

General Trading Terms and Conditions of Sale - Imres B.V.

General

I. Definitions

1. "Imres": the user of these General Terms and Conditions, the private company with limited liability Imres B.V. with registered seat under the registration number 08023514 in Wezep, The Netherlands, and it's office located at the Larserpoortweg 26in Lelystad, The Netherlands and shall include all companies within the Imres group.
2. "Buyer": the company or person who enters into an agreement with Imres in order to buy Products and/or Services from Imres.
3. "General Terms":. the general trading terms and conditions set out in this Agreement.
4. "Agreement": the contract between Imres and the Buyer for the sale and purchase of Products and/ or Services incorporating these General Terms.
5. "Written": in these General Terms electronic data and fax traffic are equal to written documents.
6. "Products" means any products (including but not limited to, food supplements, pharmaceuticals, medical disposables, kits, laboratory equipment, hospital furniture and equipment) handled, transported or dealt with by Imres on the instructions of the Buyer, and Products shall include any container, box, pallet, package or any other form of covering, packaging or equipment used in connection with or in relation to such Products;
7. "Services" means any service that Imres carries out on the instruction of the Buyer, including but not limited to, the distribution, inventory management, warehousing and the transportation of pharmaceuticals, medical disposables, kits and equipment.

II. Scope of Application

1. In these General Terms, the headings to the clauses are deemed to have been included for purposes of convenience only and shall not govern the interpretation hereof.
2. Words importing one gender shall be treated as importing any gender, words importing individuals shall be treated as importing corporations and vice versa, words importing the singular shall be treated as importing the plural and vice versa, words importing the whole shall be treated as including a reference to any part thereof, and expressions denoting a natural person shall be treated as denoting a juristic person and vice versa.
3. The General Terms hereinafter set forth shall exclusively apply to all offers, quotations and agreements, as well as all legal relationships between Imres and the Buyer.
4. The General Terms as amended from time to time shall also apply to future agreements, subsequent or partial orders and/or follow up orders, even if in a particular case they have not been transmitted or otherwise handed over to the Buyer.
5. Deviations from the General Terms may only be agreed in writing and will only apply to the specific agreements in respect of which the deviations were agreed upon and implemented.
6. If one or more of the provisions of the General Terms are void, or are declared void by means of judicial intervention, the remaining provisions of the General Terms will continue to apply in full. At such times, Imres and the Buyer will consult in order to agree new provisions to replace the provisions that are void or that were declared void, whereby if possible the intention and purport of the original provisions must be taken into account as much as possible.
7. No extension of time or waiver or relaxation of any of the General Terms shall operate as an estoppel against any party in respect of its rights under those General Terms, nor shall it operate so as to preclude such party thereafter from exercising its rights strictly in accordance with these General Terms.

III. Buyer's General Terms and Condition

1. Any differing or conflicting general terms and conditions of the Buyer shall not be applicable to any offer, quotation and/or agreement and are hereby rejected. Consequently, any deviations from these General Terms shall be of no effect unless they have been agreed to in writing by Imres. These General Terms shall also be exclusively applicable if, in the knowledge of contrasting conditions on part of the Buyer or conditions that deviate from these General Terms, Imres fulfills its obligation without restriction.

IV. Insolvency / Bankruptcy

1. In the event that the Buyer becomes insolvent or commits any acts of Insolvency or applies for bankruptcy or goes into liquidation, Imres shall be entitled immediately to terminate the Agreement without notice and without prejudice to any other rights of Imres hereunder.

V. Force Majeure

1. A party shall not be liable in respect of the non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to, strikes, lock outs or labor disputes of any kind, internet or power failures, fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, war or civil war or threats of terrorism.

2. If an event of force majeure exceeds 2 (two) month, a party may cancel the agreement without liability for compensation or damages.

VI. Applicable Law and Jurisdiction

1. These General Terms shall be governed by and construed in accordance with the law of The Netherlands, explicitly excluding the United Nations Convention of the International Sale of Goods (CISG).

2. Any dispute, controversy or claim arising out of or in relation to these General Terms or the Agreement, including the (in)validity, breach or termination thereof, shall be settled by competent court in the place of business of Imres.

Sale

VII. Offers

1. Offers made by Imres will be free of obligation. They will be valid for a period of 30 (thirty) days unless otherwise indicated in the offer. Imres will only be bound by an offer if the acceptance thereof is confirmed by the Buyer in writing within this term of validity.

2. Imres shall be entitled at any time by notice to the Buyer (customer) to cancel or resale from any offer in circumstances where it becomes impracticable or uneconomical for Imres to carry out the contract at the offered rate and the Buyer (customer) shall have no claim whatsoever against Imres for any loss, damage, cost or expense that the Buyer (customer) might incur as a result of Imres canceling or reselling from the offer.

VIII. Prices

1. The price of the Products and/or Services shall be as quoted in the Imres's offer or at such price as Imres and the Buyer may agree upon in writing. The price shall take into account any statutory increases.

2. The price is based on the agreed INCO terms exclusive of value-added tax.

IX. Payment

1. Unless otherwise agreed upon between Imres and the Buyer in writing, invoices shall be paid without any deductions within 30 (thirty) days following receipt of the invoice.

2. In the event of failure to pay by the due date, Imres shall be entitled to charge past-due interest in the amount of the statutory interest rate, established by the Dutch Central Bank (De Nederlandsche Bank N.V.) from the date of default onward. Furthermore, Imres shall be entitled to charge extrajudicial collection costs of 15% of the outstanding invoices, with a minimum of €150.00. Imres shall further be entitled to suspend deliveries and/or cancel its outstanding obligations.

3. Any set-off with a counterclaim shall be permitted only if such counterclaim is undisputed by Imres or has been confirmed by a non-appealable court decision.

X. Retention of Title

1. Imres shall, notwithstanding the applicable INCO Terms, retain title to all Products and or relevant documentation delivered and yet to be delivered under the agreement until the Buyer has fulfilled all its payment obligations towards Imres. These payment obligations consist of payment of the purchase price of the products delivered and yet to be delivered, plus amounts due for the Services performed that relates to the delivery and claims based on the attributable failure of the Buyer to comply with its obligations, including the payment of compensation, extrajudicial collection costs, interest and any penalties.
2. Products for which Imres reserves title shall be maintained by the Buyer as Imres's escrow agent. The Buyer shall be obliged to handle the goods carefully and to insure the products subject to retention of title with the due care and diligence of a prudent businessman, at least against damages deriving from fire, water, loss and/or theft, and on request to provide evidence to the effect that this insurance has been taken out. The Buyer in advance irrevocably assigns to Imres all its claims under this insurance by means of security.
3. If products that are subject to retention of title become inseparably connected or mixed with other products, Imres shall have joint title to the new products. Claims arising from the sale of products for which Imres reserved title are hereby in advance assigns to Imres, such assignment being limited to the amount of the invoice value of products for which Imres has reserved title, in case of sale of Imres's products together with other products. Imres hereby accepts the transfer of these claims.
4. The Buyer shall only be entitled to sell products that are subject to retention of title in the ordinary course of business. The Buyer shall not be entitled to dispose of the products in any other way, especially by pawning or as collateral. In case of a seizure or other measures of distraint by third parties, the Buyer shall be obliged to inform the enforcement agencies about Imres' property and to inform Imres within 3 (three) days about the seizure.
5. If there are justifiable grounds for doubts as to the solvency or creditworthiness of the Buyer, Imres shall be entitled to prohibit the further sale or processing of delivered products, for which Imres reserves title, and to request its return at the expense of the Buyer. The taking-back of products subject to retention of title does not constitute any cancellation or termination of the contract.

XI. Shipment and Passing of Risk/Export Controls

1. The Buyer shall be responsible for obtaining adequate insurance coverage against theft, loss, breakage, transport, fire and water damages, as well as other insurable risks.
2. All risk into the Products shall pass to the Buyer upon dispatch or shipment. This shall apply even in the case of partial shipments, and/or even if Imres has assumed additional obligations such as freight or shipping charges, or direct delivery and installation. This will be reflected in the agreed INCO terms.
3. If dispatch or shipment is delayed due to circumstances for which the Buyer is responsible, the risk shall pass to the Buyer as of the date of notification of readiness for dispatch or shipment.
4. If the delivery of the products by Imres is subject to the granting of an export or import license by a government and/or a governmental authority under any applicable law or regulation, or otherwise restricted or prohibited due to export or import law or regulations, Imres may suspend its obligations and the Buyer's rights regarding such delivery until such license is granted or for the duration of such restriction and/or prohibition, respectively, and Imres may even rescind the agreement without incurring any liability towards the Buyer. Furthermore, if an end-user statement is required, the Buyer shall inform Imres thereof, and the Buyer shall provide Imres with such document upon Imres' first written request. If an import license is required, the Buyer shall inform Imres immediately thereof and the Buyer shall provide Imres with such a document as soon as it is available.
5. By accepting Imres' offer, entering into an agreement, and/or accepting any of Imres' products, the Buyer agrees that it will not deal with the Imres products and/or documentation related hereto in violation of any applicable export or import control laws and regulations.
6. Taxes, levies duties, imposts and deposits applicable will be as reflected in the INCO terms or as agreed by the parties.

XII. Delivery of the Products

1. Unless otherwise agreed upon, delivery of the products shall take place at the address specified in the Buyer's order and the Buyer shall be deemed to have accepted the products upon their delivery. The Buyer shall make all necessary arrangements to take delivery of the products whenever they are tendered for delivery.
2. The delivery date specified by Imres is an estimate only. Time for delivery shall not be regarded as the essence of the agreement. Imres will take on a best efforts obligation to make the delivery date. Agreed delivery and completion periods can never be regarded as strict deadlines. If Imres does not deliver the products Imres must be given a written notice of default and granted a reasonable period in which to comply with its delivery obligations.
3. If Imres is unavailable to deliver the products due to reasons for account of the Buyer, then Imres shall be entitled to place the products in storage until such times as delivery may be affected. The Buyer shall be liable for any expense associated with such storage.

XIII. Duties of Inspection and Notice of Defects

1. The Buyer shall be obliged to inspect the packaging and the products immediately upon delivery and to report any damage or deviations in delivered amounts to Imres B.V. as well as the shipping agent. The Buyer shall also clearly mark the delivery documents by specifying the damage or deviations and the extent thereof.
2. Obvious defects, including but not limited to damages resulting from transport or deviations in delivered amounts shall be notified to Imres in writing without delay, in any event within 24 (twenty four) hours of receipt of the delivery at the latest.
3. The Buyer loses the right to claim for lack of conformity of the products if the Buyer does not give notice to Imres specifying the nature of the lack of conformity within 3 (three) days after the Buyer has discovered such lack of conformity or ought to have discovered this.

XIV. Warranty

1. Section XIII shall only apply in the event no other specific warranty has been agreed in the agreement. Should any products be covered by a warranty issued by any third party, such third party warranty terms shall apply to the exclusion of section XIII.
2. Imres warrants that its products meet Imres' specifications at the time of delivery. All warranty claims on the specifications of the Products must be made in writing within 30 (thirty) days of receipt of the Products. Imres' sole liability and the Buyer's exclusive remedy for a breach of this warranty is limited to repair, replacement or refund at the sole option of Imres.
3. To the maximum extent permitted by applicable law, Imres hereby expressly disclaims and denounces, and the Buyer expressly waives, any warranty regarding results obtaining through the use of the Products, including without limitation any claim of inaccurate, invalid, or incomplete results.

XV. Limitation of Liability

1. All liability of Imres shall be limited to direct damages arising from the grossly negligent acts or omissions of Imres and will under all circumstances be limited to the price paid for the Products and/ or the Services.
2. Imres will never be liable for indirect or consequential loss or damages, including stagnation in the regulated course of affairs within the business of the Buyer, loss of profits and/ or goodwill, missed savings and consequential damages, related in any way with or caused by the Products of or performances by Imres.
3. The Buyer will indemnify Imres against and will hold Imres harmless against all liabilities, such as losses, damages or claims including but not limited to, third-party claims that are related, directly or indirectly, costs and expenses to the performance of the agreement and all related financial consequences save and except where the losses, damages, or claims arise out of the gross negligence acts or omission of Imres as provided in point 1 of this clause.

XVI. Intellectual Property Rights

Imres reserves all intellectual proprietary rights and copyrights to and in any and all documents provided to the Buyer, including but not limited to cost estimates, drawings, and technical documentation. Such documents may not be made available to any third parties without Imres' prior written consent.

General Terms and Conditions Purchase Imres B.V.

General

I. Definitions

1. "Imres": the user of these General Terms and Conditions, the private company with limited liability Imres B.V. ("Imres") with registered seat in Wezep under the registration number 08023514, The Netherlands, and sites in Lelystad, The Netherlands and shall include all companies in the group Imres is part of.
2. "Supplier": the company or person who enters into an agreement with Imres in order to sell products and/or services to Imres.
3. "General Terms": the General Terms and Conditions set out in this document.
4. "Agreement": the contract between Imres and the Supplier for the sale and purchase of Products incorporating these General Terms and Conditions.
5. "Written": in these General Terms electronic data and fax traffic are equal to written documents.
6. "Products" means any products procured by the Supplier to Imres as between the parties from to time.
7. "Services" means the services to be provided by the Supplier to Imres as agreed between the parties from time.

II. Scope of Application

1. The General Terms hereinafter set forth shall exclusively apply to all offers and agreements, as well as all legal relationships between Imres and the Supplier.
2. The General Terms as amended from time to time shall also apply to future agreements, subsequent or partial orders and/or follow up orders, even if in a particular case they have not been transmitted or otherwise handed over to the Supplier.
3. Deviations from the General Terms may only be agreed in writing and will only apply to the specific agreements in respect of which the deviations were agreed upon and implemented.
4. If one or more of the provisions of the General Terms are void, or are declared void by means of judicial intervention, the remaining provisions of the General Terms will continue to apply in full. At such times, Imres and the Supplier will consult in order to agree new provisions to replace the provisions that are void or that were declared void, whereby if possible the intention and purport of the original provisions must be taken into account as much as possible.

III. Buyer's General Terms and Condition

1. Any differing or conflicting general terms and conditions of the Supplier shall not be applicable to any offer, quotation and/or agreement and are hereby rejected. Consequently, any deviations from these General Terms shall be of no effect unless they have been agreed to in writing by Imres. These General Terms shall also be exclusively applicable if, in the knowledge of contrasting conditions on part of the Supplier or conditions that deviate from these General Terms, Imres fulfills its obligation without restriction.

IV. Insolvency / Bankruptcy

1. In the event that the Supplier becomes insolvent or applies for bankruptcy or goes into liquidation, Imres shall be entitled immediately to terminate the Agreement without prior notice and without prejudice to any other rights of Imres hereunder.

V. Force Majeure

1. A party shall not be liable in respect of the non-performance of any of its obligations to the extent such performance is prevented by any circumstances beyond its reasonable control including but not limited to, strikes, lock outs or labor disputes of any kind, internet or power failures, fire, flood, explosion, natural catastrophe, military operations, blockade, sabotage, revolution, war or civil war or threats of terrorism.

2. If an event of force majeure exceeds 1 month, a party may cancel the Agreement without liability for compensation or damages.

VI. Applicable Law and Jurisdiction

1. These General Terms shall be governed by and construed in accordance with the law of The Netherlands, explicitly excluding the United Nations Convention of the International Sale of Goods (CISG).

2. Any dispute, controversy or claim arising out of or in relation to this General Terms or the Agreement, including the (in)validity, breach or termination thereof, shall be settled by competent court in the place of business of Imres.

Purchase

VII. Prices

1. The price of the Products and/or Services shall be as quoted in Supplier's offer, or such price as Imres and the Supplier may agree upon in writing.

2. The price is based on the agreed INCO terms, exclusive VAT.

VIII. Delivery

1. Delivery shall be at the agreed place of delivery.
2. The Supplier shall be in default immediately by exceeding the delivery date, without further notice being due.
3. If the Supplier expects that delivery cannot be made upon the agreed date of delivery, Supplier shall immediately inform Imres accordingly in writing and propose bridging measures. This shall not affect the rights of Imres to terminate the Agreement and/or to claim damages or compensation.
4. The Products to be delivered shall be accompanied by a packing list in duplicate. The packing list shall state the item numbers and descriptions.
5. In the event that Imres requests the Supplier to suspend the delivery, the Supplier shall store the Products, properly packaged and designated, insured and secured. Possible reasonable costs shall be invoiced after previous consultation with and acceptance by Imres.
6. Inspection, checking and/or testing of the Products shall not mean delivery or acceptance of delivery by Imres.

IX. Packaging

The Products shall be properly packed. All packing material will become the property of Imres at delivery, unless Imres waives that right.

X. Ownership and Risk

The ownership and risk in and to the Product shall be as agreed in the INCO terms.

XI. Payment

1. Supplier shall submit an invoice for each delivery after receipt of the Products, which invoice is only accepted if Imres does not dispute the invoice as a whole or any portion thereof.
2. Payment of an accepted invoice shall be within the agreed payment conditions.
3. In the event of failure in the performance of the Agreement, Imres shall be entitled to wholly or partially suspend the payment.
4. Imres's payment shall in no way constitute a waiver of any rights under the Agreement.
5. Imres is entitled to set off amounts receivable from Supplier against the amounts to be paid to Supplier.

XII. Warranty

1. Supplier guarantees that the delivered Products conform to what has been agreed, have the promised properties, are free from defects, correspond with the agreed specifications, are suitable for the purpose for which they are intended and comply with the legal requirements and other government regulations among which the European laws and regulations of local authorities, as well as with the highest safety and quality standards or certification applied within the branch, all as they prevail at the time of delivery.

XIII. Intellectual Property Rights

1. Supplier guarantees that the use or the resale of the Products shall not infringe any intellectual property rights of third parties.
2. Supplier shall hold Imres harmless against all claims arising from any infringement of any intellectual property rights and shall indemnify Imres for all costs and damages arising (in) directly from such infringement, including the full costs of legal aid.

XIV. Liability

1. Supplier shall be liable for all losses, damages and claims, including but not limited to direct and indirect or consequential damages incurred by Imres or third parties due to any defect in the Products, non-conformity or non-compliance to the Agreement.
2. Supplier shall be liable for all direct and indirect or consequential damages incurred by Imres due to acts of Supplier or his associates.
3. Supplier shall hold Imres harmless against all claims from third parties for damages caused by Products of Supplier.
4. Supplier will make sure he has an adequate liability insurance, which covers the damages mentioned in this article.

XV. Termination of the Agreement

1. In the event that Supplier fails to comply with any of its obligations under the Agreement, or in case of bankruptcy, or suspension of payment, or closure of its business, or liquidation, the Supplier shall be in default immediately without any notification of default from Imres. In that case Imres shall be entitled to terminate the Agreement with immediate effect, without any prior notice of termination or judicial intervention and without prejudice to Imres's right to claim for damages.
2. Any claims that Imres may or will have against the Supplier shall become immediately due and payable in full on demand.
3. Supplier shall not be entitled to invoke any right to suspend performance of any of its obligations in terms of these General Terms and Conditions, nor shall it be entitled to invoke any right of set-off.