

General Terms and Conditions of Sale

of InoTec GmbH Organisationssysteme

I. General Terms

The supply of our goods and services are subject to the following terms and conditions provided that the Purchaser is a person acting in the course of his business or is a public authority. Any terms and conditions of the Purchaser which conflict with or deviate from the following shall not apply except where we have expressly agreed to the same in writing. Our unconditional supply of goods and services or receipt of payment by us shall not be construed as acceptance of conflicting terms and conditions. These terms and conditions shall govern all future purchase orders placed by the Purchaser.

II. Quotations and Performance

- (1) Our quotations are without obligation in relation to price, quantity, delivery term and availability.
- (2) Our order written acknowledgement shall be definitive in terms of order acceptance and determining the delivery quantity and the delivery term. For orders placed via the internet, any automatic confirmation of receipt of order sent by us shall not constitute a contractual representation.

III. Pricing, Terms of Payment

- (1) Except where otherwise agreed our prices are subject to the price list valid at the date of the contract. They are EXW (Incoterms 2010) and do not include packing, freight, customs duties, import duties, insurance and VAT except where otherwise agreed. We shall charge VAT at the statutory rate applicable on the date of performance.
- (2) In the event that the delivery date is more than 4 months after formation of the contract we are entitled upon timely notification to the Purchaser and prior to delivery or performance to adjust the price in such a manner as is necessitated by any general price development beyond our control (e.g. exchange rate fluctuations, currency regulations, customs duties changes, increases in material and production costs) or by changes of suppliers. For supplies of goods or services within three months from the contract date the contract price shall apply in any event. In relation to framework agreements with a price clause the three month period shall begin to run upon the effective date of the agreement.
- (3) Except where otherwise agreed the Purchaser shall remit payment of the agreed price without deduction within 30 days after supply of the goods or services. Upon expiry of the payment term the Purchaser shall be deemed in default of payment.
- (4) The Purchaser shall only be entitled to offset uncontested counterclaims or counterclaims which have the force of law. The Purchaser shall only be entitled to exercise a right of retention where such right relates to the same legal transaction.
- (5) Cheques shall only be accepted on account of performance. Any charges incurred thereby are for the account of the Purchaser who shall remit the same immediately.

IV. Term of Delivery

- (1) The term of delivery shall be subject to prior clarification of all technical matters and further to proper and timely performance by the Purchaser of its obligations under the contract.
- (2) In the event of force majeure we are entitled to suspend performance of delivery obligation. Where there is a considerable change in the circumstances prevalent at the formation of the contract, we reserve the right to rescind the contract. The same shall apply in cases of shortages of power or raw materials, industrial disputes, governmental measures, disruption of operations or traffic routes or where sub-contractors fail to supply us on time, properly or at all for any reason referred to in this clause.
- (3) Where we fail to deliver upon an agreed delivery date and such failure is caused by an act or omission on our part the Purchaser shall grant us an extension in writing of not less than 3 weeks. Where delivery is still non-forthcoming and the Purchaser desires to rescind the contract or demand damages in lieu of performance the Purchaser shall prior thereto set a final and reasonable deadline in writing expressly indicating his intention. The Purchaser is obliged at our request to declare within a reasonable period whether he shall rescind the contract due to the delay in delivery and/or demand damages in lieu of performance or insist upon performance.
- (4) Delivery by instalment and corresponding invoices are permissible insofar as they are reasonable for the Purchaser.

V. Transfer of Risk

- (1) Except where otherwise agreed we shall ship the goods EXW (Incoterms 2000). Risk of loss, destruction or damage to the goods shall pass to the Purchaser upon loading of the goods at the delivery point or in the event that the goods shall or cannot be shipped upon notification of readiness for shipment.
- (2) We reserve the right to determine the carrier as well as the method and route of shipment. Additional costs caused by extra requirements of the Purchaser shall be borne by the Purchaser. The same shall apply in relation to increases in freight charges subsequent to the conclusion of the contract or additional costs incurred due to storage or re-routing of the goods insofar as the terms of delivery agreed are as in V (1) set out aforesaid.

VI. Rights of the Purchaser under Warranty

- (1) The goods supplied by us correspond to the German regulations and standards currently in force. We give no guarantee that the goods comply with other national regulations. Where the goods are to be put into operation overseas it is the responsibility of the Purchaser to ensure that the goods are in conformity with the relevant legal requirements and standards and where required to make appropriate adaptations.
- (2) The Purchaser can make no claim based on defective delivery or performance where the reduced value or merchantability of the goods delivered or services supplied is nominal.
- (3) Where the goods delivered by us are defective and the Purchaser has notified us of the same in writing not later than 28 days after the delivery date we shall at our option deliver a replacement or remedy the defect. The Purchaser shall grant us a reasonable period of not less than 10 working days to carry out the same.

- (4) In relation to the direct costs incurred by reason of the warranty claim we shall bear the cost of the supply and shipment of a replacement where the claim lodged under warranty is justified. The Purchaser is entitled to demand reimbursement of the costs incurred by reason of the replacement delivery or remedying of the defect insofar as such costs are not increased due to the subsequent transportation of the goods delivered to a location other than the original shipment location unless the purpose for which the goods are intended requires the same. Where at the express request of the Purchaser we are required to repair the goods at his business premises, all travelling expenses incurred thereby shall be borne by the Purchaser.
- (5) In the event that we are not in a position to remedy the defect or deliver a replacement the Purchaser is entitled to rescind the contract or to demand a reasonable reduction in the purchase price. Rescission of the contract is only permissible where the Purchaser prior thereto sets a final and reasonable deadline in writing expressly indicating his intention.
- (6) The warranties set forth herein are subject to:

proper storage, installation, commissioning and use by the Purchaser or a third party. They are further conditioned upon the absence of normal wear and tear, negligent or careless treatment, the use of improper operating materials, faulty construction works and chemical, electrochemical or electrical influences for which we are not responsible.
- (7) Where the Purchaser or a third party improperly carries out repairs to the goods, we accept no liability for the consequences thereof. The same shall apply in relation to modifications or alterations to the goods which have not been authorised by ourselves.

VII. Damages

- (1) Where we are in breach of our contractual and ancillary obligations under this Agreement we shall be liable in accordance with the law except where otherwise provided below
- (2) Where we are liable due to acts of willful default or gross recklessness on our part such liability is not subject to any limitation, irrespective of the legal basis of the Purchaser's claim..
- (3) For claims based on negligence our liability is as follows:
 - for claims based on personal injury our liability is not subject to any limitation;
 - for claims based on a negligent breach of a material term of the contract our liability shall be limited to such loss as was typically foreseeable at the time the contract was made. For the purpose of this Agreement a material term of the contract shall be any term which must be complied with to ensure proper performance and upon the performance of which the Purchaser relied or could be reasonably expected to rely;
 - for damage not incurred by the goods themselves our liability is excluded including liability for loss of profit and any other pecuniary loss suffered by the Purchaser.
- (4) To the extent that our liability is excluded or limited, such exclusion or limitation shall apply in relation to the personal liability of our employees, representatives and vicarious agents.

- (5) The aforesaid limitation of liability shall not apply where we have guaranteed the quality of the goods or where damages are claimed under the Product Liability Act.
- (6) For breaches which do not render the goods defective within the meaning of clause VI the Purchaser shall not be entitled to rescind or revoke the contract except where we are responsible for the breach. Where the Purchaser rescinds or revokes the contract he must do so in writing, whereby notices sent by email or by facsimile do not satisfy the written form requirement. Any rescission or revocation of a contract shall be subject to the appropriate statutory provisions.
- (7) Subject to § 354a of the German Commercial Code any assignment by the Purchaser of its claim under clauses VI and VII above is not permitted.
- (8) This provisions of this clause VII shall also apply in relation to claims brought by the Purchaser for reimbursement of wasted expenditure.
- (9) It shall be the responsibility of the Purchaser to make proper back-ups of data. In the event of any loss of data our liability shall be limited to compensate such damage as would have ordinarily been incurred had the Purchaser made a proper daily data back-up.

VIII. Limitation

- (1) The limitation period for claims based on defective deliveries or performance as well as for claims for damages is 1 year.
- (2) The limitation period aforesaid shall not apply where longer limitation periods are prescribed by law to include without limitation. for structures §§ 438 s.1. No. 2 (BGB), rights of recourse § 479 (BGB) and building defects § 634a s.1 No.2 (BGB)), as well as in cases of injury to life, body or health due to wilful or gross negligent behaviour on our part and in relation to damage claims based on product liability law.

IX. Retention of Title

- (1) We retain title to goods sold until all sums due under this agreement have been paid by the Purchaser. We reserve the right to insure the goods which are the subject of this retention of title clause against theft, breakage, fire, water and any other damage for the account of the Purchaser except where the Purchaser can produce evidence of such insurance.
- (2) The Purchaser is entitled to resell the goods which are the subject of this retention of title clause in the normal and proper course of his business. Where the Purchaser resells the goods and fails to obtain the sales price in advance or immediately upon surrender of the goods he undertakes that the resale of the goods shall be subject to a retention of title clause upon the same terms herein. Claims by the Purchaser against its customers resulting from the resale of the reserved property are assigned herewith to us together with its rights under the retention of title clause agreed by the Purchaser with its customer. Upon our request the Purchaser is obliged to advise its customers of the assignment and to furnish us with all necessary details of the assigned debts and the debtors for the purpose of collection by us. The Purchaser is entitled to continue to collect debts from resale despite the assignment subject to him continuing to properly perform his obligations towards ourselves. The Purchaser shall neither pledge nor mortgage the goods. The Purchaser shall inform us without delay of any levy of execution which has been or is about to be enforced against our reserved property by third parties.

- (3) Where the Purchaser is in breach of its obligations, in particular where the Purchaser is in default of payment, we reserve the right having set a reasonable deadline to retake possession of the goods and the Purchaser is obliged to surrender the same.
- (4) In the event that the above retention of title clauses are void or unenforceable according to the law of the state/country in which the goods are situated, the collateral security which corresponds to the retention of title in that state/country is deemed to be agreed. The Purchaser is obliged to undertake all necessary steps required to found and maintain comparable rights or securities.

X. Use of InoTec-Software

- (1) Insofar as the goods comprise software the Purchaser is hereby granted a non-exclusive license to use the software supplied and supporting documentation for the purpose contemplated under this Agreement. Such software and supporting documentation will be enclosed with the goods supplied. The Purchaser is not permitted to use the software on more than one system. The Purchaser is not permitted to grant sub-licenses.
- (2) The Purchaser shall only be entitled to the extent permitted by law to reproduce, adapt, translate or to convert the object code into the source code.
- (3) The Purchaser undertakes not to remove any of the manufacturer's marks – in particular copyright signs – and not to change the same without our prior express consent.
- (4) All other rights pertaining to the software and the documentation including copies are retained by ourselves or alternatively by the software supplier.
- (5) Where we supply third party software, the terms of such third party's software licence shall apply in addition to, and in the event of a conflict, shall prevail over these terms and conditions.

XI. Choice of Law, Place of Jurisdiction, Invalidity

- (1) The forum for the institution of proceedings for both parties shall be Wölfersheim, Germany; we retain the right however to sue before any competent court.
- (2) All contracts shall be governed by and construed in accordance with German law.
- (3) In the event that any provision of this agreement shall be found to be invalid, the validity of the remaining conditions shall remain unaffected. The parties undertake to agree a valid replacement provision which shall correspond as closely as possible to the commercial purpose of the invalid provision

Dated September 2013