

Terms of Use

Terms of Use for the Platform under www.testbench.com
(hereinafter referred to as “ToU”)

March 14th, 2024

1. Scope of the ToU

1.1 imbus AG, Kleinseebacher Straße 9, 91096 Möhrendorf, GERMANY (“**imbus**”) provides a platform accessible to internet users under the URL www.testbench.com (hereafter referred to as the “**Platform**”), where internet users can register and find information about imbus’ services. Registered internet users can use e.g. a shopping cart and order history functionality of the Platform. The ToU apply to the use of imbus’ Platform by the internet user, including in particular the registration on the Platform and the use of the content provided on the Platform by imbus.

1.2 For ordering imbus’ services – in particular TestBench Cloud Services (“**TestBench**”) – registration for an account on the Platform is required (see 3.).

Payment processing is handled by the website and payment system of Verifone Payments BV dba 2Checkout (hereafter referred to as “**2Checkout**”). 2Checkout is the non-exclusive merchant-of-record of imbus and as such entitled for the distribution of imbus’ services. 2Checkout will be responsible for all order processing, payment processing, collection of applicable taxes and related matters. 2Checkout therefore provides, hosts and will be solely responsible for the payment system, where orders and payments are processed, and payment data are collected. For 2Checkout’s payment system and for subscription of imbus’ services via 2Checkout’s payment system the ToU do not apply but Terms and Conditions of 2Checkout including Service Specifications and Service-specific Terms and Conditions of 2Checkout.

1.3 The use of the Platform is exclusively reserved for B2B purposes. Consumers are excluded from the use of the Platform.

2. Amendments to the ToU

imbus reserves the right to amend the ToU at any time. imbus will inform the internet users about such amendments by e-mail to the e-mail address the internet user has provided at registration on the Platform at least 30 calendar days before the amendments enter in effect. If the internet user does not object to the amendments within a time frame of 30 days from receipt of the notification the amendments come into force and effect.

3. Registration for an Account on the Platform

3.1 Visiting the Platform is possible without registration. However, in order to be able to make full use of the content on and functionality of the Platform, acceptance of the ToU and registration for an account is required. Consumers are not allowed to register, only legal entities are allowed to register and such registration must be carried out by a legally competent internet user with representative authority.

3.2 Registration for an account on the Platform is free of charge.

3.3 When registering for an account, the following information must be provided completely and correctly by the internet user:

- email address
- password

If imbus accepts the registration the corresponding internet user will receive a confirmation email for the registration. To complete registration, the internet users must click on the link provided in the confirmation

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email. The account is then ready for use and the internet user can log on using his/her chosen password and username.

For ordering fee-based subscription(s) of TestBench the following additional information must be provided completely and correctly by the internet user:

Customer and payment related data:

- company (firm and address)
- VAT-ID
- Country

Initial product user data:

- team name
- username
- email address
- password

Use of nicknames is not permitted. A registration by providing false, incorrect or incomplete information is not permitted. Upon provision of the requested data at registration, imbus will check completeness and plausibility of the provided information.

3.4 When registering, the internet user must choose a secure password to log in to the account and must not disclose this password to unauthorized third parties.

3.5 Multiple registrations for accounts on the Platform are not permitted. If imbus has blocked or deleted a user account, this user must not register again. Please note that imbus is entitled to object to a particular registration at imbus' reasonable discretion.

4. Registration and Authorization Information

4.1 After registration authorization information (in particular password) must be kept secret and must not be disclosed to unauthorized third parties. The internet user is responsible for any usage or other activity which is carried out using the internet user's authorization information. In case an internet user suspects unintended disclosure of his/her access information to unauthorized third parties, the internet user must immediately change his/her password and notify imbus accordingly.

4.2 Registration information (including contact information) must be kept updated by the corresponding internet user. In case of changes, the internet users must immediately correct the information in the personal settings on the Platform.

5. Deletion, Blocking and Erasure of an Account

5.1 If the legally competent internet user (see 3.1) requests deletion of the account, the account will be erased permanently within 30 days. This does not apply if the account is used for subscribing for imbus' services in 2Checkout's payment system and the subscription is not terminated. In this case deletion of the account is only possible after termination of such subscription.

5.2 imbus is entitled to terminate use of the Platform and block an account temporarily or erase the account permanently in case of repeated negligent or willful breaches to the ToU and in case the corresponding internet user does not cure such breach within an adequate timeframe from imbus' notification of such breach. Furthermore, imbus is entitled to permanently delete an account if it has not been used for a period of 6 months. In this case, the user will be notified by e-mail and will then have 30 days to log into the account and prevent it from being deleted.

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6. imbus' Content, Internet User's Content and Usage Data

6.1 imbus' content on the Platform may include e.g. articles on particular subjects of interest for internet users, video and audio documents and other information. As far as the Platform offers the possibility that internet users can e.g. post comments or own articles ("internet user's content"), any such internet user's content has to be in accordance with this ToU.

6.2 imbus assumes no responsibility or guarantee for the completeness, accuracy, legality, and currency of internet user's content. This also applies with regard to the quality of internet user's content and their suitability for a particular purpose, and also with regard to third-party contents on linked external websites. Internet user's content on the Platform is indicated with the internet user's name, date of publication and reference to the internet user's profile on the Platform. This information may be generally available on the Internet and can be retrieved through search engines.

6.3 When entering internet user's content, the internet user grants imbus the perpetual, unlimited, free, transferable, and worldwide usage right to use, modify, copy, translate and disseminate (see also 6.5) this internet user's content, in particular

- storing the internet user's content on the imbus server, publication, making publicly available (e.g. by displaying the internet user's content on the Platform);
- processing and reproduction of the internet user's content, as far as this is required for the provision or publication of the relevant internet user's content;
- translation into English and possibly other languages, in order to publish the internet user's content on the Platform in the available languages;
- granting of usage rights – including for a charge – to third parties to internet user's content.

6.4 Internet users are fully responsible for the content they enter in the blog.

As far as the Platform offers the possibility that internet users can enter and post internet user's content, imbus will not check the internet user's content for completeness, accuracy, legality, currency, quality or suitability for a particular purpose. The internet users must ensure that he/she has all rights necessary to the internet user's content or are otherwise entitled (e.g. by valid permission of the holder of the rights) to enter it on the Platform and to grant the usage and exploitation rights in accordance with 6.3 and 6.5. imbus is entitled to refuse particular internet user's content and/or to edit, block or remove it without prior notice, if it infringes the ToU or third-party rights.

6.5 All property and non-property rights, in particular intellectual property rights with regard to usage data (log-files) will remain solely vested in imbus. Under copy right law imbus constitutes the "manufacturer of the database" arriving from a database of usage data or internet user's content. In particular, imbus is entitled to pseudonymize and anonymize usage data and internet user's content in particular to publish and commercially exploit it.

7. Prohibited Activities on the Platform

7.1 Internet users may not use the Platform for advertising purposes of their own or third-party products and services. This includes but is not limited to the following:

- any offers of chargeable contents, services and/or products, either by users or by third parties;
- any offers, advertisements and conduct of activities with a commercial background, such as competitions, lotteries, barter transactions, inserts or pyramid schemes, and
- any sending of unsolicited e-mails.

7.2 Furthermore, any activities on or in connection with the Platform which infringe applicable law or third-party rights are prohibited. This includes but is not limited to the following:

- posting, distribution, offering or advertising of contents, services and/or products which are pornographic, violate youth protection law, data protection and/or other laws, or of a fraudulent nature;
- content, which is insulting or defamatory to other users or third parties;

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- the use, provision or distribution of content, services and/or products which are legally protected or are subject to the rights of third parties (e.g. copyright), without the express authorization of the right holder.

7.3 Additionally, and irrespective of any possible legal infringement by internet user's content (e.g. blog entries), the following activities are prohibited:

- distribution of viruses, trojan horses and other harmful files;
- sending of junk- or spam-mails and chain letters;
- distribution of suggestive, offensive, sexually explicit, obscene, or defamatory content or communication of such content or communication which is suitable to promote or support racism, fanaticism, hatred, physical violence or illegal activities (explicit or implicit);
- harassment of other internet users, e.g. through repeated personal contact without or contrary to the response of the other internet user, and the promotion or support of such harassment;
- requesting other users to disclose passwords or personal information for advertising or unlawful or illegal purposes;
- distribution and/or public reproduction of Content and User Content from the Platform without the right holder's express permission,
- any willful action which is suitable to interfere with the smooth operation of the Platform.

7.4 If internet users become aware of any illegal, abusive, or otherwise unauthorized use of the Platform or infringement of these Terms or third-party rights, they are requested to inform imbus accordingly, by sending an email to info@testbench.com. In case of illegal activities or activities contrary to the ToU, imbus is entitled to block, erase or remove such illegal or abusive internet user's content or to temporarily or permanently block, erase or remove an account and take legal steps.

7.5 In the event of temporary or permanent blocking, imbus will block the internet user's access authorization, and notify the internet user accordingly by email. A permanently blocked access authorization cannot be restored. Permanently blocked internet users are permanently excluded from the Platform and must not register again on the Platform.

7.6 In the event of temporary blocking, imbus will reactivate the internet user's access authorization after resolving the suspected or reported infringement of the ToU or third-party rights and will notify the internet user accordingly by email to the email address provided by the internet user in the account.

8. Third-Party Indemnification

Internet users shall indemnify and hold imbus harmless against any third-party claims brought against imbus based on the infringement of their rights in connection with the internet user's content. This indemnification includes all reasonable costs for legal defense. As far as can be reasonably requested, the internet user will provide imbus with the documents and support necessary for imbus' defense.

9. Personal Data

The processing of personal data on the Platform including rights of the internet user arising from statutory data protection law are described in the Privacy Policy.

10. Liability

imbus' liability for user's damages incurred through the use of the Platform (including downloading of content), is limited to intent and gross negligence.

11. Applicable law

The ToU are subject to the laws of Germany with the exclusion of the UN Convention on the International Sale of Goods, CISG.

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12. Place of Venue

Place of venue for all disputes arising from the ToU is imbus' place of business.