

**General Terms and Conditions for the Purchasing of IMA Dairy & Food Holding GmbH and affiliated companies in the sense of § 15 AktG [Public Companies Act]
(IMA DAIRY & FOOD Purchasing Conditions)
Status January 2019**

1. Principal, Application

1.1 The company including these general terms and conditions IMA DAIRY & FOOD Purchasing Conditions) into a contract will be referred to as the "principal" in the following.

1.2 The IMA DAIRY & FOOD Purchasing Conditions, as well as further contractual conditions indicated in the order confirmation, apply exclusively. Contradictory or differing conditions of the contractor do not apply, even if the service is accepted without reservations and in full awareness of differing conditions stipulated by the contractor.

1.3 Only letters of intent and acts under the law, such as orders, processing requests and contracts (also referred to as "order" in the following) in written form and signed by the principal are deemed legally binding, but also electronically with an electronic signature in accordance with § 127 Sect. 3 BGB [Civil Code], unless otherwise agreed.

1.4 All orders on the part of the principal are subject to confirmation. Written confirmation is required for the subject terms of the contract.

1.5 The drafting of projects and quotations on the part of the contractor takes place free-of-charge and without commitment, unless otherwise agreed. Realisation is at the discretion of the principal. Insofar as enquiries of the principal contain technical specifications or requirements, these do not release the contractor from his own, thorough validation.

2. Quality Management, Environmental Protection

2.1 The contractor must comply with the requirements of the principal in respect of quality management and environmental protection in accordance with the specifications supplied with the respective order.

2.2 The contractor undertakes to comply with the provisions of the law regarding the putting into circulation, the taking-back, and the environmentally appropriate disposal of electric and electronic devices (ElektroG [Electrical and Electronic Equipment Act]), to meet the resulting obligations to the principal, and – as far as these are non-transferable – to support him in the fulfilment thereof. In this respect, he specifically undertakes to apply the manufacturer identification for the principal in accordance with § 7 Sentence 1 ElektroG free-of-charge and as per the specification of the principal, as well as labelling the subject matter of the contract with the symbol in accordance with § 7 Sentence 2 ElektroG in connection with Annex 2 of ElektroG as per the orders of the principal.

3. Code of Conduct, Safety Check

3.1 Principal and contractor, in the light of their responsibility to humans, society, and the environment, undertake to comply with the rules of the Code of Conduct, which becomes integral part of this contract.

3.2 If utilisation is designated for a security-sensitive position of the principal, the contractor must ensure to deploy only employee(s) who have been subject to a security check and have been sworn to secrecy in a separate, written declaration.

4. Scope of Services, Prices and Terms of Payment

4.1 The price agreed upon in this contract is considered a fixed price, and includes delivery carriage paid to destination. The price covers all transport, insurance, packaging, and other incidental costs and fees to delivery/assembly ready-to-operate at the receiving destination as indicated by the principal, unless otherwise agreed. If the bearing of costs by the principal has been expressly agreed upon, then he is to select the transport carrier. The goods are to be declared in the carriage note in such a fashion that the cheapest permissible shipping rate applies. To execute the transportation, the contractor is to indicate to the principal that the goods are ready for dispatch. In this case, the principal will purchase freight insurance and bear the corresponding costs. The principal thus does not require the legally prescribed freight insurance ["SVS / RVS-Verbotkunde"]. No further insurance costs are assumed by the principal.

4.2 The price includes the costs for possibly arising services of installation and integration, which are to be performed by the contractor without disruption of the business operations - if necessary outside of normal business hours. Additional or supplemental services, as well as any other efforts that exceed the original scope of the order are only remunerated, if a written endorsement to the original contract was agreed upon prior to the performance of these services. These are to be specifically highlighted on the invoice.

4.3 For the usage of relevant instructions for the operation, control, usage, and service, or other documents, are to be delivered both to the head office of the principal, as well as the designated destination, and are deemed to be covered by the price of the order.

4.4 All deliveries are to be furnished with a delivery note. Delivery notes and – if expressly agreed – notifications of dispatch must contain the following information:
- Order number, company reference number and date of the order,
- Number of a partial delivery, if applicable,
- Number and date of the delivery note,
- Date of dispatch,
- Indication regarding the type and scope of the delivery, as well as material identification numbers and item numbers referred to in the order, and
- Mode of dispatch.

4.5 If the billing of services has been agreed upon according to hourly rates, travel and waiting times as well as travel expenses are not compensated separately.

4.6 Payment of the invoiced sum without reservations by the principal does not imply the acceptance of the contractor's service as may be required by the contract.

5. Default of the Contractor

5.1 In case of default on the part of the contractor, the legal provisions are to be applied, unless determined otherwise in the following.

5.2 In case of delay of delivery, the principal is entitled to claim a contractual penalty to the amount of 0.5 per cent of the order value for every commenced week of delay, but he may not claim more than 5 per cent of the order value. The contractual penalty can be demanded alongside fulfillment of contract. The possible exercise of other claims shall remain unaffected.

5.3 If a contractual penalty has been agreed upon, the principal may retain the contractual penalty as a proviso up to the final payment.

5.4 The principal is entitled to claim the contractual penalty alongside the fulfilment of contract.

5.5 Further legal entitlements due to default remain unaffected by these provisions.

6. Delay of the Principal

In case of delay on the part of the principal, the legal provisions are applied, providing that the principal is only considered to be in default of payment, if he does not effect payment following receipt of request for payment from the contractor.

7. Cancellation or Termination for Cause

7.1 The principal may above all withdraw from the contract or terminate the contract with immediate effect if insolvency proceedings against the contractor are commenced, or if the commencement thereof has been denied due to the fact that the insolvency assets fall short of the costs associated with the proceedings, or if the orderly processing of the contract appears doubtful as his payments have been suspended on a permanent basis.

7.2 The principal is entitled to the same rights, as soon as an application for bankruptcy proceedings is received by a court of law.

8. Product Liability

Insofar as the contractor is responsible for damages due to product liability, he undertakes to indemnify the principal from the claims for damages raised by third parties. The principal will notify the contractor with regards to the assertion of any such claims for damages.

9. Passing of Risk / Acceptance / Inspection for Defects

9.1 For the passing of risk and the transfer of property, the legal provisions apply, unless otherwise agreed.

9.2 The delivery of manufactured or mobile goods, which are to be produced, requires the written acceptance by the principal. This includes assembly services.

9.3 Furthermore, in the case of deliveries, the risk is transferred to the principal upon receipt of the delivery at the designated destination with the signing of the delivery note. The principal is to check for performance within five working days of delivery only with respect to easily recognisable defects, and contests these without delay. Otherwise, the principal is released from the obligation to inspect and give notice of defects as prescribed by § 377 HGB [Code of Commercial Law].

10. Responsibility for Defects

10.1 The contractor assumes the responsibility for defects for the contractually prescribed and defect-free condition of the performance he is due to provide for the duration of the term of the warranty. Unless otherwise agreed, the period of prescription for claims for defects amounts to 36 months from the transfer of risks, or if an acceptance is required, from the acceptance of the service. The statutory period of limitation for claims for defects is extended by the period, during which the defective service cannot be used for the intended purposes.

10.2 For defects arising during the statutory period of limitation, the legal provisions apply. The contractor is committed to bear all expenses incurred by the principal in the scope of the responsibility for defects. Further legal entitlements remain unaffected by this provision.

10.3 Claims by the principal due to defects of title expire two years after the date of a first claim by a third party for the violation of property rights or other rights, or alternatively when the principal is notified of the existence of defects of title in any other way. If the contractor acts maliciously, the legal provisions apply.

11. Confidentiality

11.1 Both parties undertake to keep all non-public information of the respective other party confidential, which become known to them due to their business relationship, and not to make use of these for their own purposes or the purposes of third parties. Further or other legal nondisclosure duties remain unaffected.

11.2 Any released storage media, samples, drafts, drawings, etc. are to be returned to the principal upon completion of the order. Any right of retention is precluded. These are to be kept confidential, just as models, castings, and any other tools. These may only be replicated upon express written permission, and may only be utilised in the performance of our orders, and neither sold to third parties, nor handed over or made available to third parties in any form.

11.3 The non-disclosure commitment remains in force after the settlement of the contract; it only expires, if the engineering know-how embodied by the assigned models, masks, samples, data, illustrations, drawings, calculations, and other documentation has become public knowledge without violation of the legal duties by either party.

11.4 All documentation made available to the contractor by the principal remain the property of the principal, and are to be returned together with all transcripts, copies, etc., upon demand of the principal or alternatively destroyed upon his request. The copying of such objects is only permissible in the scope of operational requirements and subject to the provisions of copyright. Any right of retention is precluded in this respect.

11.5 Sub-contractors must be committed accordingly.

12. Sub-Contractors

The contracting of sub-contractors requires the written assent of the principal.

13. Invoicing / Taxation

13.1 The contractor must provide verifiable billing information. Invoices for down payments, partial payments and final payments are to be designated as such, made out in an itemised fashion, and consecutively numbered. The invoice must also meet the requirements of § 14 UStG [Value Added Tax Act]. If the invoice does not meet said requirements, the principal shall be entitled to withhold payment, without being deemed responsible for the delay in payment. The invoice is to be issued at the earliest on the day, on which the service was rendered as prescribed by the contract, and is to be sent to the address for account as indicated on the order.

13.2 In the case of other services and work deliveries, which are subject to value added tax in Germany, and which are rendered by foreign contractors, the tax liability is transferred to the principal (§ 13a, b Umsatzsteuergesetz [Value Added Tax Act]). The contractor may not include German value added tax in the invoices for his services. If import turnover taxes arise due to the transportation of goods from a third country to Germany by the contractor, then these are to be paid by the contractor.

13.3 The principal is entitled, to retain any withholding taxes and/or taxes deducted at source from the gross price, and to remit these to the tax authorities, if no valid release document is present for the contractor.

14. Assignment of Receivables

Receivables of the contractor against the principal may only be ceded with expressed written assent of the purchasing department. If the business transaction constitutes a commercial transaction for both sides, § 354a HGB shall apply.

15. Offsetting

15.1 The contractor is not entitled to any right of retention, as far as these are based on counterclaims from other transactions with the principal.

15.2 The contractor may only offset against claims, which were deemed to be undisputed or legally binding.

16. Final Provisions

16.1 Place of fulfilment is the destination of the service as designated by the principal.

16.2 German law shall apply as applicable to domestic parties of Germany.

16.3 The contractor is fully responsible to ensure that he has observed and complied with the legal conditions with respect to customs and excise and exports. The principal has no obligations in the context of the delivery, as far as customs and excise or export regulations are concerned.

16.4 Place of jurisdiction shall be the at the registered office of the principal, if the contractor is a merchant, a corporate body under public law, or a holding company under public law. The principal is nonetheless entitled to call on the relevant court of law at the registered office of the contractor.