

## **Institut für Materialprüfung Glörfeld GmbH (IMG GmbH)**

Chemical trade laboratory for metals, ores, residues.

Specialized laboratory for precious metal analysis.

Materials testing, metallography.

Expert opinions, damage investigations, arbitration analyses.

Expert advice on technology development, quality  
and environmental management.



### **General Terms and Conditions**

#### **I.**

#### **Impartiality and confidentiality**

The Institut für Materialprüfung Glörfeld GmbH (hereinafter referred to as "IMG") is a certified testing laboratory according to ISO/IEC 9001. Shareholders, management and employees of IGM are committed to impartiality, confidentiality and non-disclosure of information and data relating to customers and other interested parties.

#### **II.**

#### **Scope**

The following General Terms and Conditions shall apply to all orders and services of IMG concluded between the Customer and IMG with entrepreneurs (within the meaning of section 14 of the German Civil Code (BGB)), legal entities under public law or special funds under public law (hereinafter "Customer", Customer and IMG are also singularly referred to as a "Party" and jointly as the "Parties"). These General Terms and Conditions shall also apply to all future business relations and follow-up orders, even when not explicitly agreed upon again. Deviating conditions of the Customer, which IMG does not expressly agree to in writing, shall not apply and are excluded. This shall apply even if IMG is aware of them and does not expressly object to them or provides services to the Customer without reservation.

#### **III.**

#### **Offer and conclusion of a contract**

1. The Customer shall be bound to their offer for the conclusion of a test contract for three months. The offer can only be accepted within these three months. IMG must make any acceptance of an offer in writing (including e-mail) to the Customer within three months from receipt.
2. Calculations, drawings, plans and other documents that are part of the offer shall remain the property of the Customer, who reserves all copyrights to these documents. IMG may not pass these documents on to third parties without the Customer's written consent. If IMG does not accept the offer within the deadline (cf. Section III.1), these documents must be returned to the Customer within two weeks after expiry of the acceptance deadline (cf. Section III.1) or after rejection of the offer.
3. Submitted sample material is usually disposed of three months after completion of the test

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order or, upon special written agreement, returned to the Customer.

**IV.**

**Basics of IMG's activities**

1. IMG provides its services in accordance with their agreement with the Customer. The Customer may issue specific instructions and suggest procedures in advance of the provision of the service. The Customer must be informed of any deviations from the requested instructions. If the Customer does not specify the procedure to be used, IMG shall select a suitable procedure and inform the Customer thereof.

IMG shall provide their services in accordance with the generally accepted rules of technology at the time of conclusion of the contract and with the due care customary in the industry.

2. The agreements made with the Customer shall be described in the order confirmation (clause III.1). If changes occur, IMG shall immediately inform the Customer thereof in writing.
3. Testing

IMG performs testing in accordance with relevant product and process standards or specifications and internal regulations.

Moreover, the following applies:

**3.1 Conformity statements**

For the determination of compliance with specification limits (conformity), the measured value determined by IMG is considered excluding the associated measurement uncertainty. Conformity is considered to be fulfilled if the measured value is less than or equal to the tolerance limit or the upper limit values (correspondingly applies to lower limit values). If the Customer wishes to apply a different decision rule, this must be agreed in writing with IMG before the start of the analysis.

**3.2 Analytical examination without compliance testing:**

If IMG is contracted to perform an analytical test without a test for compliance with limits or specifications, no conformity assessment will be performed. The standard tabular

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measurement uncertainties are maximum process uncertainties. Possible inhomogeneity of specific customer samples is not considered. The expanded uncertainty of measurement is given, which results from the standard deviation by multiplication with the coverage factor  $k=2$ . The value of the measurand is within the assigned value interval with a probability of 95%. This way, IMG enables Customers to estimate measured values close to the limit value.

IMG also determines specific measurement uncertainties of Customer samples, which can sometimes deviate significantly from the process uncertainty. This service shall only be owed if it has been explicitly ordered by the Customer and confirmed in writing by IMG. This service shall be subject to an additional charge.

### 3.3 Arbitrary analyses

Arbitrary analyses shall be performed according to the particular specifications of the Customer, unless otherwise agreed between IMG and the Customer and stated in the order confirmation by IMG (cf. Section III.1).

4. Provided that IMG's services consist of testing samples, all statements made by IMG shall relate solely to such samples and the facts established at the time of testing. This does not provide any information about the material from which the samples were taken. IMG shall not be obliged to point out facts outside the agreed purpose of the contract.
5. Unless otherwise agreed, the results of IMG are regularly presented in a test report. When placing the order, the Customer may request the provision of this test report digitally or by mail. If the Customer has not exercised this right of choice, IMG may decide on the form of the provision of the test report at their own discretion.
6. IMG shall provide their services themselves, unless expressly agreed otherwise in writing. IMG reserves the right to subcontract certain investigations and analyses to appropriate subcontractors. The agreement on the use of subcontractors shall be recorded in the order confirmation (Clause III.1).

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**V.**

**Payments**

1. Unless otherwise agreed in writing with IMG, the Customer shall pay within ten working days from delivery of the test result and receipt of the invoice. There is no reminder required for the Customer to enter into default, in which case interest shall be charged at a rate of 9 percentage points above the currently applicable base interest rate calculated by the German Federal Bank.
2. All prices are subject to the applicable statutory value-added tax.

**VI.**

**Performance period / Force majeure**

1. Dates and deadlines for the provision of IMG's services shall only be binding if they have been confirmed by IMG in writing in advance. In all other respects, they are not binding.
2. The observance of dates and deadlines shall require the timely and proper fulfillment of all obligations to cooperate on the part of the Customer.
3. If IMG is prevented from providing their services in whole or in part for unforeseeable and serious reasons beyond IMG's control (force majeure), IMG shall be released from the obligation to perform the respective services for the duration of the effects of such force majeure.

**VII.**

**Obligation of the Customer to cooperate**

1. The services that are to be provided by the Customer, such as the provision of all necessary information, documents, instructions for action or other acts of cooperation, shall be provided in due time, in any case three (3) working days before the start of IMG's activities.
2. The delivered test objects must be in a condition that allows objective testing. If the Customer supplies test objects, they shall be responsible for the correct and representative selection and removal of all test objects. Dates for delivery or collection of the test objects and the processing time for each individual order must be agreed with IMG before the start of the testing services.

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3. If the Customer defaults on providing assistance, IMG shall be entitled to their legal rights. This shall further extend the time for IMG to perform their contractual services.
4. The Customer shall bear the risk of taking and delivering the samples to IMG, unless the Customer and IMG agreed upon IMG taking or collecting the samples. In case of shipment by the Customer, the test material must be packed properly and in compliance with the legal regulations.
5. IMG shall document the sampling or the receipt of the samples from the Customer in the test report.

**VIII.**

**Warranty / Liability**

1. IMG agrees to perform the assigned services in a timely and professional manner in accordance with the recognized state of the art at the time the order is placed. The warranty period is one year from the date of acceptance of the services.
2. IMG shall be liable for damages they caused with gross negligence or intent in accordance with the statutory provisions. In the event of negligently caused damage to property and financial loss, IMG shall only be liable in the event of a breach of a material contractual obligation, but the amount shall be limited to the damage foreseeable at the time of conclusion of the contract and typical for the contract. Material contractual obligations are those whose fulfillment characterizes the contract and on which the Customer may rely.
3. If IMG is liable according to these regulations, they shall be obligated to repeat the services or rectify the defects free of charge.
4. IMG shall only be liable for indirect or consequential damages if these are typical for the contract and were foreseeable at the time of conclusion of the contract.
5. IMG shall not be liable in the event of a simple negligent breach of non-essential contractual obligations.
6. IMG shall not be liable for damages resulting from the use of incomplete or incorrect information provided by the Customer, as well as incorrect or unusable samples.
7. IMG shall not be liable beyond the above provisions of this Section VIII. The above provisions

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shall apply accordingly in the event of a violation of their duty by a vicarious agent.

8. The foregoing limitations of liability shall not apply to damages if they are due to gross negligence or intent on the part of IMG or in the case of mandatory legal liability (e.g. under the Product Liability Act).
9. The same shall apply in the event of negligently caused damage resulting in death, physical injury or illness.

**IX.**

**Use of expert opinions and test reports, intellectual property and granting of rights of use**

1. The use of expert opinions, test reports and analysis certificates and other work results of IMG by the Customer is only permitted after full payment of the agreed fee.
2. IMG comprehensively reserves the rights to their test methods and/or procedures as well as their work results, in particular the test reports and other embodiments of their performance.
3. If IMG provides the Customer with test reports or other results of their services, they grant the Customer a simple, non-exclusive, non-transferable and non-sublicensable right of use for use within the contractually agreed scope.
4. The Customer may only use the results of IMG's performance, in particular test reports, unchanged, in full and not in excerpts. The Customer may only use these themselves and within the scope of the contractually agreed purposes. In particular, any publication or other promotional use of IMG's work results is excluded without IMG's prior written consent.

**X.**

**Confidentiality**

The parties shall treat as confidential all business and trade secrets and confidential information which they receive in connection with their legal relationship or its execution or the execution of follow-up orders concerning the respective other party and shall not make them available to third parties without the express consent of the respective other party, unless they are public knowledge without breach of this obligation of confidentiality. The foregoing provisions shall not apply in the case that a party is obligated to disclosure due to statutory provisions or a comprehensible order of a court or authority.

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**XI.**

**Choice of law / Place of jurisdiction / Place of performance / Severability clause**

1. The place of performance and exclusive place of jurisdiction for deliveries, payments and for all disputes arising between the parties from the contracts concluded between them shall be the registered office of IMG.
2. The relations between the parties shall be governed exclusively by German law, even if the Customer has their domicile abroad.
3. Should any provision of these General Terms and Conditions be or become invalid or unenforceable, this shall not affect the validity of the remaining provisions of these General Terms and Conditions. Rather, in such a case, the parties undertake to replace the invalid or unenforceable provision with a valid or enforceable provision that corresponds as closely as possible to the economic and ideal provisions.