

General Terms and Conditions of Business of the Company Imm Cleaning Solutions GmbH Based on the VDMA terms

Valid in respect of:

1. A person acting in pursuit of a commercial or independent professional activity at the time the contract is formed (entrepreneur);
2. Legal persons under public law or a special fund under public law.

I. General provisions

1. All goods and services of the company Imm Cleaning Solutions GmbH (hereinafter referred to in short as ICS) are based on these terms and conditions as well as any separate contractual agreements. Any deviating terms and conditions of purchase of the Customer shall not form part of the contract even if an order is accepted. Any deviating or supplementary – in particular conflicting – terms and conditions of business require the express written consent of ICS.

Cost estimates and offers shall be non-binding, unless they are confirmed as binding.

As a matter of principle, ICS shall not be liable for any mistakes resulting from unclear or oral statements in any documents submitted by the Customer (e.g. drawings).

In the absence of any agreement to the contrary, the contract shall be formed upon our written order confirmation.

2. We reserve all titles and copyrights to samples, cost estimates, drawings and similar information of tangible or intangible nature, including that in electronic form; such information may neither be made accessible to third parties nor used for other purposes, in particular for in-house production, without obtaining our consent and shall be returned to us immediately upon request. Samples will only be delivered against a charge.

ICS undertakes to make any information and documents designated by the Customer as confidential available to third parties only with the Customer's consent.

II. Prices and payment

1. In the absence of any agreement to the contrary, prices shall be in Euros ex works exclusive of packaging and insurance as well as exclusive of the value-added tax applicable on the invoice date.
2. Offers shall be non-binding, unless they are confirmed as binding. Orders shall become binding upon confirmation by ICS. Any modifications and amendments must be made in writing. Price changes shall be admissible if more than 4 months are between the conclusion of the contract and the agreed delivery date and demonstrable price increases have occurred. ICS shall be entitled to adapt the price in line with the cost increase.
3. The purchase price shall be due for payment without any deductions within 30 days of the invoice date. Unless a deviating written agreement has been made, we grant a discount of 2% for payment within 10 days of the invoice date. The timely payment of amounts owed by the Customer belongs to the Customer's cardinal contractual obligations
4. The following terms of payment shall apply to custom-made products and to contract values exceeding EUR 15,000:
 - 1/3 of the contract value upon placing the order,
 - 1/3 of the contract value upon notification of completion, however, before delivery
 - 1/3 of the contract value after delivery and/or transfer of risk within 10 days of the invoice date in each case.
5. Invoices for repair services or servicing works as well as spare parts deliveries shall be due for payment in full within 8 days.
6. Cheques will only be accepted on account of performance and shall not be considered payment until credited without reservation.
7. The Customer shall fall into arrears on the 31st day following maturity without any further notice on our part. In the event of default in payment, we will charge interests amounting to 8 percentage points above the respective base interest rate p.a., reserving the right to assert further claims for damages.
8. The Customer shall only be entitled to withhold payments or set payments off against counterclaims if his counterclaims are undisputed or have been declared final by a court of law. If there are reasonable doubts about the Customer's solvency or creditworthiness after conclusion of the contract, ICS may demand cash in advance or the provision of securities prior to delivery. If this is not fulfilled, ICS shall no longer be obliged to deliver any items under any current contract. In this case, ICS shall also be entitled to withdraw from the contract without being obliged to pay compensation. If the Customer suspends the payment or is insolvent, the purchase price shall be due for immediate payment in full.

9. If the goods ordered are shipped, the shipping costs shall be borne by the Customer.
If installation and assembly is desired in addition to delivery, this will be performed at the Customer's expense. In addition to the agreed remuneration, all necessary expenses, e.g. travel costs and expenses of the assembly staff, shall be charged to the Customer's account.
10. At a contract value of less than EUR 100.00, we charge a small quantity surcharge of EUR 25.00.

III. Delivery period, default in delivery

1. The delivery period is stipulated in the agreements between the contract parties. Its observance by the Supplier shall presuppose that all commercial and technical issues between the parties hereto have been clarified and that the Customer has met all obligations incumbent upon him, e.g. provision of the necessary official certifications or approvals or the performance of an advance payment. If this is not the case, the delivery period shall be extended accordingly. This shall not apply if the delay is attributable to fault on the part of ICS.
The observance of the delivery period is subject to correct and timely delivery by our suppliers.
2. If the non-observance of the delivery date is attributed to force majeure, labour disputes, interruptions of business for us or our subcontractors or other events beyond our control, the delivery dates shall be postponed by the duration of these interruptions. The observance of the delivery period is subject to correct and timely delivery by our suppliers. ICS shall communicate any emerging delays as soon as possible. The observance of the delivery date constitutes no cardinal contractual obligation.
3. The delivery period shall be deemed observed as soon as the delivery item has left our works or readiness for shipment or acceptance has been notified.
If the shipment or acceptance of the delivery item is delayed for reasons within the Customer's control, he shall be charged the costs arising from the delay, beginning one month after notification of readiness for shipment or acceptance.

IV. Transfer of risk, acceptance

1. The risk shall be transferred to the Customer as soon as the delivery item has left the works, even if partial deliveries are performed or ICS has assumed additional services, e.g. shipping costs or delivery and installation. If an acceptance inspection is to take place, its date shall be decisive for the transfer of risk. It shall take place immediately on the acceptance date, alternatively after notification of the readiness for acceptance by ICS. The Customer may not refuse acceptance on account of an insignificant defect. As soon as ICS has confirmed an order, the Customer may only withdraw from the contract with the express written consent of ICS.
2. If the shipment or acceptance is delayed or fails due to circumstances beyond the control of ICS, the risk shall be transferred to the Customer upon notification of the readiness for shipment or acceptance. The Supplier undertakes to take out the insurances demanded by the Customer at the Customer's expense.
3. Partial deliveries shall be admissible to the extent reasonable for the Customer.

V. Reservation of title

1. ICS delivers the goods exclusively in accordance with the following reservations of title. This shall also apply if ICS does not expressly refer to them.
2. ICS reserves the title to the delivery item until receipt of all payments under the supply contract. Furthermore, we reserve the title to the delivery item until settlement of all existing and future claims arising from the business relationship between ICS and the Customer, no matter on what legal grounds they are asserted.
3. If the validity of this reservation of title is connected to special prerequisites or formal requirements in the Customer's country, the Customer undertakes to ensure their fulfilment at his own expense.
4. If the Customer acts in breach of the contract, in particular if he defaults on payments, ICS shall be entitled to demand back the delivery item after due notice; the Customer shall be obliged to return the delivery item.
5. ICS may only demand back the delivery item on account of the reservation of title if it has withdrawn from the contract. For example, the application for the institution of bankruptcy proceedings over the Customer's assets shall entitle ICS to withdraw from the contract and demand immediate return of the delivery item.
6. As long as the ownership has not been transferred, the Customer undertakes to take good care of the delivery item. ICS shall be entitled to insure the delivery item at replacement value against theft, breakage, fire, water and other damage at the Customer's expense, unless the Customer can prove that he has taken out the insurance himself.
7. As long as the ownership has not been transferred, the Customer may neither dispose of the delivery item nor pledge it or transfer it by way of security. The Customer shall immediately notify us in the event of attachments as well as seizure or other disposition by third parties and provide all information and documents required to safeguard our interests. Enforcement officers or the respective third party shall be informed of our ownership.
8. Until the ownership is transferred to the Customer, ICS shall be entitled to demand at any time that the Customer retransfer the title to the products to ICS. The Customer shall grant ICS and its representatives the irrevocable right to access the properties on which the products are stored at any time in order to inspect them or to seize them in case the Customer fails to retransfer the title in spite of the Supplier's request.

9. The processing or conversion of the delivery item shall take place on our behalf without any obligations arising for us therefrom.

VI. Claims based on defects

ICS warrants the delivery against material defects and defects of title to the exclusion of further claims – subject to Section VII – as follows:

Material defects:

1. The Customer undertakes to notify the Supplier of any apparent material defects immediately after receipt of the goods. Apparent damage in transit can only be accepted if it is included in the receipt of delivery. The Customer shall verify whether the delivery item is of the contractually agreed quality.
2. Defects that cannot be recognised upon immediate inspection shall be notified immediately after discovery within the 12-month warranty period. If the notification of defects is justified and is submitted in time, ICS shall be entitled to rectification, substitute delivery or elimination of the material defect within an adequate period. If reasonable, the product shall be returned to ICS for this purpose. If this rectification period is not granted, ICS shall be released from the liability for any resulting consequences. Replaced parts shall become our property. Out of the costs arising from the rectification or substitute delivery, ICS shall bear the costs of the spare part including shipping costs, provided that the objection proves justified.
3. No warranty is provided in the following cases:
Inappropriate or improper use, faulty assembly or startup on the part of the Customer or third parties, faulty operation, wear and tear as a consequence of aging or wear (e.g. bearings, etc.), faulty or careless handling, failure to carry out regular cleaning and maintenance measures, penetration by foreign bodies, use of inappropriate operating or substitute materials, inadequate preliminary construction work, chemical, electrochemical or electrical influences – unless attributable to fault on the part of ICS. Liability and the resulting consequences shall be excluded as soon as the Customer or a third party performs improper work and/or modifications on the delivery item.
4. The items will be delivered in accordance with our standard specifications.
Warranties shall only be binding if expressly designated by ICS as such and the obligations under warranty are laid down in detail.

Defects of title:

5. If the use of the delivery item infringes any industrial property rights or copyrights in the country of destination, ICS shall obtain the right for the Customer to make further use of the item or modify the delivery item in a manner reasonable for the Customer such that the proprietary rights are no longer infringed. If this is not possible on economically reasonable terms or within an adequate period, the Customer shall be entitled to assert his statutory rights to withdraw from the contract or reduce the purchase price. The liability to pay compensation shall be governed by the limits of liability set out in Section VII. Subject to the aforementioned conditions, ICS shall also be entitled to withdraw from the contract. Furthermore, ICS shall indemnify the Customer from and against any undisputed or legally established claims asserted by the respective owners of proprietary rights.
6. The obligations of ICS stated in Section VI Clause 5 shall be – subject to Section VII Clause 2 – exhaustive with regard to infringements of proprietary rights or copyrights.
They shall only exist if:
 - the Customer immediately notifies ICS of the infringement of proprietary rights or copyrights asserted by third parties,
 - the Customer adequately supports ICS in defending against the claims asserted and enables ICS to carry out the modifications stated in Section VI Clause 5,
 - ICS reserves the right to take all defence measures including out-of-court settlements,
 - the defect of title is not based on a direction of the Customer and
 - the legal infringement is not caused by the fact that the Customer has made arbitrary modifications to the delivery item or used it contrary to the contract.

VII. Liability

1. If the Customer is unable to use the delivery item in the contractually agreed manner through the fault of ICS as a result of the omission or faulty execution of proposals and advice given before or after formation of the contract or through a breach of other secondary obligations under the contract, in particular instructions for operation and maintenance of the delivery item, the regulations of Sections VI and VII Clause 2 shall apply accordingly to the exclusion of further claims on the part of the Customer.
2. For damage not caused to the delivery item itself, ICS shall only be liable – on whatever legal grounds – in the event of
 - intent;
 - gross negligence on the part of the proprietor/institutions or managerial staff;
 - culpable injury to life, body or health;
 - defects which ICS maliciously failed to disclose or whose absence we guaranteed;
 - defects of the delivery item insofar as liability is mandatory under product liability law for personal injury or material damage to items of private use.

In the event of culpable breach of cardinal contractual obligations, ICS shall also be liable for the gross negligence of non-managerial staff and for slight negligence, in the latter case limited to the damage reasonably foreseeable for a typical contract of this kind.

3. Any further claims shall be excluded.

VIII. Limitation period

All claims of the Customer – on whatever legal grounds – shall fall under the statute of limitations in 12 months. Claims for compensation pursuant Section VII Clause 2 shall be governed by the statutory periods. These shall also apply to defects of a structure or delivery items which were used for a structure in accordance with their usual manner of use and caused the defect of the structure.

IX. Software use

If software is included in the delivery scope, the Customer is granted the non-exclusive right to use the supplied software, including its documentation. It is provided for use on the intended delivery item. Using the software on more than one system is prohibited.

The Customer may only duplicate, revise and translate the software or convert it from object code into source code to the extent permitted by law (Sections 69 a ff. UrhG [German Copyright Act]). The Customer undertakes not to remove manufacturer's details, in particular copyright notes, or amend the same without obtaining the prior express consent of ICS.

All other rights to the software and the documentation, including copies, shall remain with ICS or the software supplier. No sub-licences may be granted. If the software is not produced by us, the licence terms of the respective software manufacturer shall apply

X. Applicable law, place of jurisdiction

1. All legal relations between ICS and the Customer shall be governed solely by the laws of the Federal Republic of Germany applicable to legal relations between domestic parties.
2. The sole place of jurisdiction for all disputes directly or indirectly arising from the contractual relationship shall be the competent court at the registered office of ICS. ICS shall, however, be entitled to pursue legal proceedings at the registered office of the Customer.

XI. Data privacy

ICS only stores and processes personal data of the Customer required for the transaction of business. If required to process orders, we shall also be entitled to have this data processed and stored by third parties.

XII. Severability clause

The legal ineffectiveness of individual provisions of this agreement shall not affect the validity of the remaining contractual provisions.