

T&C – General Terms and Conditions of IMB Industriemontagen Berger GmbH

1 Contractual Basis, Order of Precedence, Award of Contract

- 1.1 These General Terms and Conditions ("GTC") apply to all deliveries and services provided by IMB Industriemontagen Berger GmbH ("IMB") to entrepreneurs within the meaning of the Austrian Commercial Code (UGB) ("Client"), unless expressly agreed otherwise in writing.
- 1.2 Conflicting or deviating general terms and conditions of the Client shall not become part of the contract—even if IMB performs services without reservation in knowledge of such conditions or does not expressly object to documents of the Client (e.g. orders).
- 1.3 Order of precedence: (1) written individual agreements (e.g. order/offer/specifications), (2) these GTC, (3) the latest version of ÖNORM B 2110, insofar as its application is not modified by these GTC.
- 1.4 References to technical standards (ÖNORM, EN standards, international standards) always refer to the version valid at the time the order is placed, unless expressly agreed otherwise in writing.
- 1.5 The contract is concluded upon written order/placement by the Client and written order confirmation by IMB; at the latest, however, upon commencement of performance.

2 Scope of Services, Delimitation of Services

- 2.1 IMB shall perform the services described in the order/specifications professionally in accordance with the state of the art.
- 2.2 Not included in the scope of services (non-exhaustive), in particular:
 - All electrical and instrumentation/control work
 - Disposal/waste management
 - Commissioning, cleaning work, sandblasting
 - Masonry work
 - Insulation work, including welding of insulation pins/supports
 - Official inspections and submissions (e.g. TÜV, municipal authorities, district authorities, etc.)
 - Adaptations and modifications to existing installations (pipelines, steel structures, cable trays, etc.), unless expressly commissioned
 - Roof or façade work, including required installation openings
 - Engineering/design services
 - Scaffolding
 - Non-destructive testing (e.g. RT, UT)
 - Cleaning/flushing and proper disposal of environmentally harmful or water-polluting substances
 - Installation/inspection/maintenance of secondary safety devices (e.g. drip trays, sealing surfaces, impact protection)
- 2.3 All services not expressly agreed are deemed not owed and—if required—shall be commissioned and invoiced separately.

3 Materials, Equipment, Transport, Vehicles

- 3.1 Costs for materials and equipment required for execution as well as all necessary transport/vehicles shall be borne by the Client. Billing at daily prices plus a 15% surcharge.
- 3.2 If delivery is carried out using IMB vehicles, IMB shall charge the kilometers traveled and driving time incurred in accordance with the applicable offer, relevant collective agreement provisions, or current billing rates. IMB reserves the right to adjust these rates in case of changes in cost, pricing, or framework conditions.
- 3.3 Delivery of installation-required parts (e.g. meters of pipe, units), if agreed, shall be made free to the construction site.

4 Client's Duties to Cooperate (Site/Organization/Safety)

- 4.1 The Client shall, at its own cost and risk, take all preparations and measures necessary for commencement of installation, smooth execution, proper completion, and occupational safety, in particular in accordance with employee protection laws.

4.2 This includes in particular (non-exhaustive):

- Construction site freely accessible, secured, and cleaned
- Changing rooms and sanitary facilities for installation personnel
- Electricity, water, wastewater disposal, and compressed air
- Lockable storage room (min. 10 m²), if required
- Installation/workplace equipped with necessary tools/devices

4.3 Burden of proof: The Client bears the burden of proof for proper fulfillment of its duties to cooperate.

- 4.4 If cooperation is not provided or not provided in time, IMB is entitled to separately charge additional costs, downtime, waiting times, and resulting schedule delays.

5 Travel Time, Travel and Posting Costs

- 5.1 At the start and end of site work, in the event of interruptions, and for home leave travel (return trip to the place of residence), the official mileage allowance and travel time shall be charged separately, unless otherwise agreed.
- 5.2 Other costs incurred due to posting shall be recharged with a 15% surcharge.

6 Work Certificates, Daily/Weekly Reports, Interruptions/Cancellation

- 6.1 Working hours and services must be confirmed weekly by the Client (daily/weekly reports). These records form the basis for invoicing; a copy remains with the Client.
- 6.2 In case of work interruption not caused by IMB, and resulting withdrawal/redeployment of personnel or cancellation by the Client, the resulting costs shall be charged in accordance with these GTC.
- 6.3 If personnel are unable to work full shifts through no fault of their own (e.g. due to lack of cooperation by the Client), normal statutory working hours shall still be charged.

7 Remuneration, Working Time, Surcharges and Allowances

- 7.1 The calculation is based on the collectively agreed normal working hours in the iron and metalworking industry in its current version.
- 7.2 Overtime, night work, Sunday and public holiday work shall be charged in accordance with the applicable collective agreement provisions.
- 7.3 Unless otherwise agreed, the following allowances shall be charged additionally:
 - Heat allowance (indoor temperature): 12%
 - 2nd shift allowance: according to collective agreement
 - 3rd shift allowance: according to collective agreement
 - MAG welding allowance: according to collective agreement
- 7.4 Necessary accommodation costs up to EUR 30 per night are included in hourly rates. If adequate accommodation cannot be found at this price, the difference plus 15% surcharge shall be charged.

8 Posting Conditions

- 8.1 Personnel postings of any kind shall be based on these GTC unless a lump-sum agreement exists; orders must be in writing. Deviations require written confirmation by both parties.
- 8.2 Daily normal working hours may be agreed differently within legal limits; additional hours are overtime.

8.3 Costs for equipment/tools/facilities/consumables:

- Charged at current daily prices
- Transport costs borne by the Client; if prepaid by IMB, charged plus 15%

8.4 Third-party services and purchases: Invoices from third parties shall be recharged to the Client plus 15%.

9 Performance Determination, Acceptance, Penalties

- 9.1 The Client must inspect and accept the service within 30 days after notification. If no response is given, the service is deemed accepted.
- 9.2 Acceptance of delayed services excludes claims for damages or penalties due to delay, to the extent legally permissible.

10 Deviations, Obstacles, Force Majeure

- 10.1 Obstacles/delays within the Client's sphere and unforeseen events (including force majeure) entitle IMB to reasonable extensions and price adjustments.
- 10.2 IMB is not obliged to take measures beyond the agreed scope to mitigate force majeure.

11 Invoicing, Payment Terms

- 11.1 IMB prepares service statements to be confirmed by the Client; these form part of invoicing.
- 11.2 Invoices must include the order number; electronic invoices (PDF) are accepted at eingangsrechnungen@imb-berger.at
- 11.3 Payment term: 30 days net after acceptance and invoicing, unless otherwise agreed.
- 11.4 Late payment: default interest pursuant to § 456 UGB plus reminder and collection costs
- 11.5 Place of performance for payments: IMB's registered office

12 Retention of Title

- 12.1 Delivered goods remain the sole property of IMB until full payment is made.

13 Warranty, Obligation to Notify Defects

- 13.1 IMB shall remedy defects attributable to it, reported promptly in writing, either by repair or replacement at its discretion.
- 13.2 Excluded: damages due to improper maintenance/operation by the Client, normal wear and tear, force majeure, or third-party interference.
- 13.3 Materials provided by the Client are excluded from warranty.
- 13.4 Warranty period: 24 months from acceptance; wear parts excluded.

14 Liability

- 14.1 IMB is liable—within legal limits—only for intent and gross negligence. Liability for slight negligence is excluded, except for personal injury.
- 14.2 Liability is limited to damage to directly processed or used items; maximum liability is 100% of the agreed remuneration.
- 14.3 Liability for other property damage, financial losses (e.g. downtime, loss of profit, etc.), and third-party claims is excluded.
- 14.4 Personnel deployment: Personnel work under the Client's supervision; IMB is liable only for proper selection and dispatch.
- 14.5 Mandatory liability provisions remain unaffected.

15 Insurance

- 15.1 The Client must include IMB in construction insurance free of charge and waive recourse.

15.2 IMB liability insurance: EUR 10,000,000

16 Jurisdiction, Applicable Law, Foreign Assignments

- 16.1 Austrian substantive law applies, excluding conflict-of-law rules and the UN Sales Convention.
- 16.2 Exclusive jurisdiction: Commercial Court Vienna (subject to mandatory legal jurisdictions).
- 16.3 Foreign assignments: Mandatory legal provisions of the country of performance remain unaffected.

17 Severability Clause, Written Form, Side Agreements

- 17.1 If individual provisions are invalid, the remainder remains valid; the invalid provision shall be replaced by one closest in economic intent.
- 17.2 Amendments must be in writing; oral agreements do not exist.
- 17.3 Changes due to future laws or collective agreements apply from their effective date; IMB shall inform the Client promptly.