion of the contract. Mere recognisability shall not suffice.
- All termination rights of the contractual counterpart that are subject to the disposition of the parties shall be excluded. Any notice of termination shall be made in writing and addressed to our legal representatives. Other persons, even if involved in the execution or supervision of the contract, are neither authorised nor empowered by us to receive such notice of termination.
- We are entitled to withdraw from the contract if it turns out that the contractual counterpart is not credit-worthy, and our claims against the contractual counterpart are thereby endangered.
- If our expenditure is more than twenty percent higher than expected by our internal calculation, we shall have the right to refuse performance pursuant to § 275 (2) of the German Civil Code.

§ 3 Obligation to inform

The contractual counterpart shall have to inform us on:

- any of his rights, objects of legal protection and interests that are affected by the contract,
- any circumstances known or recognisable to him that, in the context of the contract, might create any rights against us; such circumstances shall be, without limitation, any relevant foreign trade provisions and other laws of the contractual counterpart's country or the country to which delivery is to be made,
- other subjective and objective circumstances occurring in his area of responsibility by which special legal protection is granted to him,
- any statements, including advertising messages, by us or third parties relied upon by him,
- any purpose of use affecting the limitation period for claims based on defects,
- any obligation existing between him and any third parties - particularly, consumers - that may result in recourse claims or other rights against us,
- his plans as to how to proceed further once he has set us a time limit for performance, or subsequent performance.

§ 4 Delivery time and default in delivery

- Delivery times shall be agreed individually and/or specified by us when accepting the order. Otherwise, the delivery time shall be about 4 weeks from acceptance of the order.
- Where we are not able to adhere to a binding delivery time, for reasons beyond our responsibility that occurred despite our reasonable care taken in accordance with the circumstances of the respective case - e.g., in case of force majeure, delay in delivery, or non-availability, of raw materials, strike and similar events - , including where such events occur at our suppliers, we shall inform the contractual counterpart thereof without delay and, at the same time, shall notify to him the expected new delivery time. If the performance to be provided is not available within the new delivery time either, we are entitled to withdraw from the contract in whole or in part; in such case, any performance already provided in return by the customer will be reimbursed by us without delay. In terms of the foregoing provision, non-availability of the performance shall be deemed to be given, particularly, where our supplier fails to deliver the respective supplies to us on time, provided that we have concluded a congruent hedging transaction, or that there is no fault on our, or our supplier's, part, or that we had no obligation to procure in the respective case.
- The time at which we shall be deemed in default shall be as provided for under the statutory provisions. Such default on our part, however, shall in any event require a reminder by the customer.

§ 5 Performance

- Drawings, pictures, recipes, numbers, measures, weights, particular ingredients, information as to product life, ways of use and other data describing the contractual items and their factual and legal characteristics shall not be binding unless such binding force has been expressly agreed in the contract. Any specific expectations or specific purposes of use shall expressly be agreed in the contract to be a binding description of the contractual items' nature and condition in terms of § 434 of the German Civil Code.
- We give no guarantees and assume no liability for any specific risks, except as otherwise expressly agreed in the contract.
- The place of performance shall be Schlüchtern.
- However, at the contractual counterpart's request and expense, the goods shall be sent to another place of delivery. Unless otherwise agreed, we shall be entitled to choose, at our own discretion, the method of shipping (and, notably, the carrier, the dispatch route and the packaging).
- The risk of accidental destruction or accidental deterioration of the goods shall pass to the contractual counterpart not later than upon handing over of the goods. However, if the goods are shipped according to subsection (4) hereinabove, the risk of accidental destruction or accidental deterioration of the goods, and the risk of delay, shall already pass upon delivery of the goods to the forwarding agent, carrier or any other person or entity appointed to carry out the shipment. If acceptance is agreed, such acceptance shall be authoritative for the passage of risk. Even in all other respects, the provisions of German law applicable to works and services [Werkvertragsrecht] shall apply accordingly to any acceptance agreed. Default of acceptance on the part of the customer shall be equivalent to the handing over or acceptance of the goods.
- If the customer is in default of acceptance, or fails to perform an act of cooperation, or if delivery by us is delayed for any other reasons attributable to the customer, we may claim compensation for any damage resulting thereof, including additional expenses (e.g., warehousing costs). In such case, we are entitled, starting from the time of delivery (or, in the absence thereof, from the time when the readiness for dispatch was notified), to charge a lump sum compensation in the amount of € 500.00 net per calendar day. The right to prove that the damage actually incurred was higher and our statutory claims (notably, compensation for additional expenses, reasonable indemnification, termination) shall remain unaffected; however, the said lump sum shall be offset against any further monetary claims. The customer is at liberty to prove that no damage whatsoever, or a damage significantly lower than the said lump sum, was incurred by us.
- To perform our contractual services, whether in whole or in part, we may engage third parties.

§ 6 Prices, terms of payment

- Our prices are subject to change and based on the circumstances in place at the time when the respective quotation is calculated. The prices are net prices (excluding any statutory value added tax that may be applicable). They shall include only such items of performance as are expressly specified, and shall exclude, in particular, the expenses, transport costs and taxes to be borne by the contractual counterpart.
- Upon conclusion of the contract, upon commencement of performance and upon partial accomplishment of performance, we may demand a payment on account of up to a total of 50% of the expected overall remuneration.
- If the quantity ordered by the contractual counterpart differs from the quantity initially provided for in the contract by more than 20%, the price of the quantity actually delivered (whether for whole or partial accomplishment of the contractual performance) shall be increased, if so requested. Such increase in price shall be roughly equivalent to the additional expense caused by the allocation of the respective costs (setup costs, production costs and overhead expenses) to a reduced quantity.
- Our payment claims shall be due and payable within 14 calendar days from invoicing and delivery and/or acceptance of the goods.
- Upon expiry of the said payment deadline, the customer shall be in default. During such default, interest at the statutory default interest rate shall be payable on the amount due to us. We reserve all rights to claim further damages for delay. Our right to claim regular interest payable from the due date (§ 353 of the German Commercial Code), if the contractual counterpart is a businessman, shall remain unaffected.
- The customer shall be entitled to offset or claim retainer rights only insofar as his counterclaim is assessed in a legally binding judgment or is undisputed. Any opposing rights the customer may have in case of non-conformity of the goods shall remain unaffected.

- If it becomes apparent, after conclusion of the contract, that our claim to remuneration is endangered through a lack of ability to perform on the part of the contractual counterpart (e.g., if an application for institution of insolvency proceedings is filed), we shall be entitled, according to the statutory provisions, to refuse performance and - after setting of a time limit, where required - to withdraw from the contract (§ 321 of the German Civil Code).

§ 7 Retention of title, non-disclosure

- We retain title to all goods and products manufactured and delivered by us until all our current and future claims from an ongoing business relationship (secured claims) are paid for in full.
- In case of breach of contract committed by the customer - particularly, in case of non-payment of the remuneration due - we shall be entitled, according to the statutory provisions, to withdraw from the contract and to demand, on the grounds of the retention of title and our withdrawal, that the goods be returned to us. If the customer fails to pay the remuneration due, we may claim the aforementioned rights only if we have set the customer a reasonable time limit for payment, and such deadline has elapsed without payment being made, or if the setting of such time limit is unnecessary under the statutory provisions.
- The customer shall inform us, without delay, in writing if and to what extent any goods belonging to us are accessed by third parties.
- Even in times where the customer has not yet acquired exclusive ownership of the goods and products that were manufactured and delivered, he shall be entitled to resell them in the course of ordinary business. Resale of the goods and products by the customer shall imply that the customer assigns, by way of security, his claims under such resale to Immergut, along with any ancillary rights associated therewith. Such assignment is hereby accepted by us. No further declarations are required in this regard. However, such assignment shall only be valid in the amount of the total outstanding balance.
- Even after the assignment, the customer shall remain authorized to collect the assigned claim. We shall not collect the claim as long as the customer does not fail to meet his current payment obligations towards us and is not in default of payment, and as long as no application for the institution of insolvency proceedings has been filed, and the customer's ability to perform is not impaired otherwise. However, if the above occurs, the customer shall, at our request, inform us on the claims assigned and the names of the debtors of these claims, provide any details required for collection of the claims, make available the related documents and notify the debtors (third parties) of the assignment.
- If the realizable value of the securities granted exceeds our claims by more than 10%, we shall release, at the request of the customer, securities to be selected at our discretion.

§ 8 Liability for deficiency in performance, liability for breach of accessory obligations, other liability

- Unless otherwise stipulated below, the customer's rights in case of any defects as to quality or title shall be governed by the statutory provisions. Where final delivery of the goods is made to a consumer, the special statutory provisions to that effect shall remain unaffected in all cases.
 - Our liability for defects shall, notably, be based on the agreed nature and condition of the goods and products. An agreement as to nature and condition shall be any product specification designated as such, provided such product specification was made available to the customer prior to his order, was agreed with the customer or, like these General Terms and Conditions, was included into the contract.
 - If no agreement as to nature and condition was made, assessment as to whether there is a defect shall be made based on the statutory regulations. We do not assume any liability for public statements (such as advertising messages) made by the customer or other/any third parties.
 - The customer may assert claims for defects only if he has duly fulfilled his statutory obligation to inspect the goods and to make a complaint in respect of a defect (§ 377, § 381 of the German Commercial Code). If a defect is found during such inspection or later, such defect shall be notified to us in writing without delay. Such notice shall be deemed given without delay if it is made within 7 calendar days; the timely dispatch of the notice shall be sufficient for adherence to the time limit. Irrespective of such obligation to inspect the goods and to make a complaint in respect of a defect, the customer shall notify, in writing, any apparent defect (including wrong or short delivery) within 3 calendar days from delivery; here again, the timely dispatch of the notice shall be sufficient for adherence to the time limit. If the customer fails to duly inspect the goods and/or make a complaint in respect of a defect, any liability on our part for such non-reported defect shall be excluded.
 - In case of a defect as to quality or title, we fulfil our warranty obligation by replacement delivery free of charge. Where even the replacement delivery is defective, the customer's right to demand, at his option, reduction in price or withdrawal from the respective contract that was affected by the defective performance is expressly reserved.
 - We may make any subsequent performance owed by us conditional upon the customer's payment of our due remuneration. However, the customer shall have the right to retain such part of the remuneration as is reasonable in relation to the defect.
 - The customer shall allow us the time and opportunity required for the subsequent performance owed, and, notably, hand over the goods claimed to be defective for inspection. In case of replacement delivery, the customer shall return the defective goods to us according to the statutory provisions.
 - The expenses necessary to carry out the inspection and subsequent performance - particularly, costs for transport, travel, materials or labour - shall be borne by us, provided that a defect actually exists. However, if the customer's request to remedy a defect turns out to be unjustified, we may demand that the customer reimburse us for any costs incurred thereby.
 - Claims of the customer for damages and/or wasted expenditure shall exist only as provided for in § 8 herein; otherwise, any such claims shall be excluded.
 - Any claims under the German Product Liability Act shall remain unaffected.
- ## § 9 Other liability
- Unless otherwise stipulated in these General Terms and Conditions (including the provisions following below), our liability for breach of contractual, or non-contractual, obligations shall be as provided for under the relevant statutory provisions.
 - We shall be liable for damages - based on whatever legal grounds - in case of intentional misconduct and gross negligence. In case of ordinary negligence, we shall only be liable
 - for damages resulting from injury to life, body or health,
 - for damages resulting from breach of a material contractual obligation (such obligation without the fulfilment of which due performance of the contract would not be possible, and upon the fulfilment of which the contractual counterpart usually, and justly, relies); however, in such case, our liability shall be limited, in terms of amount, to the production costs.
 - The restrictions on liability under subsection 2) shall not apply where a defect was maliciously concealed by us, or where we have given a guarantee as to the nature and condition of the goods. The same shall apply for any claims under the German Product Liability Act.
 - The customer shall have no withdrawal or termination rights for breach of obligation other than a defect, except where we are responsible for such breach of obligation. Any unrestricted right of termination (particularly as under §§ 651, 649 of the German Civil Code) of the customer shall be excluded. Otherwise, the requirements and legal consequences provided for under the law shall apply.

§ 10 Customer auditing

If, at the customer's request, any supplementary audits, auditings by an external institute or written auditings in the form of a list of questions (e.g., Halal certification, proof of ritual purity, organic certification etc.) are carried out, the customer shall bear any costs for external institutes and service providers incurred thereby. Additionally, a lump sum compensation in the amount of € 1,800.00 net per calendar day shall be payable to Immergut.

§ 11 Compliance with code of conduct

The customer is familiar with the compliance rules (code of conduct) of the Bauer group, to which Immergut is affiliated. In the context of his business relationship with Immergut, the customer will observe and comply with these rules.

§ 12 Limitation of time

- In derogation of the statutory provisions, the general limitation period for claims for defects as to quality or title shall be one year from delivery. Where acceptance is agreed, the limitation period starts to run from acceptance.
- The special statutory regulations regarding third party rights to demand surrender (§ 438 (1) No. 1 of German Civil Code), malicious intent on the part of the seller (§ 438 (3) of German Civil Code) and claims in recourse against suppliers in case of final delivery to a consumer (§ 479 of German Civil Code) shall remain unaffected.
- The aforesaid limitation periods shall also apply to any claims for damages, whether contractual or non-contractual, of the customer that are based on a defect of the goods, except where application of the regular statutory limitation period (§§ 195, 199 of German Civil Code), in the respective case, would result in a shorter limitation period. In any event, the limitation periods under the German Product Liability Act shall remain unaffected. Otherwise, to any claims of the customer for damages under § 8 herein, the statutory limitation periods shall apply exclusively.

§ 13 Choice of law and place of jurisdiction

- These General Terms and Conditions, as well as all legal relations between us and the customer/contractual counterpart, shall be governed by the law of the Federal Republic of Germany, excluding the provisions of international uniform law and, notably, those of the CISG. The requirements for, and consequences of, the retention of title under § 6 herein shall be subject to the law of the place where the respective object is situated, provided that, under such law, the choice of German law would be inadmissible or invalid.
- If the customer is a businessman in terms of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - national and international - place of jurisdiction for any disputes directly or indirectly arising from the contractual relationship shall be our registered office in Schlüchtern. However, we shall also have the right to take legal action at the general place of jurisdiction of the customer.

§ 14 Partial invalidity

Should any provision, or part of a provision, of these General Terms and Conditions be or become invalid, the validity of the remaining provisions and/or the remainder of the provision in question shall not be affected thereby.