



# General Conditions of Sale



**1. SCOPE OF APPLICATION**

- 1.1. These General Conditions of Sale ("GCS") shall apply to sales operations for all kinds of products and services ("Products" and "Services") offered by INDUSTRIAS IMAR, S.A. ("IMAR") to each Client ("Client"). The GCS, along with the specific conditions contained in the agreement or order confirmation, constitute the entire agreement between the Client and IMAR, and entirely cancel or replace any conflicting term or condition proposed by the Client, as well as any oral or written communication that has not been expressly accepted by IMAR.
- 1.2. These GCS are deemed notified to the Client from the time the Client is notified the web page where they are located or receives an offer from IMAR ("Offer") accompanied by the GCS. In any case, they will be deemed accepted without reservations by the Client when the Client places an order.
- 1.3. IMAR reserves the right to modify these GCS by providing the Client with the current GCS as updated from time to time through its website [www.imarsa.com](http://www.imarsa.com).

**2. ORDERS**

- 2.1. The Client shall send orders in writing via fax, e-mail, postal mail or any other procedure which leaves evidence of their delivery. An order is understood to be any document submitted by the Client which includes the identifying elements of the goods to be supplied out with regard to amounts, types of Products, technical specifications and/or quality requirements and price.
- 2.2. The orders placed by the Client will be binding for both parties pursuant to IMAR issuing express written confirmation that it accepts such order. Acceptance of Client's order does not imply in any way a waiver of the application of these GCS.
- 2.3. Any request for extension and/or modification of an order will be considered a new order, and will therefore require express acceptance from IMAR, and may result in a revision or modification of the initially agreed conditions, including price and lead time.
- 2.4. If as a result of a modification of an order, part of Products are cancelled; or should the Client unilaterally totally or partially cancel a firm order, IMAR shall be entitled to invoice the Client for the total amount of the order, as well as all such costs and expenses as may have been incurred as a consequence thereof, without prejudice to compensation for damages. A Client breach cannot be justified by a third party end recipient of the Products' terminating or amending its undertaking with the Client.

**3. PURPOSE AND SCOPE OF THE PROVISION**

- 3.1. This encompasses the supply of Products and/or Services listed and described in the Offer.

IMAR may advise the Client in finding the optimal solution for Client needs according to the different characteristics of the Products, their application and the information provided by the Client. Such advice, be it oral or written, consists of providing the maximum possible information on the Products, so it is the Client who decides which Product is the best to achieve the final result expected in its specific application. Therefore, it is the Client, and not

IMAR, who is ultimately and solely responsible for the final choice of the Product in terms of its application. The use, function and adaptation to intended technical applications, installation and processing of the Products are the sole responsibility of the Client. Therefore, the advice of IMAR does not release the Client in any way of its obligation to validate the supplied Products to determine their suitability for the intended processes and uses nor does it imply that IMAR accepts any technical responsibility for the project.

- 3.2. Technical drawings or specifications of the Products shall be provided by the Client.

**4. PRICES**

- 4.1. The validity of the Offers will be 30 days, unless special conditions are agreed therein.
- 4.2. Quoted prices will have the same time limits as the Offer and shall be considered fixed during that period regarding payment conditions and amounts set out in it. Any change, modification or alteration in the Client's credit standing, as well as new specifications or requirements demanded and/or notified by the Client after the initial Offer, shall entitle IMAR to review and/or update its terms, including price.
- 4.3. Prices quoted in Offers, unless expressed in a different currency, are net in euros and do not include any tax, tariff or rate, which will be included in the invoice at the relevant rates. Unless otherwise indicated, prices include packing, but do not include transport costs, insurance, expediting, handling, storage, charges, customs duties, demurrage and similar concepts that shall be borne by the Client and shall be charged separately.
- 4.4. Should IMAR need to make drawings, sketches or diagrams in addition to the technical documents which are strictly necessary to manufacture the Products, it reserves the right to invoice the Client for such additional work.

**5. INVOICING AND TERMS OF PAYMENT**

- 5.1. As a general rule, and unless otherwise agreed by the parties, Products will be invoiced when expedited from IMAR facilities. Every delivery note will ensue in a corresponding invoice.
- 5.2. Invoicing to be based on actual measurement of the supplied Products.
- 5.3. All banking, financial, currency exchange and other expenses or commissions resulting from a payment by the Client to IMAR will be borne solely and entirely by the Client, who may not pass them onto IMAR nor deduct them from the invoice price.
- 5.4. The terms of payment shall be those agreed in each case by the parties, but subject to acceptance of the risk by IMAR's insurers (except cash or payment in advance). In the absence of agreement, payment of invoices will as set out in Spanish Act 3/2004, of 29 December 2004 which determines steps in combating late payment in commercial operations.

5.5. Any actions, exclusions or claims on the part of the Client will not suspend its obligation to pay the price agreed on the terms and within the deadlines agreed.

5.6. Non-payment by the Client within agreed deadlines shall entail, without notice of expiration or prior requirement, an annual 6% interest on outstanding invoice amounts, effective from the date of the deadline, without prejudice to any other right or action which IMAR may be entitled to for late payment.

5.7. Also, in case of delay in payment, or in case of adverse change in the Client's assets or financial situation which could affect its ability to meet its payment obligations, or in case of a change in the coverage of Client non-payment risk or solvency by IMAR's insurer between the date of order confirmation and the date of delivery, IMAR may, until such time as payment is properly renegotiated to its satisfaction, suspend or cancel delivery of the outstanding order or Products without further responsibility.

The Client's entering bankruptcy proceedings or compulsory liquidation, whether court-ordered or otherwise or, in general, any modification of its legal standing which may affect its solvency, may lead IMAR to immediately call on all credits for all Products delivered to and not paid for by the Client.

## **6. DELIVERY – PLACE AND TERM – TRANSFER OF RISK – VAT**

6.1. Delivery is understood to be the placing of the Products at the Client's disposal at the location agreed between the parties on arriving means of transport ("Delivery"), at which time the risk on the Products will be transferred to the Client.

6.2. In cases where delivery is carried out on the premises of IMAR, responsibility of IMAR is the proceed to the loading of the Products on the Client's vehicle, being the responsibility of the Client place and make Products for transport as well as ensure that the vehicle is suitable for loading and transport them. In any case, IMAR's responsibility and risk will end with the loading of Products on the Client vehicle, henceforth moving the risk to the Client for all legal purposes.

6.3. In the event that the Delivery is carried out in a location other than IMAR facilities, the Client is to provide all the necessary information on the place of Delivery and will be required to have the necessary personnel, material and equipment to unload the Products on the agreed delivery date. The Products will be unloaded by the Client at its own risk and on its own account. In addition the Client shall prepare access to the place of Delivery to enable the carrier of the Products to enter quickly, easily and without delays. IMAR will bear the risk of transport until Products are placed at Client's disposal at the place of Delivery to the purchaser, on arriving means of transport.

6.4. Lead times shall be specified in each order, and start from the confirmation of the order, provided that the Products have been fully defined and, as the case may be, drawings, sketches, diagrams or technical specifications for their manufacture have been validated and all other contractual obligations of the order have been fulfilled, particularly with regard to payments. Otherwise, lead times start from the date of such validation/compliance by the Client.

The Client will be responsible for providing IMAR, sufficiently in advance to allow for the completion of necessary manufacturing processes and lead times, with all required information, including (a) marking, palletizing and expediting, (b) import certificates, documents required for obtaining necessary official permits and any other document prior to expedition, and (c) as the case may be, confirmation from the Client that it has opened a letter of credit. Should any of these documents, instructions or confirmations not be received or should any of them (in the opinion of IMAR) be liable to cause unreasonable costs or delays, IMAR may, at its own discretion and without prejudice to any other solution delay the date of expedition or cancel the order or contract.

Supply shall be deemed concluded when the total number of parts or elements in the order are delivered, regardless of any protocols of delivery or any retouching or finishing involving additional special parts.

6.5. Under no circumstances shall IMAR be liable for delays due to shortage of materials, strikes, transport difficulties or similar events, which shall be considered force majeure for the purposes of fulfilment. Unless expressly stipulated otherwise, lead times will not be considered binding and delays in delivery shall not entitle the Client to claim damages. Delays in Delivery shall only entitle the Client to cancel orders for the Products which are not being manufactured and only after having granted IMAR a reasonable grace period and after delivery of a formal notice of default.

In the event that the delay in the delivery of goods occurs for reasons unrelated to IMAR and attributable to the Client, IMAR reserves the right to invoice for 100% of the order. Should the delay be in excess of two months, IMAR will be empowered to either (i) proceed with the delivery of the Products, in which case the Client is obliged to take receipt thereof under the terms agreed in the order or (ii) invoice the Client for storage expenses, even in-factory, for an amount equivalent to 0.5% of the value of the order for each full week of delay in delivery; in which case, the storage will be to the account and risk of the Client.

6.6. Should the Products supplied be subject to a VAT exemption due to an intra-community or export destination and the Client on its own discretion and risk, run with all or part of the transport (terms of delivery EXW, FOB, FCA, etc.) IMAR shall only be required to submit an application for VAT exemption if the Client provides documents that substantially justify (transport document:CMR note, bill of lading, CIM note, export declaration, etc.) transit or transport to the destination country.

## **7. EXPORT LIMITATIONS**

Client acknowledges that Products sold by IMAR may be subject to local or international provisions and regulations regarding export controls and that, without authorization to export or re-export from the competent authorities, the Products sold may not be sold, leased, assigned, transferred, etc. nor used for any purpose other than was agreed. The Client is solely responsible for complying with such provisions and regulations.

**8. COMPLIANCE AND INSPECTION**

Upon Delivery, Client is obliged to perform an inspection of the Products to check the amount and quality of supplied Products, and any defect or visible damage found (on the surface, packing, etc.) shall be recorded during the inspection. Should the Client refrain from making any comments in writing concerning the Products within four (4) days after delivery and before any transformation or further handling thereof, the Products shall be automatically deemed accepted at the time of delivery to the customer. IMAR will not accept any claims relating to defects or deficiencies of the Products with respect to the specific terms of the Order and/or requested technical specifications which may/should have been identified during a reasonable inspection, or if no such inspection had taken place.

**9. CLAIMS AND LIABILITY**

9.1. The Products will be manufactured and delivered with the qualities, technical specifications and manufacturing tolerances of IMAR or, in absence thereof, with those set out in the order acceptance.

9.2. Only claims received by email, letter or fax will be accepted. The period for claims shall be: (i) four (4) days from the Delivery of Products, including those delivered baled or packed, in case of obvious non compliance of the delivery with regard to the order in terms of quality and quantity; (ii) thirty (30) days from the date of Delivery in case of hidden defects in Products which could not be identified via a simple examination or elementary check.

Should the Client fail to lodge a claim within the aforementioned periods, it will lose all rights of recourse against IMAR for the said causes.

Should IMAR recognise the defects claimed, it will proceed to repair or replace, at its own criteria, the defective Products in the shortest possible time, the Client not being allowed to withhold agreed payments nor being entitled to more compensation.

9.3. No claims may be lodged against IMAR in cases of deterioration of the Products arising from (i) misuse or misapplication of the Product; (ii) improper storage or use of the Products or (iii) the Products having been handled, transformed, placed or arranged incorrectly, in all cases, be it on the part of the Client, people under the supervision of the Client, people who receive orders about the Products or the final recipient of the Products.

9.4. Should this claim be based on a defect in the Products, IMAR will have the right to inspect them at any time in the place where they are located. The Client may not be exempted from allowing such inspection with the excuse that the Product has been included in third-party goods or products or that they are located on the premises or land of a third party.

9.5. The maximum compensation with which IMAR will respond to the Client and any third party for concepts attributable to and demanded from IMAR, including consequential damages or lost earnings, incidental, indirect, consequential losses, economic or intangible damages, loss of profit or production, rejected

productions, except in cases of wilful misconduct or gross negligence, will be 100% of the amount of the invoice issued by IMAR for the Product for which damages are sought. The limitation of contractual liability contained in this clause shall prevail over any other contractual document that may be contradictory or inconsistent with it, unless such provision restricts IMAR's liability to a greater degree.

**10. RETENTION OF TITLE**

10.1. IMAR reserves the right to full ownership of the goods supplied until the moment in which the Client has definitively paid the price of the goods supplied in its entirety and complied with all the obligations of the trade relationship. The Client is obliged to carefully safeguard the goods supplied until they become its property, bearing the risk of loss or damage to them from the time of Delivery.

The Client is obliged to notify IMAR about such steps taken by third parties affecting Products while they are still owned by IMAR. Likewise, the Client undertakes to nominate IMAR as beneficiary of the insurance policies covering Products for which there is retention of title.

10.2. IMAR can decide to sell and recover Products, whether processed or otherwise, which are the subject matter of this retention of title clause, in the event of any breach of the undertakings of the Client contained in these GCS, including payment. All costs arising from the return of Products to IMAR when it is exercising of the rights granted herein, shall be borne or passed on to the Client in their entirety.

10.3. It is agreed that the Client may not, under penalty of a claim for damages for abusive resistance, refusing the return of Products on first requirement submitted by IMAR pursuant to this retention of title.

**11. PACKAGING**

The packaging material used and its relevant environmental management are the property and responsibility of the Client, which shall provide suitable environmental processing, their return not being allowed.

**12. FORCE MAJEURE**

The failure or delay of IMAR in manufacturing, expediting and delivering Products resulting, totally or partially, from situations of war (declared or undeclared), strike, labour dispute, accident, fire, flood, acts of God, delays in transport, shortage of material, equipment malfunctions, conditions of the facilities, laws, regulations, ordinances or decrees issued by any Government agency or body any cause which is reasonably beyond the control of IMAR, or the occurrence of a contingency which prevents the execution of its obligations, will not generate liability on the part of IMAR. In such circumstances, IMAR may have the extra time that is reasonably necessary for the fulfilment of its obligations. This circumstance must be notified in writing to the other party within a period of 5 days from the causative event of force majeure. Should the cause of force majeure last more than three months, IMAR may terminate the agreement without obligation to compensate.

**13. INDUSTRIAL AND INTELLECTUAL PROPERTY**

13.1. Every technology, design, invention, work, drawing, process, expertise, software, calculation, manual, method, solution, idea, improvement, modification, contribution, and in general, all information or documentation developed or supplied by IMAR on occasion of the Offer, the performance of the agreement or incorporated in the design or operation of the Product involving industrial or intellectual property shall at all times remain the exclusive property of IMAR and the Client may not employ it on its behalf or that of third parties without prior written consent from IMAR for purposes other than the fulfilment of the agreement and the operation and maintenance of the Products.

13.2. IMAR reserves the right to take and/or use photographs of those works where supplied Products are included in order to use such pictures in its advertising, website, catalogues, etc. as an example of its Products and activities. The Client shall do everything necessary in order to guarantee this right.

**14. PROTECTION OF DATA OF A PERSONAL NATURE**

In accordance with the provisions of Organic Law 15/1999, of 13 December 1999 on the Protection of Data of a Personal Nature, the Client is notified about and authorizes the inclusion of its personal details in an automated file which is registered with the Data Protection Agency, in order to be able to manage the business relationship which links them as well as to keep the Client informed about IMAR Products and Services. To exercise its right to access, rectify, cancel and object, the Client should write to the address of the person responsible for the file: INDUSTRIAS IMAR S.A., Pol. Ind. Granada AB1, 48530 Ortuella (Spain), or [info@imarsa.com](mailto:info@imarsa.com).

**15. CONFIDENTIALITY**

All information that parties have access to as a result of their trade relations, including the terms of this agreement, shall be considered confidential information unless it is in the public domain, and will not be disclosed to third parties or used directly or indirectly for purposes other than those provided for in the agreement. This obligation extends to employees who will receive only such information as is strictly necessary to carry out their duties, with the Client ensuring in any case that confidentiality is maintained. The obligation of confidentiality will continue to be in effect at least two years after the full payment of the Products.

**16. NULLITY**

Should any of these GCS or part thereof be totally or partially void, illegal, or unenforceable, this shall not affect the validity of the remaining terms and conditions contained herein.

**17. NOTICES**

Any notices and messages which the parties need to send each other will be via fax, email or postal mail with acknowledgement of receipt, or any other written procedure which allows proof of receipt by the recipient, addressed to the addresses of each party.

**18. LANGUAGE, JURISDICTION AND APPLICABLE LAW**

18.1. These GCS have been drafted in Spanish and subsequently translated into different languages. In case of discrepancy

between the Spanish text and the text in any other language, the Spanish texts shall prevail.

18.2. These GCS are subject to Spanish Law. For any question or divergence as may arise from the interpretation, implementation and execution of this agreement, the parties waive any right with respect to any other jurisdiction as may be of application and expressly submit to the jurisdiction and authority of the courts of the town where the IMAR registered office is located.