

General Sales Terms and Conditions IMESA S.p.A

These General Terms and Conditions of Sale shall apply and become binding on IMESA S.p.A. upon receipt of the Purchaser's written order and the corresponding written confirmation issued by IMESA S.p.A. For any matters not expressly covered by these Terms and Conditions, the applicable ICC model contracts and rules in force at the time of the agreement shall apply, including but not limited to the ICC Incoterms® 2020.

General, prices and deliveries

1. These general terms and conditions of supply will be effective for any order unless expressly waived in writing by the parties and always accepted in writing by IMESA S.p.A. (hereinafter also referred to as IMESA for the sake of brevity). Any charges relating to the assembly and testing of the products will be governed by autonomous and specific provisions.
2. Any verbal agreements, declarations or commitments of agents, employees and officers of IMESA made before, at the same time or after the signing of these conditions shall not be binding on IMESA unless confirmed by the latter in writing.
3. Orders, in any form forwarded by the customer, shall not be binding on IMESA in any way, which may therefore not accept them or accept them in part at its sole discretion or withdraw from them. In the event of conflict between the customer's purchase order and these supply conditions, the latter will prevail unless otherwise expressed by IMESA in writing, as well as in the event of discrepancies between the order and IMESA's confirmation of the latter.
4. Price lists, quotes, offers and prices may be subject to change at any time at the sole discretion of IMESA.
5. The prices indicated by IMESA are intended to be ex-warehouse IMESA net of taxes, transport costs, customs and other tax charges, unless otherwise indicated in the offer.
6. The terms of delivery of the products, if agreed, refer to the date of acceptance by the freight forwarder and will start from the implementation by the customer of the charges and obligations placed on him, such as the presentation of documents and technical data necessary for the completion of the order or the execution of any advance payments that may have been agreed. The delivery terms will in any case be purely indicative and any delays in the delivery of the products may not in any case entail any liability on the part of IMESA. The customer will therefore not be able to impute or request from IMESA any compensation for damages suffered due to any delays in the delivery of the products.
7. Force majeure, unforeseeable circumstances and all exceptional events that may jeopardise the smooth processing of the order, such as delivery delays by IMESA's suppliers, transport problems and setbacks in manufacturing, industrial disputes, lack of materials and energy, measures by state authorities as well as restrictions on imports and exports, will allow IMESA to adequately extend the delivery terms or, if the processing of the order is compromised or made impossible, to withdraw totally or partially from the contract, without the customer's right to any compensation. IMESA still has the right not to process the order, even if confirmed, if the customer has become insolvent also with reference to other supplies to other suppliers, or its financial guarantees have been reduced.
8. In the event that no technical specification is provided by the customer and accepted by IMESA, if the same is necessary for the processing of the order, the specifications adopted will be those indicated by the latter.
9. The partial execution of the order by IMESA will entail its acceptance limited to the quantities of products included in the partial execution, without prejudice to the right for IMESA not to proceed with further partial executions of the same order, without this giving rise to rights or claims of any kind on the part of the customer or third parties.
10. The application of any penalties is subject to the acceptance of the same by IMESA and expressly mentioned in the order confirmation. In any case, any penalty will be the sole remedy for the delay, and will have an amount of 0.5% of the purchase price for each full week of delay, with a one-week deductible, and with a maximum value equal to 5% of the value of the supply. If the delay concerns only a part of the supply, the penalty will be calculated exclusively on the portion of the purchase price relating to that part of the supply which, as a result of the delay, cannot be used for the purposes for which the parties had intended it. The Buyer shall lose the right to a penalty if he does not submit a written claim for damages within six months from the date on which the delivery should have taken place. No penalty will be paid by IMESA for delivery delays caused directly or indirectly by reasons attributable to the Buyer (e.g. modification of technical documents, schematics, order variants, delays in the approval of final technical documents, etc.). In such cases, IMESA reserves the right to change the prices accordingly in addition to the delivery date.

Shipping

11. The shipment of the products will take place, unless otherwise agreed, at the full expense of the customer who, in this regard, cannot object to the possibility of using cheaper prices or means of transport than those used by IMESA.

Dispute and defect claims

12. Complaints for incomplete or incorrect deliveries or complaints for recognizable and manifest defects must be communicated to IMESA in writing within eight days of their discovery. Otherwise, the buyer will forfeit the relevant right, considering the peremptory nature of the term.
13. Any complaints for incomplete or incorrect deliveries must be formalized to IMESA in writing, under penalty of forfeiture, immediately and must appear on the transport document or other documents upon receipt of the goods. In any case, they must be reported to IMESA within eight days of delivery of the goods, under penalty of forfeiture.

Guarantee

14. IMESA declares and guarantees that the products marketed by it have been built in full compliance with national and international regulations governing the matter, the excellent quality of the materials used and the good construction of the appliance and also that the same has been thoroughly tested and subjected to strict inspections by IMESA quality control.
15. As regards the start and duration of the warranty, reference is made to the provisions of the product warranty regulations in force at the time of sale and in particular it is confirmed that the warranty will be valid for twelve (12) months from commissioning, no later than eighteen (18) months from the date of issue of the DDT.
16. In the event that the products are resold to persons who purchase them for purposes unrelated to their business, commercial and professional activity and if IMESA has issued, with specific reference to these products, a suitable guarantee of good operation, the relative conditions will be those indicated in the relevant certificate. In any case, the retailer will be liable to IMESA if it has handled, modified and in any case changed the conditions of the product prior to its sale to the final consumer.
17. In any case, the following will not be covered by the warranty: • any transport breakdowns (scratches, dents and the like), • damage and malfunctions due to and originating from insufficiency or inadequacy of the electrical, water, power supply system, or alterations resulting from environmental, climatic or other conditions, • damage and failures caused by negligence, negligence, tampering, disassembly, inability to use, or repairs carried out • breakdowns and malfunctions resulting from incorrect installation of the product, • glass or plastic parts, • installation and adjustment of equipment, • system consultancy and convenient checks, • maintenance, • use of non-original accessories and spare parts, • what can be considered normal deterioration due to use of the product, • damage and malfunctions resulting from improper and incorrect use of the product that does not conform to and in contrast with the instructions for use in the instruction manual,
18. Warranty assistance, product collection, repairs and possible replacement will be carried out within the time limits compatible with IMESA's organisational needs by authorised and competent technicians, at the request of the purchaser. In any case, IMESA undertakes to carry them out as soon as possible. Repairs carried out under warranty will not in any case give rise to extensions or renewals of the same. Parts replaced under warranty will remain the property of IMESA.
19. If the purchaser has directly carried out or had carried out work on the product by persons not authorised by IMESA, the warranty will no longer be valid and will therefore lose all effectiveness considering that the same must be carried out exclusively by IMESA or by technicians authorised in writing. The warranty will still lose all effectiveness and will therefore not be valid if the purchaser has used non-original accessories and spare parts on the product.
20. Provided that the warranty relating to the goods sold is valid and effective, IMESA may, at its discretion, choose to repair the goods or replace them. Only defective parts will be replaced. Replaced parts will become the property of IMESA and will not be returned. The duration of the warranty is not extended or renewed as a result of repairs or replacements. General terms and conditions of supply
21. Any travel expenses related to the intervention will be fully borne by the purchaser in cases where: • it is necessary to use special means of transport to reach the installation site • it is necessary to use means other than IMESA's own means of transport (e.g. ship, ferry, train, etc.) • the installation takes place beyond the ITALIAN borders

Responsibility

22. Without prejudice to the mandatory limits of the law, the liability of the supplier's liability towards the buyer for direct damages by contract, of any other nature and for any other existing form of compensation and/or indemnity provided for by law and/or by these Conditions and/or by the Contract, may in no case exceed an amount equal to 15% of the Price. Without prejudice to the mandatory limits of the law, the supplier will not be required to compensate the buyer for loss of profit and/or any indirect and/or mediated damages. In particular, by way of example and not limited to, the supplier will not be called upon to compensate for damages relating to loss of turnover, loss of profit, loss of contract, damages resulting from the non-functionality of the work carried out. In any case, the supplier will not indemnify the buyer for any damages, for any reason whatsoever, that the buyer may be called upon to compensate to third parties. In the event of a conflict of interpretation, the provisions contained in this article shall be deemed to prevail over any other provision to the contrary contained in other contractual documents.



Payments

23. Payments must be made, according to the conditions established by IMESA. In the event of non-payment or late payment of any amount due to IMESA for any reason, will commence, from the time of non-payment, without the need for notice or formal notice by IMESA and without prejudice to compensation for any greater damage, interest on arrears for each month or fraction of a month of delay calculated on the basis of Legislative Decree 231/2002
24. IMESA will have the right to refuse or suspend supplies in the event of default by the buyer for any amount due to the buyer or if his equity or financial situation worsens subsequently after the conclusion of the contract and again in the event that his financial guarantees have decreased.
25. The buyer waives the right to offset any receivables against IMESA unless he has paid his debts to the latter in full.
26. In the event of non-payment by the buyer, on the relevant deadlines, of even a single part of the consideration for the supplies, the latter will automatically forfeit the benefit of the term for the sums not yet expired and will therefore have to immediately pay in full its debt for principal, interest and expenses.

Confidentiality

27. Throughout the term of this contract, the parties undertake to keep confidential all confidential information that comes to their knowledge during the course of this contract. Technical specifications and industrial property
28. The specifications, drawings, specifications, samples, models, equipment and documents that IMESA may have communicated to the buyer for any reason will remain the property of IMESA and the buyer undertakes to keep them confidential and to use them exclusively for the execution of this contract.

Express termination clause

29. This contract will be terminated by law in the manner provided for by art. 1456 of the Civil Code, if the purchaser • suspends, in whole or in part, the payment of any sum due to IMESA in relation to the supplies made to him; • refuses to collect the goods supplied to it; • disseminates news and information relating to commercial relations with IMESA to third parties; • is subject to insolvency proceedings, none excluded and again if acts of protest have been raised against him or there are pending enforcement proceedings on real estate or with third parties; • its financial guarantees placed to protect the satisfaction of IMESA's creditors have decreased; • asks for extensions of the terms of payment for supplies; • has made himself untraceable; • changes have occurred in its corporate structure in the event that the purchaser is a partnership or corporation; • refuses to issue personal and real guarantees to IMESA if requested. In the event of termination of the contract, the purchaser, in addition to having to pay IMESA in full what is due to it, will still have to fully compensate it for all the damages suffered by the same as a result of its breach of contract. However, the possibility for IMESA to request compliance remains.

Causes of withdrawal

30. Regardless of the provisions referred to in the previous point, IMESA may in any case withdraw from this contract, without any obligation to give reasons, with one month's notice.

Processing of personal data

31. Pursuant to Legislative Decree 196/2003, the purchaser authorizes IMESA to use and process his/her personal data, declaring as of now that he/she is aware of and has been informed of the purposes and methods of processing, the optional nature of their provision and that he/she can legitimately object to their processing by IMESA. The purchaser also declares to have been informed, pursuant to art. 7 of Legislative Decree 196/2003, that the same is the holder of the rights provided for by the aforementioned last provision and the procedures for exercising them. The purchaser gives IMESA the right to communicate his/her personal data to companies controlled and associated by the same for statistical, commercial, marketing, credit protection, credit management and assignment purposes, through consultation, processing, comparison, interconnection, and communication of the same for credit protection purposes and always within the scope and limited to the purposes and for the provisions contained in this contract.

Export control

32. The customer confirms that the supply may be subject to Italian and/or foreign statutory provisions and regulations regarding export control and, without export or re-export permits from the competent authorities, may not be sold, rented or otherwise transferred or used for purposes other than those agreed. The customer agrees to comply with such provisions and regulations. The customer confirms that these provisions and regulations may change and are applicable to the contract in accordance with the statement valid at that time. The supply may not be used, either directly or indirectly, in any way in connection with the design, production, use or stockpiling of chemical, biological or nuclear weapons or transport systems.

Traceability of financial flows

33. The buyer must inform the supplier, at the latest at the time of completion of the Contract, of the application to the Contract of the provisions on traceability referred to in Law 136/2010 and subsequent amendments and additions. In this case, the buyer, at the latest at the time of completion of the Contract, must communicate to the supplier the tender identification code (CIG), and, where applicable, the unique project code (CUP). Also in this case, any financial movement relating to the activities referred to in the Contract: • must be carried out exclusively by bank or postal transfer, or by Ri.Ba. (Electronic Bank Receipt); • must report the relevant CIG code and, where applicable, the corresponding CUP. The buyer is informed that, in the absence of such information within the maximum term referred to above, the supplier will not be in a position to be able to fulfil the obligations referred to in Law 136/2010 both towards the buyer and towards subcontractors/subsuppliers that the supplier may use to carry out the activities referred to in the Contract with the buyer. The buyer will be exclusively responsible for any detrimental consequence that may derive from the failure to provide information within the aforementioned term and will indemnify and hold the supplier harmless from any damage or detrimental consequence.

Dispute Resolution and Applicable Law

34. These Terms and Conditions shall be governed by and construed in accordance with the laws of Italy. For any dispute arising from the supply relationships governed by these general conditions or in any case with the same, the judicial authority of the Court of Ancona shall have exclusive jurisdiction with the express, unanimous exclusion of any other court that may be concurrent or alternative.
35. Before proceeding with a legal action, any controversy, or claim arising out of or in connection with these Sales Terms and Conditions shall be initially resolved with an Arbitration under the Rules of Arbitration of the International Chamber of Commerce (ICC). The seat of the arbitration shall be Milan, Italy. The language of arbitration shall be English.

For acceptance (stamp and signature) _____

Pursuant to and for the purposes of art. 1341 and 1342 of the Italian Civil Code. The parties specifically approve the following clauses: Art. 2 (Declarations and commitments of third parties) Art.3 (Acceptance of orders) Art.4 (Changes in sales prices) Art.6 (Delivery terms and IMESA liability) Art.10 (Penalties) Art.12 (Limitation period for disputes and complaints) Art.22 (Liability) Art.23 (Default interest) Art.24 (Suspension of supplies) Art.25 (Compensation) Art.26 (Forfeiture of the benefit of the term) Art.29 (Express termination clause) Art.30 (withdrawal from the contract) Art.32 (Export control) Art.33 (Traceability of financial flows) Art.34 (exclusive jurisdiction), Art.35 (Arbitration)

Date _____

for acceptance (stamp and signature) _____

