

## **General terms and conditions for sales via the Emesa partner platform**

Version 1.1 December 2024

These Terms and Conditions apply between the Supplier and Emesa and apply if the Supplier wishes to sell products via Emesa using the Platform (mediation) model. Emesa acts as an intermediary for both the Customer and the Supplier.

### **1. Definitions**

In these general terms and conditions, the following terms (singular and/or plural) shall have the following meanings:

- 1.1.** Supplier: the natural person or legal entity acting in the course of their profession or business that offers their products on the Emesa Websites via the Platform.
- 1.2.** Account: the strictly personal environment of the Supplier within the Platform.
- 1.3.** Consumer Conditions: the General Terms and Conditions applicable between the Customer and the Supplier.
- 1.4.** Deal Websites: Emesa's websites and apps on which products and services are sold at a fixed price. Auction Websites can also offer a fixed price (direct buy and cross sales). Where this is the case, the rules applicable to Deal Websites apply.
- 1.5.** Emesa: Emesa Nederland BV, with its registered office Zijldijk 24B 2352AB Leiderdorp, Nederland.
- 1.6.** Emesa Websites: Emesa's Auction Websites, Deal Websites and associated apps, collectively or individually.
- 1.7.** Customer: any natural person (not a legal entity) who makes bids and/or purchases through the Emesa Websites.
- 1.8.** Materials: the information provided by Emesa to Customers. The Materials may be published in digital or printed form. The Materials originate from the Supplier, Emesa or third parties and include, but are not limited to: information, texts, website content and/or photographic or other materials and other documents, as well as the Supplier's brand and trade names.
- 1.9.** Offer: offering of a product on the Emesa Websites, often in a series in the form of an Auction.
- 1.10.** Agreement: the agreement concluded between Emesa and the Supplier, of which the Terms and Conditions, appendices and any other agreements form part.
- 1.11.** Party/Parties: Emesa and the Supplier either separately or jointly.
- 1.12.** Platform: the environment where the Supplier manages its data, products and Account. Through the Platform, the Supplier can offer products on the Emesa Websites. (Also referred to as the 'Seller Portal')
- 1.13.** Service Levels: the goals to be achieved by the Supplier, also quality requirements applicable to sales to Customers.
- 1.14.** Target Price: the minimum target price at which the products will be sold. This price is exclusive of shipping costs. There is no guarantee of achieving the Target Price if there is an offering on an Auction Website.
- 1.15.** Tool: software offered by Emesa for the purposes of concluding Agreements.
- 1.16.** Auction: a series of Offers involving the same products on the Auction Websites.
- 1.17.** Auction Algorithm: the system operated by Emesa that controls and manages Auctions and the offering.

- 1.18. Auction Website(s): the websites and apps on which products and services are sold according to an auction mechanism (by bidding).
- 1.19. Fee: the commission charged by Emesa to the Supplier. The percentages (and other relevant information) can be found on the Platform.
- 1.20. Terms and Conditions: the present General Terms and Conditions, also referred to as the General Terms and Conditions.

## **2. Applicability**

- 2.1. The most recent version of these Terms and Conditions always applies to all Agreements between Emesa and the Supplier, unless the Parties agree otherwise.
- 2.2. Emesa shall be entitled to modify these Terms and Conditions, the Agreement or other rules that apply between Emesa and the Supplier, such as the Service Levels, at any time. Any such amendments shall take effect fifteen (15) days from the date the amendment is sent to the Supplier, or the date of its publication on the Platform. If the Supplier objects to the amendment in writing within these fifteen (15) days, the original Terms and Conditions shall continue to apply to them. The Supplier may also terminate the Agreement within this 15-day period. The Terms and Conditions can be consulted on the Platform at any time.
- 2.3. The above shall not apply if Emesa needs to amend the Terms and Conditions and/or Agreement because it is required to do so by law, or to avert an unforeseen imminent threat in connection with protection against fraud, malware, spam, privacy breaches and misuse of personal data or risks relating to cybersecurity.

## **3. Formation**

- 3.1. The Agreement is formed when both Parties have signed the Agreement. Signing can also take place digitally, by means of a Tool or, for example, by means of acceptance via a web form. In this case, the Agreement is formed by means of acceptance/signature by the Supplier.
- 3.2. Within the term of the Agreement (depending on what the Parties have agreed), the Supplier may offer products on the Emesa Websites.
- 3.3. Further provisions, such as Service Levels, fees, shipping costs and other agreements may be included in the Agreement. However, these further provisions may also be published on the platform and form an integral part of the Agreement.

## **4. Duration and Termination**

- 4.1. The Agreement shall be entered into for an indefinite period. A time limit may also apply, which will be stipulated in the Agreement.
- 4.2. Either Party may terminate an Agreement with 30 days' notice, whereby clauses 4.3 et seq. shall apply specifically to Emesa. The Supplier may terminate the Agreement in writing or, if available, via the Tool.
- 4.3. Emesa may block, suspend or terminate the Supplier's access to the Platform at any time, stating reasons. Such reasons shall include if Emesa suspects a breach of the Terms and Conditions or a provision thereof, fraud, failure by the Supplier to pay invoices, an infringement of Emesa's or a third party's intellectual property rights, or if the use of the Platform disrupts the proper functioning of the Platform or causes damage or losses for third parties.
- 4.4. If Emesa decides to terminate the Agreement, the term referred to in paragraph 2 of this Article shall apply.

- 4.5. Emesa may terminate the Agreement with immediate effect following repeated breaches of the Terms and Conditions and other agreements (such as failure to achieve Service Levels), in the case of Article 5.4, or if national or international legislation so provides. This also applies if the Supplier has filed for bankruptcy, if the Supplier has applied for a suspension of payments or if the Supplier's activities are terminated or liquidated.
- 4.6. The Supplier shall have the opportunity to refute the breaches referred to in the previous paragraphs, stating reasons, after which Emesa may decide not to proceed with the termination.

## **5. Account requirements**

- 5.1. The Supplier is obliged to fill in all company details so that these can be published by Emesa on the Emesa Websites, for example by means of a link in the Offers to a clear page about the Supplier. A Supplier must have its registered office within the EU.
- 5.2. The information consists of:
  - Company name
  - Branch address
  - Telephone number
  - Email address
  - Chamber of Commerce number
  - VAT number
  - Return procedure
  - Any delivery information
  - Shipping costs
  - Any additional guarantees
- 5.3. The Supplier is in principle obliged to use standard general terms and conditions, the Consumer Conditions, between itself and the Customer. If the Supplier wishes to use its own consumer conditions, the parties shall agree on this separately.
- 5.4. The Supplier is prohibited from participating in the Auctions of the products on the Emesa Websites. Participation in own Auctions is grounds for immediate termination of the Agreement.

## **6. Offering**

- 6.1. The Supplier chooses a Target Price for its products, the numbers for the Auction or offering on the Deal Websites and, if offered by Emesa (otherwise as determined by Emesa), a start and end date for the Auction of the products on the Auction Websites. The numbers must be correct and available.
- 6.2. Each product can never be offered as an Offer more than once at the same time on an Auction Website. If a Customer has won/purchased a product, the product will again be displayed as a new offering on Auction Websites. In the case of an offering on a Deal Website, the product will be offered for as long as agreed, or until stock runs out.
- 6.3. The Supplier chooses (unless Emesa does not permit this) on which Emesa Websites and in which countries the products are offered. The Supplier is obliged to deliver to the countries where the products are offered.
- 6.4. The Supplier shall use fixed shipping costs, per country and per product group, where applicable, which Emesa agrees with all Suppliers and also uses itself for its own products.

The Supplier cannot deviate from these costs and must take them into account when calculating the Target Price and margins after deduction of the Fee. The shipping costs are published in a shipping grid on the Platform or stipulated in the Agreement. Emesa may change these costs from time to time on behalf of the Supplier, for example due to adjustments to costs in the transport sector. The Supplier is responsible for applying the correct costs to each product.

- 6.5.** The Supplier understands that Emesa may also charge the Customer an amount in its own name (administration costs). This is standard practice for Auctions, not Deals, however Emesa may also decide to impose these costs for Deals.
- 6.6.** The Parties shall agree whether the Supplier will provide Materials itself or whether the Supplier should use Materials provided by Emesa in its offering.
- 6.7.** The Supplier warrants that the products are suitable for sale within the European Economic Area (EEA) and can be freely traded within the EEA, as well as that the products and accessories (including instructions for use) comply with the rules that apply within individual specific countries within the EEA or within the EEA as a whole. If country-specific rules and conditions apply, the Supplier warrants that the products are compliant.
- 6.8.** More specifically and where relevant, the Supplier warrants that the products meet a number of conditions, including but not limited to the following:
  - the products are original and come from the manufacturer and/or the holder of the Intellectual Property Rights (or legal representative) and are of the quality intended by that manufacturer and/or Intellectual Property Rights (or legal representative) and without defects;
  - the products bear the manufacturer's original packaging and labelling of the most recent design and colour, suitable for the country of sale;
  - the products comply with national, European and other international regulations, including the requirement for the presence of original batch or code numbers that enable the items to be identified, the presence of the correct certifications, manuals (correct language), registrations, etc.;
  - the products have not been produced in violation of international treaties and regulations, such as the ban on child labour.

More specific conditions include that:

- baby food has a minimum shelf life of 6 months;
- medical devices and medicinal products have a minimum shelf life of 6 months and comply with the regulations in the Netherlands, including but not limited to those of the Inspection Board for the Public Promotion of Medicines (KOAG)/Inspection Board for the Promotion of Health Products (KAG) and the local equivalent (for other countries);
- sweets, drinks and other foodstuffs have a minimum shelf life of 9 months;
- gold, silver and platinum products comply with the Hallmarking Act 1986 and carry the appropriate hallmarks and papers. The products must also comply with the minimum values as referred to in the law and must contain the values as specified by the Supplier;
- pet food has a minimum shelf life of 12 months and pet snacks of 24 months. In addition, these products should only be suitable for pet animals;

- home care products, such as dishwasher tablets, detergents, etc. comply with the applicable regulations and legislation, such as the REACH Regulation, European Detergents Regulation, CLP Regulation, Environmental Management Act and the relevant Commodities Decrees;
  - cosmetics with a shelf life of less than 30 months must have a minimum shelf life of 12 months when unopened, and meet the requirements of the EU Cosmetics Regulation (1223/2009/EC).
- 6.9.** The above list may be amended at any time and is not exhaustive. Furthermore, Emesa is free to decide independently which products may or may not be offered.
- 6.10.** If specific rules (or prohibitions) apply to certain sales markets, the Supplier itself is responsible for deciding whether or not to deliver the products there, for instance under specific conditions (ID check on delivery for 18+ products such as alcohol), and for holding the appropriate licences. The Supplier shall cooperate in full should Emesa require evidence of this or wish to conduct an audit.
- 6.11.** If Emesa has its own legal responsibility on the basis of the above clauses, the Supplier shall cooperate with Emesa in full and always provide the correct information as well, of course, as complying with all local laws and regulations.
- 6.12.** The Supplier can only offer products that it has in stock.
- 6.13.** The Supplier may not ship any products under retention of title and also declares that the products are its property.

## **7. Further rules regarding sales and offering**

- 7.1.** Either party may terminate an Auction early. An Offer that is already in progress will always be completed. No new Offers will subsequently be started with the same products. This also applies to offerings on a Deal Website. The offering will then be removed, but purchases already made by Customers must be fulfilled.
- 7.2.** In order to reduce the risk, Emesa will automatically pause an Auction as soon as the average proceeds from a number of Offers to be determined by Emesa are lower than the Target Price set by the Supplier and validated by Emesa, unless otherwise agreed.
- 7.3.** Emesa's Auction Algorithm is managed on the basis of the Target Price set by the Supplier. The Supplier can manually reactivate the paused auction, however, the full risk associated with doing so lies with the Supplier.
- 7.4.** Emesa determines in advance whether and when the products can be offered. The Supplier therefore requires approval before it can offer the products to Customers and start an Auction or publish the offering on a Deal Website. A Supplier can never independently offer products and/or start an Auction. However, Emesa can do so for its own products. The total offering on the Emesa Websites is co-determined by the auction algorithm in order to achieve the best possible result and provide customers with the best possible offering.
- 7.5.** Emesa may modify Materials, texts, etc. as it sees fit and is entitled to use other Materials, whether or not from other Suppliers.
- 7.6.** Emesa can never guarantee that a Target Price will be achieved at an Auction. However, the Auction Algorithm attempts to achieve the Target Price by making an Offer longer or shorter depending on the time of day and other products offered at the same time.
- 7.7.** Selling through the Platform takes place in the Supplier's own name and entirely at the Supplier's own risk and expense. Any indications provided in advance by Emesa with regard to proceeds, Target Prices, numbers, etc. shall be solely indicative and never binding.
- 7.8.** Emesa can also promote individual Offers or Auctions elsewhere (Affiliate, newsletter etc.). The Parties can make (further) agreements on this.

## **8. Own products and products of other Suppliers (ranking and differentiation)**

- 8.1.** There is no ranking in the offering of products, because identical products are not offered at the same time and therefore cannot occupy a different position in relation to another Supplier.
- 8.2.** Where several Suppliers are able to offer the same product, Emesa shall be free to select the offering. Emesa does this on the following grounds:
  - Target price
  - Delivery time (achieved)
  - Stock of available products
  - Other available products that are already on offer on the Emesa Websites by the suppliers that also have the same products
  - Price previously paid by Customers (difference compared to Target Price)
  - Agreed Fee
  - NPS score achieved
  - Compliance with Service Levels
  - Complaints

Based on the above criteria, Emesa can also create and publish a ranking of different Suppliers.

- 8.3.** Emesa also offers its own products on the Emesa Websites. It is clear to Customers whether they are buying from a Supplier acting in its own name or from Emesa itself.
- 8.4.** Suppliers and Emesa are treated differently. For example, a Supplier cannot Offer products without permission, cannot choose the location on the Emesa Websites, and is also unable to use the distribution chain. Suppliers can, however, set the Target Price themselves.
- 8.5.** Emesa determines where the products are placed on the Emesa Websites. For example, certain products may be displayed on the homepage. Emesa determines this based on its own Auction Algorithm. The algorithm takes into account stock, time, duration of an Offer, other Offers, theme weeks, period in the year and which Customers are active on the Emesa Websites.

## **9. Supplier's obligations towards the Customer**

- 9.1.** If a Customer decides to purchase a product offered by the Supplier, a direct agreement is concluded between the Customer and the Supplier. The Consumer Conditions form part of that agreement. The Supplier acts in its own name and at its own risk towards the Customer.
- 9.2.** The Supplier understands that Emesa is not a party to that agreement. Emesa also applies general terms and conditions between the Client and Emesa, which also stipulate this rule. Emesa acts as an intermediary for both the Customer and the Supplier. Emesa shall at no time become the owner or party entitled to the product sold.
- 9.3.** The Supplier is obliged to ensure and declares that its offering and the execution of the agreement between it and the Customer comply with applicable laws and regulations and the Consumer Conditions. The Supplier cannot deviate from these provisions.
- 9.4.** The Supplier is obliged to fulfil the purchase by a Customer and therefore to ship the products within the agreed period of time. The Supplier shall at all times provide Emesa with a shipping and track and trace code (proof).
- 9.5.** Emesa will provide the Client with a confirmation of purchase, but does not send a full (VAT) invoice. The Supplier must provide this document itself, if requested to do so by a Customer.

If Emesa offers the option via the Platform of sending this document on behalf of the Supplier, the Supplier may take advantage of this option.

- 9.6.** The Supplier shall be responsible at its own expense and risk for the proper fulfilment of the agreement between it and the Customer. Customers can contact Emesa with any queries and complaints, which will then be referred by Emesa. Emesa may, however, also deal with Customers' queries and complaints through a system or otherwise where it deems necessary, or if it is able to help Customers more quickly and effectively by doing so. The Supplier authorises Emesa to act on the Supplier's behalf, without Emesa thereby becoming a party to the agreement between the Client and the Supplier.
- 9.7.** The Supplier is obliged to ship the products in accordance with the Service Levels within the agreed period of time.
- 9.8.** Emesa requires the Supplier to charge a specific shipping rate. That rate is based on the rates determined by Emesa with the delivery services used by Emesa and other companies in the distribution chain, such as warehousing. The shipping costs paid by the Customer shall be borne by the Supplier.
- 9.9.** The Supplier shall indemnify Emesa against all claims, demands and losses or damages of Clients and third parties and against associated fines imposed by regulators. More specifically, if the Supplier fails to comply with applicable regulations such as, but not limited to, regulations regarding the conclusion of distance contracts and privacy regulations, as stipulated in the General Data Protection Regulation.
- 9.10.** Emesa imposes further requirements (referred to as Service Levels) as stipulated in the Agreement or published on the Platform, with which Suppliers must comply. Failure to do so may result in suspension or termination.
- 9.11.** The post-purchase responsibilities, including but not limited to customer service, warranty and handling of returns, are entirely at the risk and expense of the Supplier. The Supplier warrants that any queries received from the Customer by the Supplier will be answered within a reasonable period of time and always within two working days. Saturdays, Sundays and public holidays in the Netherlands are excluded.
- 9.12.** The Supplier warrants that it applies a fair and clear withdrawal and return procedure, which complies with relevant laws and regulations. The Supplier shall inform Emesa of the status of any returns.

## **10. Payment, settlement**

- 10.1.** The Supplier shall owe a Fee for each product sold, calculated on the price paid by the Customer. The amount of the Fee can be found on the Platform, unless stipulated otherwise in the Agreement. The Fee is calculated on the price of the product sold, plus VAT. Emesa shall charge VAT on the commission where due. The Supplier shall be liable for the shipping costs charged, and Emesa shall be liable for the administration costs charged.
- 10.2.** The Customer effects payment on the Emesa Websites to Emesa. Customers can only purchase products if they create an Emesa user account.
- 10.3.** Payments go through a payment service provider (PSP). In order to receive payments, the Supplier must first go through a full KYC (know your customer process) for the PSP. Without a completed KYC, the Supplier cannot offer products.
- 10.4.** The Supplier irrevocably authorises Emesa to take any necessary measures to recover the price.

- 10.5.** Emesa pays out twice per calendar month, minus the Fee. Emesa shall only pay out sales for which it has received a track and trace code from the Supplier. This code serves as proof that the Supplier has actually sent the product to the Customer. In addition, Emesa shall only pay out sales that were made more than 21 days prior to the payout date, so that any returns (right of withdrawal) are no longer possible.
- 10.6.** Emesa shall send a VAT invoice for the Fee that meets the statutory invoicing requirements. On this invoice, the Fee will be deducted from the amount Emesa has collected on behalf of the Supplier.
- 10.7.** The Supplier is responsible for the correct VAT treatment of the delivery to the Customer and, for the purpose of determining the VAT due, shall use the amount paid by the Customer prior to deduction of the Fee.
- 10.8.** Twice a year Emesa shall be entitled to unilaterally adjust the amount of the Fee for each subcategory and/or product category. The Supplier will be informed about any such changes at least twenty-one (21) days before they take effect.
- 10.9.** Emesa shall only pay out amounts that Emesa has actually received from Customers. Due to the auction concept, Customers only pay after they have won an individual auction. If payment is not made, Emesa shall (at its own discretion and after a period to be determined by Emesa) cancel the purchase on behalf of the Supplier. Naturally, in this case the Supplier does not need to ship the product. If the Supplier still ships the product, it does so at its own expense and risk.
- 10.10.** If Customers have exercised their legal right to terminate a distance contract within 14 days, Emesa shall pay the Customer the amounts to which they are entitled on the Supplier's behalf. Emesa shall do so only if the Supplier is able to demonstrate by means of a track and trace code (for the returned product) that the product has been returned.
- 10.11.** The Customer may (but is not required to) exercise the right referred to in the previous article by means of the process available on the Emesa Websites. In this case the return shipping costs shall be paid upfront by Emesa, but shall be deducted at the time of refund to the Customer.
- 10.12.** Amounts paid by Emesa to the Customer shall be settled with the Supplier on the next invoice, whereby Emesa shall retain the Fee.

## **11. Intellectual property and use of Materials**

- 11.1.** The Supplier warrants that the products and their use do not infringe on any pictorial trademark or trademark right, copyright or any other intellectual property right of third parties or any other rights of third parties.
- 11.2.** The Supplier warrants that the products have been marketed by the holder of any intellectual property rights or with their consent within the countries of the EEA, even if the Supplier has not purchased the products from a right-holder themselves or imported them.
- 11.3.** With regard to copyrights to Materials, these are in principle vested in the Supplier or its suppliers.
- 11.4.** The Supplier grants Emesa a non-exclusive, non-transferable right of use with respect to the Materials. No requirements are imposed on use itself, however 'use' shall in principle mean that Emesa will use the Materials or allow them to be used on the Emesa Websites and in other marketing communications (on third-party domains or otherwise) for the purpose of offering products. This can include products and Offers of other Suppliers. The Supplier waives the use of its moral rights where legally possible.

- 11.5.** The Supplier is liable for any Materials and information on delivery and products provided by it and for ensuring that these Materials and information remain up to date (by means of system/datafeeds, etc.).
- 11.6.** The Supplier warrants that the Materials:
- do not contain URLs to its own or other websites;
  - do not contain any discount labels, watermarks, company names and/or company logos;
  - product information and other information provided does not infringe on the rights of third parties including, but not limited to, intellectual property rights (e.g. trademark rights and copyrights);
  - are written in the correct language.
- 11.7.** The Supplier shall indemnify Emesa against all claims, damages and costs of third parties related to this Article.
- 11.8.** If Emesa itself provides images, texts, etc. for use by the Supplier in an Offer and the products, the Supplier only acquires the non-exclusive non-transferable right to use the aforementioned Material on the Platform and only for the Offer on the Platform. The same shall apply if this takes place via a catalogue.

## **12. Privacy**

- 12.1.** Emesa shall only provide the Supplier with the Customers' personal data to the extent that this data is necessary for the Supplier to fulfil the agreement between the Customer and the Supplier, or if the Customer has granted consent. This personal data includes name and address, email address (for track and trace purposes) and telephone number if a delivery appointment needs to be made.
- 12.2.** The Supplier and Emesa recognise that they are both separate controllers within the meaning of applicable data protection legislation (including the General Data Protection Regulation and applicable European Directives and further regulations) with respect to the processing of Customers' personal data that is shared by Emesa for the purposes of executing the intermediary agreement between the Parties. Each of the Parties must comply with the obligations imposed on them by data protection legislation in the context of their separate control responsibilities.
- 12.3.** Emesa is the controller for the processing of personal data in connection with its activities and determines the purposes and means of processing the Customer's personal data and the design of the Emesa Websites; the Supplier has no control over these aspects. The Supplier is the controller for the processing of personal data from the time of receipt of the personal data, for the purpose of executing the Agreement.
- 12.4.** The Supplier warrants that it will only approach Customers in connection with the performance of the agreement between the Parties and the Supplier will never commercially exploit or use the personal data, unless the Customer has granted their explicit consent.
- 12.5.** Pursuant to the applicable data protection legislation, the Parties are obliged to and declare that they take appropriate technical and organisational measures to protect the security and confidentiality of the personal data to be transferred.
- 12.6.** Emesa shall only process personal data in accordance with the rules published in its privacy statement.
- 12.7.** The Parties shall cooperate, where necessary, if a request is received from a Customer, or in the event of an investigation by a regulatory authority.

**12.8.** The Parties shall properly inform Customers about the Customer's rights as a data subject and about the processing of that Customer's personal data. If necessary, the Parties shall also support each other and provide each other with information for their own internal processes.

### **13. Complaints and mediation**

**13.1.** A Supplier shall be entitled to submit a complaint about Emesa's services via **invoegen emailadres**.

**13.2.** Within a period of seven working days following receipt of the complaint, Emesa shall provide a substantive response to the complaint in order to reach a solution.

**13.3.** If the solution is not satisfactory, the complaint may also be escalated within Emesa to another employee, including an employee in the legal department. In this case the Parties have a period of three weeks in which to reach a solution.

**13.4.** If the Parties are unable to reach an agreement, or one of the Parties does not agree with the settlement, the dispute may be submitted to an independent third party (mediation).

**13.5.** The mediation process referred to in the previous paragraph can be started via <https://www.cedr.com/p2bmediation/>. CEDR is an independent party that will take up the dispute.

**13.6.** The Supplier and Emesa shall, however, be obliged to notify the other Party within 14 days of the submission of a dispute. CEDR will appoint an independent mediator within 14 days.

**13.7.** The Parties agree that the costs of the mediation process will be shared.

**13.8.** Complaints and complaint statistics may be published on the Platform and the Emesa Websites (for each Supplier).

### **14. Liability**

#### *Emesa*

**14.1.** Emesa shall not be liable in the context of the formation or execution of the Agreement, except in the cases referred to below.

**14.2.** Emesa shall only be liable for losses incurred as a result of an attributable failure to comply with the Agreement and only for direct loss. Direct loss does not include consequential loss, financial loss, loss of turnover, loss of profit or financial loss as referred to in Section 6:96 of the Dutch Civil Code. Liability shall also be limited to the amount that Emesa received in fees in the two months prior to the loss-causing event. This amount shall never exceed the amount covered by Emesa's corporate and/or professional liability insurance.

**14.3.** The liability referred to in the previous paragraph shall arise only if the Supplier gives Emesa written notice of default within one month. The notice of default should be drafted as clearly as possible.

**14.4.** The exclusions and restrictions referred to in the previous paragraphs shall cease to apply if and insofar as the loss is the result of an intentional act or omission or wilful recklessness on the part of Emesa.

#### *Supplier*

**14.5.** The Supplier is fully responsible and liable for the use of the Platform and the offering of products.

**14.6.** The Supplier fully indemnifies Emesa against all losses and/or costs of any nature arising from failure to comply with one or more obligations under these Terms and Conditions, the Agreement and compliance with local and international laws and regulations.

**15. Final clauses**

**15.1.** The Agreement is governed by Dutch law.

**15.2.** Insofar as the rules of mandatory law do not prescribe otherwise, all disputes that may arise from the Agreement will be submitted to the competent Dutch court in the district of the Hague.

**15.3.** If any provision of the Agreement proves to be null and void, this shall not affect the validity of the Agreement as a whole. In that case, the Parties will lay down a new provision or provisions by way of replacement, which will preserve the purpose of the original Agreement as far as possible.

**15.4.** Emesa's log files and other records, electronic or otherwise, constitute full evidence of Emesa's statements, and the version of any communication, electronic or otherwise, received or stored by Emesa shall be deemed authentic, unless the Supplier is able to demonstrate otherwise.

**15.5.** For the purposes of these Terms and Conditions, 'in writing' also includes communication by email and automatically generated messages from systems managed by Emesa (Tool), provided that the identity of the sender and the integrity of the content are sufficiently established. The Parties shall make every effort to confirm the receipt and content of communications by email.

**15.6.** Each Party shall only be entitled to assign its rights and obligations under the Agreement to a third party with the prior written consent of the other Party. However, this consent is not required in the case of a corporate takeover or acquisition of the majority of shares in the Party concerned or if the takeover takes place within the group structure of which the Party is (already) part.