

## General Supply and Payment Conditions - imeco GmbH & Co. KG

### 1. Applicability

The following General Supply and Payment Conditions are applicable to any and all legal acts, supplies, performances and offer of imeco GmbH & Co. KG (hereinafter **"imeco"**) towards clients, i.e. traders, enterprises and entrepreneurs as well as any and all public or private corporate bodies and public separate estates (hereinafter **"Customer"**). imeco explicitly objects to any counter-confirmation with reference to general terms and conditions of a Customer. Conditions deviating and/or conflicting to these General Supply and Payment Conditions are only valid and binding if expressly accepted by imeco in writing.

### 2. Offer / Order

(1) Offers by imeco remain non-binding and provisional. Customer's orders become only binding if imeco accepts such in writing. Supplements, modifications and supplementary agreements will only be effective if confirmed by imeco in writing.

(2) Sales personnel and suppliers are not entitled to conclude supplementary agreements or to grant any warranties which exceed imeco's written offer or the written agreement.

### 3. Scope / Delivery / Passing of Risk

(1) imeco reserves technical and constructive deviations of the delivery items which are customary provided such have no unreasonable impact on the Customer or do not affect the usability of the delivery item.

(2) DIN-tolerances are applicable to compulsory as well as contractually agreed measures unless other tolerances are explicitly agreed upon.

(3) The Customer shall accept reasonable partial-deliveries.

(4) Save of any rights the Customer shall accept any delivery items irrespective minor defects.

(5) The risk passes to the Customer at the time of being made available at the factory of imeco and the notification of the availability thereof. Provided imeco undertakes the transport the risk passes with the handing over of the delivery items to the carrier. However, the risk already passes at the time of notification of the availability by imeco to the Customer if the transport is delayed due to reasons within the sphere of the Customer, in particular if the Customer does not request delivery in time, does not fulfil import- or export-requirements or does not provide for necessary import- or export-documentation or similar documentation in time.

Provided the delivery was delayed, refused or has not been carried out by the Customer, imeco is entitled to a compensation of storage costs commencing one month following the notification of the availability. The costs shall be invoiced with a lump sum of € 5/pallet per month, respectively € 5/storing position per month, unless the Customer proves that the damage is less.

imeco may dispose of the delivery item and provide for a delivery of the Customer within an adequate and extended time period provided imeco has set a reasonable time limit for acceptance and the Customer has not accepted the delivery item within this period.

(6) Provided imeco has contractually agreed to undertake the transport, the risk of the transport remains with the Customer. imeco is not liable for damages or losses during the transport. imeco provides for the transport in the best way according to its discretion without taking responsibility that this is the cheapest and shortest way of transport.

(7) Wrapping and packaging will not be taken back by imeco.

(8) imeco may, but is not obliged to, effect a transport insurance. Provided such insurance is effected the Customer will bear such costs. imeco does not accept any liability for the cover and payments under such insurance.

(9) Provided the parties have agreed on specific Incoterms, the Incoterms shall prevail over these General Supply and Payment Conditions.

### 4. Delivery Period

(1) The delivery period commences with the dispatch of the confirmation of the order by imeco, however, not prior to the delivery of any documentation, permit, clearances to be provided by the Customer or receipt of any agreed instalment payment and/or clarification of technical details.

(2) Delivery dates are proximate and non-binding provided it is not explicitly agreed otherwise and the documents, approvals, et cetera are supplied by the Customer in time.

(3) Observance of the delivery period by imeco is conditional to the compliance with the contractual obligations by the Customer.

(4) The delivery period is met if the availability of the delivery item has been notified prior to the expiry of the delivery period or, if imeco provides for the transport, if the delivery item has been handed over to the carrier prior to the expiry of the delivery period.

(5) The delivery period shall be reasonably prolonged in case of labour disputes, in particular strikes and lock-outs, natural disasters, wars, revolts, governmental measures as well as unforeseeable obstacles which are outside imeco's will (e.g. unforeseeable operational disturbances, energy shortages, sourcing difficulties of raw materials) as well as in other cases of force majeure, provided and to the extent such performance obstacles verifiably and materially affect the completion or delivery of the delivery items. This also applies if such circumstances occur in the sphere of sub-

contractors. imeco is not liable for such circumstances even if such circumstances occur during a default of imeco. imeco will notify the commencement and cessation of such circumstances as soon as possible in important cases to the Customer.

### 5. Prices

(1) All prices are quoted ex works, exclusive VAT, however, including packaging, exclusive cliché and exclusive transport costs. VAT shall be payable in the statutory amount at a time. Written test protocols, other records or documentation, e.g. necessary for the export, or potential transport insurance shall be paid separately.

(2) Provided the day of delivery occurs four months or more following the conclusion of the contract and changes in the price basis occur within this time (increase of prices for raw materials or wages) imeco shall be entitled to a corresponding price adjustment following the information of the Customer.

(3) In case prices were not agreed at the time of conclusion of the contract the prices according to imeco's general price list at the time of delivery shall apply.

### 6. Payment Conditions

Provided and to the extent not agreed otherwise, payments shall be made as follows:

(1) The Customer shall pay within 14 days following the receipt of the invoice without any reductions. imeco's receipt of payments is decisive for timely payment.

(2) In case of late payment imeco may request interest in the statutory amount. imeco also reserves the right for further damages.

(3) imeco is not obliged to accept a bill of exchange or cheques; in case imeco takes on a bill of exchange or a cheque, such taking on shall be on account of performance; the Customer shall bear discount charges or bill of exchange charges and pay such immediately. imeco is not liable for timely presentation or protesting.

(4) Provided the Customer has not paid with a specific fulfilment purpose any payments shall be – in case of multiple claims – set firstly against costs, secondly against potentially accrued interest and then against existing claims. Furthermore, s. 366 German Civil Code (**BGB**) is applicable.

(5) In case of substantial property deterioration of the Customer, in particular in case of petition of insolvency proceedings or in case of application for the issuance of a statutory declaration for an inventory of assets, imeco shall be entitled to cease from deliveries or refuse the fulfilment of current agreements, provided the Customer has not fully provided for the consideration.

(6) If the Customer violates culpably a contractual obligation, in particular if he is fully or partially in default, any obligation under any contract between imeco and the Customer becomes immediately due irrespective of any remaining runtime of a potentially accepted bill of exchange. imeco is entitled to request security for existing claims and effect outstanding deliveries only against pre-payments.

(7) Permissible partial deliveries may be invoiced separately.

### 7. Reservation of Title

(1) The delivery item remains in the ownership of imeco until full payment of the calculated prices and all current and future claims of imeco arising under the business relationship between the Customer and imeco, irrespective of the cause in law, including ancillary claims, damage claims, encashment of bill of exchange, settlement of a balance under a customer/vendor account (reservation of customer/vendor account).

(2) imeco is entitled, but not obliged, to withdraw the delivery item in case of the Customer's conduct contrary to contractual obligations, in particular in case of a payment default; the Customer consents to the withdrawal already. Such withdrawal of the delivery item is only deemed to be a rescission of the contract, if such rescission is explicitly declared by imeco. Any costs which accrue due to the withdrawal of the delivery item (in particular transport costs) shall be borne by the Customer. imeco is entitled to prohibit any resale, processing, combination or amalgamation of the delivery item with other items and revoke the collection authorisation (please refer to 7(5) below). The delivery of a withdrawn delivery item (withdrawn without explicit rescission) may only be requested by the Customer following full payment of the purchase price and all costs.

(3) The Customer shall handle delivery item with due care.

(4) The reservation of title also extends to any product resulting from the procession, combination or amalgamation with other items to their full value; such operations shall be made for imeco. In case the ownership of a third party remains also valid, imeco shall be joint owner of the product (the **"Product"**) which comes into existence through processing, combining or amalgamating with the delivery item and third parties' items in the proportion of the objective value of the delivery item in relation to the other items being processed, combined or amalgamated with the delivery item.

(5) The Customer is entitled to resell the delivery item and the product within its ordinary course of business and/or to process, combine or amalgamate the delivery item; whereby the Customer assigns already to

imeco any claim against its customers or third parties resulting from reselling, processing, combining and amalgamating or claims based on any other legal reasons (in particular resulting from insurances or tortious acts) in the final amount of the invoice (including VAT).

The Customer remains entitled to collect the claims irrespective of the assignment, whereby imeco retains the right to demand payment of claims. However, imeco will not demand payment as long as the Customer meets all its payment obligations out of the collected proceeds, or it is not in default, or has not made any application for insolvency proceedings. The Customer is obliged to inform imeco on demand of all assigned claims against third parties, provide all information and documentation necessary for the assertion of claims and to inform the debtor of the assignment.

imeco may revoke the collection authorisation in case of contractual defaults of the Customer (in particular payment default). The authorisation terminates in any case of cessation of payment of the Customer or in case of opening of insolvency proceedings.

(6) The assignment in advance is also valid, if imeco gains partial ownership due to procession, combination or amalgamation according to ss. 946, 947 BGB or if it loses its ownership to the owner of the principal part of the Product or if the delivery item or the Product is resold to third parties.

(7) The Customer shall not pledge, shall not provide for a security transfer and shall not assign the delivery item, the Product and any claims which replaces such. The Customer shall immediately inform imeco of any pledges or other intrusions of third parties to enable imeco to take legal action according to s. 771 German Code of Civil Procedure (“**ZPO**”) or provide for other legal remedies.

(8) imeco is entitled to rescind the contract and to withdraw the delivery item or the Product in case the circumstances according to clause 7(7) occur as well as in case of payment default of the Customer.

(9) imeco will release security granted by the Customer provided and to the extent the value of the security exceeds the nominal value of the secured claims by 30 per cent. imeco chooses which security will be released.

(10) The Customer shall insure the delivery items subject to retention of title against theft, breakage, fire and water damage and it proves the existence of such insurance to imeco. Provided the Customer is in delay with such proof imeco is entitled to take out such insurance on Customer's costs. imeco shall always have access to disposition, procession or storage places.

## 8. Warranty

The Customer shall examine the delivery item immediately after the handing over and admonish obvious defects (s. 377 German Commercial Code (“**HGB**”). Hidden defects shall be admonished immediately by the Customer following discovery. Provided the Customer does not observe these obligations it is deemed that the delivery item is accepted as being free of any defects. In case of any defects imeco liable as follows:

(1) To the extent a delivery item has a defect imeco may choose according to its own discretion whether to rectify the defect or whether to deliver a new delivery item (supplementary performance) provided it is not a minor defect. Deviations which are customary in trade, such as measurements, weights or colours, do not qualify as defects. Corresponding information provided by imeco shall only be proximate and may vary.

This provision shall also apply in case of delivery of another item or a shorter quantity.

(2) The Customer shall grant to imeco the possibility and period of time necessary for rectification of defects or supplementary performance; otherwise imeco is released from liability for any impacts / damages resulting from defects. imeco is entitled to multiple – usually two – rectifications of defects or supplementary performances. imeco is also entitled to reject the rectification of defects or the supplementary performance or both if such are impossible or disproportional. imeco shall become owner of replaced parts.

(3) The Customer is not entitled to any warranty or damage claims if he has instructed third parties to remove defects or make amendments to the delivery item without having observed imeco's rights to rectification of defects or supplementary performance.

The Customer is only entitled to rectify the defect itself or through third parties and to request damages from imeco in urgent cases to avoid disproportionately large damages, whereby the Customer shall immediately inform imeco.

(4) Any liability for normal wear and tear and expendable parts is excluded.

(5) In case the rectification of defects or supplementary delivery is impossible or fails, the Customer shall be entitled to request a deduction of the purchase price or rescind the contract according to statutory provisions; this shall apply in particular in case of a negligent delay or refusal of rectification of defects or supplementary performance as well if a rectification of defects or supplementary performance fails a second time.

(6) imeco is not liable for any defects which come into existence because of poor assembling by the Customer or third parties, inattentiveness or improper or inappropriate handling or applications, improper productions facilities, chemical, electrochemical or electrical influences, unless such are within the responsibility of imeco. Any liability because of improper strain is excluded.

(7) The Customer is not entitled to rescind the contract, unless imeco is not in default or if the defect on which the rescission is based is only a minor one.

The rescission is also excluded if the Customer is solely or predominantly liable for the circumstances on which the rescission is based or if the circumstances for which imeco are liable occur during the default of the Customer.

(8) Any claims because of defects become time-barred one year following the acceptance of the delivery item, provided it is explicitly and mandatorily provided for that a longer warranty period applies.

## 9. Damage Claims / Rescission

(1) In case of negligently caused damages to property and financial damages imeco and its vicarious personnel shall only be liable in case of infringement of an essential contractual obligation, however, in the amount restricted to damages being typical and foreseeable at the time of the conclusion of the contract; essential obligations of the contract are obligations which shape the contractual obligations and on which the Customer may reasonably rely.

(2) imeco's liability for damages to persons or private property based on defects of the delivery item according to the German Product Liability Act remains unaffected.

## 10. Right to Set-Off / Retention Right

(1) The right to set off for the Customer is reduced to undisputed and legally binding claims.

(2) Any right of retention shall only be claimed if based on the same contractual relationship.

(3) The Customer is not entitled to assign any claims in connection with contractual relationships with imeco to third parties without consent of imeco.

## 11. Data Use

imeco informs according to the German Data Protection Act that personal data is registered and processed during contractual performance. The data is processed centrally within the group. imeco reserves the right to insure the business transaction through a credit insurance and to forward the data of the Customer to the respective credit insurer. The Customer consents hereby. The consent may be revoked at any time.

## 12. Infringement of Patents

Provided the format and the production of the delivery items is effected according to the specifications by the Customer (design, draft or other specification) the Customer is liable that such do not and will not infringe any rights of third parties, in particular patents, utility or design patents, other protection rights or copy rights. The Customer is obliged to indemnify imeco from any claims of third parties, which result from this obligation.

## 13. Place of Performance / Place of Venue /Applicable Law

(1) Place of performance and place of fulfilment shall be the factory of imeco.

(2) Place of venue is Aschaffenburg. imeco is entitled to commence proceedings at any other cognisant place of venue.

(3) The law of the Federal Republic of Germany, except for the United Nations Convention on Contracts for the International Sale of Goods, shall be applicable.

## 14. Miscellaneous

(1) If any of the provisions of these general supply and payment conditions should be or become invalid, unenforceable or impracticable, the validity of the other provisions hereof shall not be affected. The parties undertake to replace the invalid, unenforceable or impracticable provision by such valid and enforceable provision which correspond as closely as possible to the parties' economic intent. The same applies in the event of missing provisions.

(2) This is only a convenience translation of the German Allgemeine Liefer- und Zahlungsbedingungen (General Delivery and Payment Conditions) of imeco. The German version is decisive.