

# User Agreement

Between:

And:

**Member**

**InterFishMarket GmbH**

Member Address

Stadtturmstrasse 19

Member City

5400 Baden

Member Nation

Switzerland

(hereinafter "Member" or "User")

(hereinafter "IFM")

## Preamble

InterFishMarket is a marketplace ("IFM Platform") that allows its members to offer, sell and buy different types of seafood products from and to various locations. The IFM Platform is acting only as a broker. The actual contract for sale is entered into directly between the seller and the buyer of the goods.

The role of the IFM Platform is to create a contact between seller and the buyer. For such brokerage services, IFM gets a remuneration. The currently applicable rates for such remuneration are listed in Appendix A.

IFM does not have control over and does not give any guarantee on the contents of the business relation that the Platform members enter into through the IFM Platform.

## **Article 1 User Agreement**

This User Agreement is applicable to the: (i) web page(s), (ii) services, (iii) content, (iv) databases and (v) information (collectively referred to as the "Services") provided by IFM to which the Member may have access by using IFM's Platform ("IFM Platform" or "Platform").

The content and information included in these Services are provided by IFM and, as the case may be, its third-party suppliers (collectively, the "Information Providers"). These Services are made available by IFM subject to the terms and conditions stated below.

By using the Services, the Member confirms its consent to be bound by the terms of this User Agreement. If the Member does not agree, IFM is not willing to provide the Member with access to the Services and the Member should immediately discontinue its use of the Services.

The Member agrees that IFM may modify this User Agreement at any time in its sole discretion and without prior notice to the Member. Such changes will be posted online and will be effective upon posting. The Member should review the User Agreement (as published on the IFM Platform) periodically to ensure familiarity with its then-current terms and conditions. The Member's continued use of the Services shall constitute Member's acceptance of the User Agreement (as published on the IFM Platform) and its continued use of the Services following any modification of this User Agreement shall constitute Member's acceptance to the User Agreement, as amended.

If the Member does not agree to the changes, the Member must notify IFM in writing or by telephone of its refusal and discontinue its use of the Services.

## **Article 2      Use of the Services**

These Services are intended for the Member's commercial use only. By using the above-mentioned Services and the Platform provided by IFM, the Member acknowledges and agrees that:

- a) IFM and/or any third-party Information Provider(s) reserve all rights to proprietary information (including, but not limited to, all intellectual property rights such as; patents, trademarks, service marks, copyrights, database rights, topography rights, industrial design, know-how, trade secrets, trade names, logos, designs, symbols, emblems, insignia, slogans, drawings, plans and other identifying materials, in all forms whether or not registered or capable of registration and any other rights relating to intellectual property in accordance with the applicable laws,) subsisting in or relating to the Services;
- b) The Member shall not use the Information for any unlawful or unauthorized purpose;
- c) The use and interpretation of the Services requires skill and judgment, and the Member shall at all time exercise its own judgment in the use of the Services;

- d) The Member is responsible for all statements made and acts or omissions that occur while the Member's user identification name(s) (or "User Name(s)") and password(s) are being used. The Member is responsible for protecting and securing its User Name(s) and password(s) from unauthorized use and disclosure. If the Member becomes aware of, or believes there has been, any breach of security for any of its information stored on the IFM Platform, such as the theft or unauthorized use of its User Name(s), password(s), or any other information, Member must notify IFM immediately;
- e) The Services and the Platform have been prepared for informational purposes only without regard to any particular user's commercial objectives, financial situation, or means, and IFM is not soliciting any action based upon it. This material is not to be construed as a recommendation, or an offer to buy or sell, or the solicitation of an offer to buy or sell any product;
- f) The fact that IFM has made the Services available to the Member constitutes neither a recommendation to enter into a particular transaction. The Member should not construe any of the material contained herein as business, financial, investment, hedging, trading, legal, regulatory, tax, or accounting advice.

### **Article 3     Default Protection**

Trades executed through the IFM Platform benefit from Default Protection, which means that IFM shall guarantee to Seller 90% of the price of the goods sold as agreed with the Buyer on the IFM Platform, minus VAT (if applicable), minus a deductible of EUR 1'500 per Trade ("Indemnity"), subject to the following conditions being fulfilled:

1. The Trade has been registered on and executed through the IFM Platform
2. At the moment of the delivery of the products by the Seller to the Buyer, a sufficient credit line was available and published on the IFM Platform
3. The payment term of the Trade does not exceed 60 days
4. Seller does not have negative financial information about the Buyer, unless such negative information about the Buyer has been fully disclosed to IFM by the Seller
5. IFM has confirmed the terms of the Trade to Buyer and Seller by e-mail or through the IFM Platform
6. Buyer does not have any claims against the Seller ("Good Delivery Notice" as per Appendix B), and has not raised such claim before the payment of the Indemnity by IFM to Seller

In order to trigger the payment from IFM in case of a default by the Buyer, the Seller must follow the procedures below:

1. Seller must inform IFM within 15 days from due date if Buyer has not paid or has not fully paid the invoice as agreed in the Trade
2. Within 60 days from the original due date of the Trade, Seller must assign the invoice for the Trade to IFM; IFM and its credit insurance company shall start collection procedures against Buyer
3. Payment of the Indemnity by IFM to Seller shall take place 180 days after the original due date of the Trade, and shall be subject to IFM having received from its credit insurance company the amount to be paid by IFM to the Seller for this Trade

For this Default Protection, Seller shall pay a fee as per Appendix A.

#### **Article 4      Insertion of a Trade and Trade Conclusion**

A Member can publish a "Sale Trade" (if inserted by a member being a seller wishing to sell goods) or a "Purchase Trade" (if inserted by a member being a purchaser wishing to buy goods). Each Sale Trade or Purchase Trade shall indicate all the relevant characteristics of the seafood trade that the publishing member would like to conclude ("Trade").

When publishing a Trade on the live market, the Member must avoid inserting any detail that could identify the Member's identity (such as pictures with the Member's logo). In case the Member violates this obligation, IFM shall have the faculty to immediately suspend the Member's account on the IFM Platform.

The publication of a Trade on the IFM Platform is not an offer but constitutes an invitation by the publishing member to the other members of the IFM Platform to make an offer.

Each other member of the IFM Platform will be able to propose a contract based on the details of the Trade as indicated by the publishing member, or to indicate one or more changes to the trade details which shall be immediately notified to the publishing member through the IFM Platform.

Each insertion of a Trade shall have a validity period of 15 days from its insertion. After 15 days, the Trade will be automatically deleted from the IFM Platform.

When a replying member submits its reply to a Trade, a 10 minutes countdown begins for the publishing member to proceed with the negotiation on the IFM Platform. The publishing

member shall have further 5 minutes to accept, refuse or further submit changes to the Trade. The negotiation of the publishing member and replying member shall proceed through a continuous 5 minutes countdown that starts every time a counterproposal is sent with new changes.

If any member does not send its counterproposal in due time during the negotiation countdown, the Trade will be stopped and considered failed.

The Trade shall be successfully concluded once the publishing member fully accepts and confirms the Trade conclusion on the same terms and conditions proposed by the replying member, and both parties accept to be bound by the "Sale and Purchase Terms and Conditions" (as per Appendix C).

IFM will send to both members the confirmation that the Trade is concluded and binding for both members. IFM will further keep both members informed via e-mail or through the IFM Platform about their obligations arising from the concluded Trade (i.e., shipping time, invoicing time, payment time, reminders etc.), and will monitor the performance of the concluded Trade.

Members commit to respect in full the trade conclusion procedure described above and to comply with all requests for uploading documentation or providing information about trade fulfilment that each member will receive from IFM.

## **Article 5      Terms and Conditions of the Trade**

The Sale and Purchase Terms and Conditions as per Appendix C shall apply to all trades concluded between members through the IFM Platform.

## **Article 6      Payment of Fees to IFM**

IFM shall send an invoice to the Member for the Transaction Fees in relation to a Trade. The Transaction Fee must be paid by the Member within 30 days from reception of the invoice.

## **Article 7 Disclaimer of Warranties**

IFM and the Information Provider(s) expressly disclaim all warranties of any kind, express or implied, including without limitation any warranty of merchantability, fitness for a particular purpose or non-infringement.

Although the Services provided have been obtained from sources deemed to be reliable, the Services are provided "as-is" and "as available", and IFM and/or any third-party Information Provider(s) provide the Services without responsibility for accuracy and correctness.

Accordingly, to the extent permitted by applicable law, IFM excludes all express or implied warranties, terms and conditions including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, and non-infringement.

By using the Services, the Member agrees that errors and/or omissions contained in such information shall not be made the basis for any claim, demand or cause of action against IFM or any Information Provider(s).

In addition, to the extent permitted by applicable law, IFM (including its parent, subsidiaries and affiliates, officers, directors, agents and employees) are not liable, and the Member agrees not to hold IFM responsible, for any damages or losses (including, but not limited to, loss of money, goodwill or reputation, profits, or other intangible losses or any special, indirect, or consequential damages) resulting directly or indirectly from:

- a) Member's use of or its inability to use the IFM Platform;
- b) Delays or disruptions in the services through the IFM Platform;
- c) Viruses or other malicious software obtained by accessing or linking to the IFM Platform;
- d) Glitches, bugs, errors, or inaccuracies of any kind in the IFM Platform;
- e) Damage to the Member's hardware device from the use of the IFM Platform;
- f) A suspension or other action taken with respect to the Member's account;
- g) Member's loss of or inability to do business, as a result of changes to this User Agreement or IFM's policies.

## **Article 8 Limited Liability and Indemnity**

Neither IFM nor any of its third-party Information Providers shall be liable for any direct, indirect, incidental, special or consequential damages arising out of or relating to this User Agreement or resulting from the use or the inability to use the Services, including but not limited to damages for loss of profits, use, data or other intangible damages, even if such party has been advised of the possibility of such damages.

The Member will indemnify and hold IFM (and its affiliates and subsidiaries, its respective officers, directors, employees, agents) harmless from any claim or demand, including reasonable legal fees, made by any third party due to or arising out of the Member's breach of this User Agreement, the Member's improper use of IFM Platform or the Member's breach of any law or the rights of a third party.

## **Article 9 Miscellaneous**

By agreeing to this User Agreement, the Member acknowledges and agrees that IFM, in the interest of security, reserves the right to record all telephone conversations, internet conversations including chat, and any meetings between the Member and IFM.

The Member furthermore agrees that IFM reserves the right to monitor the Member's use of the Services on the Platform and that the resultant information may be used by IFM for its internal business purposes.

## **Article 10 Notifications and Communications**

IFM will send notifications and/or communications to the Member through the IFM Platform, and/or to the e-mail address that the Member provided when registering on the IFM Platform.

## **Article 11 Severability**

In the event any provision of this User Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this User Agreement, and all provisions not affected by such invalidity or unenforceability shall

remain in full force and effect. The parties agree to attempt to substitute any invalid or unenforceable provision with a valid or enforceable provision which achieves to the greatest extent possible the economic objectives of the invalid or unenforceable provision.

## **Article 12 Termination**

This User Agreement is concluded for an undetermined time. Members can terminate this User Agreement at any time by sending to IFM a written notice of termination.

This User Agreement can be terminated by IFM at any time, by sending a written notice to the Member.

IFM may exercise full discretion in modifying or discontinuing any part or whole of the Services specified above, subject to this User Agreement at any time without cause or prior notice.

## **Article 13 Applicable Law and Jurisdiction**

This User Agreement shall be governed by and construed in accordance with the laws of Switzerland without regard to principles of conflicts of laws.

The courts of Baden (Switzerland) shall have exclusive jurisdiction to settle any and all disputes which may arise out of or in connection with this User Agreement.

Place, Date: \_\_\_\_\_



InterFishMarket GmbH  
Massimiliano Ceron



## Appendix A:

### 1. Subscription Fee

FREE for the first 6 months, thereafter 0.50 EUR / day (minimum subscription period of 6 month)

### 2. Transaction Fees

Product Category	Live Trading Volume per Month		
	0<kg<10.000	10'000<kg<100'000	kg>100'000
Farmed Fish	0.02 EUR per kg	0.01 EUR per kg	0.005 EUR per kg
Wild Catch Fish	0.02 EUR per kg	0.01 EUR per kg	0.005 EUR per kg
Shellfish	0.02 EUR per kg	0.01 EUR per kg	0.005 EUR per kg
Crustaceans	0.02 EUR per kg	0.01 EUR per kg	0.005 EUR per kg
Processed Fish	0.20 EUR per kg	0.10 EUR per kg	0.05 EUR per kg

OTC	0.030 EUR per kg
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### 3. Fee for Default Protection

Fee for Default Protection	0.30%
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- IFM may change its Subscription Fees and its Transaction Fees ("Fees") from time to time by posting the changes on the IFM Platform 14 days in advance.
- Anytime the Fees are changed, IFM shall notify its members accordingly through an e-mail.

**Appendix B:**

**Good Delivery Notice:**

[BUYER] has received the products as per trade # [XXX] and confirms that the quantity and quality is as agreed.

## Appendix C:

# Sale and Purchase Terms and Conditions

The present Sale and Purchase Terms and Conditions, together with the commercial terms concluded through the IFM Platform (hereinafter "IFM TRADE"), represent the SALE AND PURCHASE AGREEMENT (hereinafter "Agreement") between the seller (hereinafter "Seller") and the purchaser (hereinafter "Purchaser") (hereinafter jointly referred to also as "Parties" and each one individually as "Party")

## **Article 1 Subject Matter**

The Subject-matter of the Agreement is, on one side, the obligation of the Seller to deliver goods specified in the IFM TRADE to the Purchaser under the terms and conditions herein specified and, on the other side, the obligation of the Purchaser to accept the delivered goods provided by the Seller and to pay in favor of the latter the agreed price.

## **Article 2 Sale of Goods**

The Seller hereby agrees to deliver to the Purchaser the goods specified in the IFM TRADE (hereinafter the "Goods") and in the time, quality and quantity specified in the IFM TRADE. The Purchaser shall collect the Goods and pay in favor of the Seller the purchase price for the Goods specified in the IFM TRADE (hereinafter the "Purchase Price").

The Seller fulfils his obligation to deliver the Goods to the Purchaser once the Goods are made available to the Purchaser at the delivery point agreed in the IFM TRADE (hereinafter the "Delivery Point"). The Party who takes care of the carriage shall notify the other Party about the name of the carrier in advance. The Seller shall notify the Purchaser once the Goods are delivered to the carrier by uploading such information on the IFM Platform. The Seller shall be responsible that Goods are packed in an adequate manner.

The title and risk of damage or loss of the Goods shall pass upon delivery at the Delivery Point indicated in the IFM TRADE.

Seller shall upload on the IFM Platform the documents related to the Goods (CMR, packing list, sanitary docs, etc.) within 1 day before their delivery to the carrier.

### **Article 3 Purchase Price**

The Seller shall send its invoice for the Purchase Price to the Purchaser, uploading it on the IFM Platform. The Purchaser shall pay the Purchase Price as agreed in the Trade (which, however, cannot be more than 60 days after delivery of the Goods at the delivery point indicated in the IFM trade).

If the Purchaser fails to pay the Purchase Price, the Seller shall have the right to default interest at the rate of 0.10% of the outstanding amount for each day of default without prejudice to any claims for damage or loss of profit.

### **Article 4 Product Liability**

The Seller shall be liable for any lack of conformity of the Goods which exists at the time the Goods are delivered to the Purchaser.

The Seller guarantees that the Goods will be in proper condition and adequate for their commercialization.

The Purchaser shall, immediately upon delivery of the Goods to him by the entrusted carrier, duly examine them and, if defects appear, shall promptly give notice to the Seller by opening a claim on the IFM Platform (providing all relevant documentation indicated in the IFM Platform).

Should the Purchaser discover any hidden defects within 24 hours from delivery by the carrier, he shall give written notice of the defect to the Seller by opening the relevant claim on the IFM Platform not later than 24 hours after such defect has been detected.

Seller shall not bear any responsibility for quality or quantity defects that have not been notified in time by opening the relevant claim on the IFM Platform.

When notifying its claim to the Seller, Purchaser shall have the following options:

- demand replacement of defective Goods by delivery of non-defective Goods;
- demand appropriate Purchase Price reduction;

The Seller, upon receipt of the notice of claim from the Purchaser (through the IFM Platform) stating the defect, shall upload on the IFM Platform his reply within 24 hours informing weather he accepts the claim for defects or not.

## **Article 5 Exclusion of Liability**

A Party is not liable for a failure to perform any of his obligations if such failure is due to an impediment beyond his control such as, but not limited to: natural disasters, national strikes, terrorist attacks, wars, embargoes (hereinafter "Force majeure events") and that he could not reasonably be expected to have taken such impediment into account at the time of the conclusion of the IFM TRADE or to have avoided or overcome it or its consequences. The exemption provided by this section has effect for the period during which the Force majeure event exists.

The non-performing Party shall give prompt written notice to the other Party of the reason for its failure to perform and the extent and duration of its inability to perform.

The Parties shall cooperate in order to mitigate the losses and to find suitable solutions for overcoming the Force majeure events.

## **Article 6 Applicable Law and Jurisdiction**

This Agreement shall be governed by and construed in accordance with the laws of Switzerland without regard to principles of conflicts of laws.

The courts of Baden (Switzerland) shall have exclusive jurisdiction to settle any and all disputes which may arise out of or in connection with this Agreement.

## **Article 7 Final Provisions**

The Agreement shall enter into force and shall take effect once both parties have expressed their consent to be bound by the present Sale and Purchase Terms and Conditions.

Either Party agrees to act with due diligence while performing its obligations arising out of the Agreement and to respect the rights and legitimate interests of the other Party; either Party shall duly perform all legal actions that may be necessary to reach the purpose of the Agreement.

If any provision of the Agreement is held invalid or unenforceable by the competent Court, the validity or enforceability of the other provisions will not be affected. The Parties agree to substitute such an invalid or unenforceable provision with a new valid provision that most closely matches the intent and the purpose of the original provision.

For any matter that is not specifically regulated by the Agreement, the United Nations Convention on Contracts for the International Sale of Goods will apply.