

1. INTERPRETATION

1.1. In these Conditions:

"Buyer" means the customer who wants to buy and/or has bought Goods from Seller.

"Goods" means the goods and/or services of whatever nature which the Seller is to supply to Buyer in accordance with these Conditions.

"Seller" means InnoFour B.V.

"Conditions" means the General Terms & Conditions InnoFour B.V. as set out in this document.

"Contract" means the contract for the purchase and sale of the Goods.

"Writing" includes email, facsimile transmission and comparable means of communication.

1.2. The headings in these Conditions are for convenience only and shall not affect their interpretation.

2. BASIS OF THE SALE

2.1. These Conditions shall apply to all customer quotations, offers, legal relationships and Contracts under which the Seller provides Goods to the Buyer. Deviations from and additions to these Conditions shall only be valid if they have been expressly agreed in writing.

2.2. The application of the Buyer's purchasing or other terms and conditions is expressly rejected. In case Buyer provides an order conformation and/or a purchase order to Seller, and Buyer doesn't agree with the applicability of these Conditions, Buyer must explicitly reject the Conditions and must in that case explicitly refer to the "General Terms & Conditions InnoFour BV". In the absence of such specific reference and rejection the Conditions shall fully apply. If and to the extent Buyer rejects these Conditions, Seller is entitled to fully or partially terminate the Contract with immediate effect. Seller hereby explicitly reject the application of Buyer's purchasing or other terms if stated so at Buyer's order conformation and/or a purchase order.

2.3. If any provision of these Conditions is null and void or annulled, the other provisions of these Conditions shall remain in full force.

2.4. The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for breach of, any such representations, which are not so confirmed.

2.5. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in Writing by the Seller is followed or acted upon entirely at the Buyer's own risk, and accordingly the Seller shall not be liable for any such advice or recommendation which is not so confirmed.

2.6. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

3. ORDERS AND SPECIFICATIONS

3.1. No order submitted by the Buyer shall be deemed to be accepted by the Seller unless and until confirmed in Writing by the Seller's authorised representative.

3.2. The Buyer shall be responsible to the Seller for ensuring the accuracy of the terms of any order (including any applicable specification) submitted by the Buyer, and for giving the Seller any necessary information relating to the Goods within a sufficient time to enable the Seller to perform the Contract in accordance with its terms.

3.3. The quantity, quality and description of and any specification for the Goods shall be those set out in the Seller's quotation (if accepted by the Buyer) or the Buyer's order (if accepted by the Seller).

3.4. If the Goods are to be manufactured or any process is to be applied to the Goods by the Seller in accordance with a specification submitted by the Buyer, the Buyer shall indemnify the Seller against all loss, damages, costs and expenses awarded against or incurred by the Seller in connection with or paid or agreed to be paid by the Seller in settlement of any claim for infringement of any patent, Copyright, design, trade mark or other industrial or intellectual property rights of any other person which results from the Seller's use of the Buyer's specification.

3.5. The Seller reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable safety or other statutory requirements or, where the Goods are to be supplied to the Seller's specification, which do not materially affect their quality or performance.

3.6. No order which has been accepted by the Seller may be cancelled by the Buyer, except otherwise stated in these Terms and Conditions.

3.7. Without prejudice to the generality of the foregoing any particular purpose for which the Buyer proposes to use the Goods shall be deemed not to be known by or have been made known to the Seller unless specifically recorded in a schedule signed by one of the Seller's directors. The Buyer hereby acknowledges that any purpose stated in such schedule shall be deemed to have been specified by the Buyer.

4. PRICE

4.1. The price of the Goods shall be the Seller's quoted price or, where no price has been quoted (or a quoted price is no longer valid), the price listed in the Seller's published price list current at the date of acceptance of the order. All prices quoted are valid for 30 days only or until earlier acceptance by the Buyer, after which time they may be altered by the Seller without giving notice to the Buyer.

4.2. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour, material or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which is requested by the Buyer, or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.

4.3. Except as otherwise stated under the terms of any quotation or in any price list of the Seller, and unless otherwise agreed in Writing between the Buyer and the Seller, all prices are given by the Seller on an ex works the Seller basis, and where the Seller agrees to deliver the Goods otherwise than at the Seller's premises, the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

4.4. The price is exclusive of any applicable value added tax, which the Buyer shall be additionally liable to pay to the Seller.

5. TERMS OF PAYMENT

5.1. Subject to any special terms agreed in writing between the Buyer and the Seller, the Seller shall be entitled to invoice the Buyer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be collected by the Buyer or the Buyer wrongfully fails to take delivery of the Goods, in which event the Seller shall be entitled to invoice the Buyer for the price at any time after the Seller has notified the Buyer that the Goods are ready for collection or (as the case may be) the Seller has tendered delivery of the Goods.

5.2. The Buyer shall pay the price of the Goods within 14 days of the date of the Seller's invoice, notwithstanding that delivery may not have taken place and the property in the Goods has not passed to the Buyer. The time of payment of the price shall be of the essence of the Contract.

5.3. If the Buyer does not pay the amounts owed in a timely manner, the Buyer shall owe legal interest on the outstanding amount, without any written demand or notice of default being necessary. If the Buyer still does not pay the claim after a written demand or notice of default, the Seller can pass on the claim for collection, in which case the Buyer shall, in addition to the total amount owed then, be obliged to pay for all in-court and out-of-court expenses, including expenses charged by external experts in addition to the costs determined at law. The Buyer shall also owe the expenses incurred by the Seller in regard to unsuccessful mediation if the Buyer is ordered by a judgment to pay the outstanding amount in full or in part.

5.4. In the case of export orders, payment shall be in Euros, unless otherwise agreed in writing signed by the Seller's authorised representative.

6. EXPORT TERMS

6.1. In these Conditions "Incoterms" means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

6.2. The Buyer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon.

7. INSOLVENCY OF BUYER

7.1. Seller may partly or completely terminate the Contract in writing with immediate effect and without a notice of default if Buyer is granted a provisional or non-provisional suspension of payments, if a petition for liquidation is filed with regard to Buyer or if Buyer's business is wound up or terminated for other reasons besides a business reconstruction or merger. Seller shall never be obliged on account of this termination to refund funds already received or to pay damages. In the event of the Buyer's liquidation, the right to use software provided to the Buyer shall be terminated with immediate effect.

8. RISK

8.1. Risk of damage to or loss of the Goods shall pass to the Buyer:

8.1.1. in the case of Goods to be delivered at the Seller's premises, at the time when the Seller notifies the Buyer that the Goods are available for collection; or

8.1.2. in the case of Goods to be delivered otherwise than at the Seller's premises, at the time of delivery or, if the Buyer wrongfully fails to take delivery of the Goods, the time when the Seller has tendered delivery of the Goods.

8.2. The Buyer shall insure the Goods from the date of their delivery to him until their title has passed to him and the Seller shall be entitled to call for details of the insurance policy.

- 8.3. If the Buyer shall not insure the Goods or shall fail to supply details of its policy on demand to the Seller then the Buyer shall reimburse the Seller for the cost of any insurance which the Seller may reasonably arrange in respect of any of the Goods during the whole or any part of the period from the date of the Seller's delivery of the Goods until the date of payment to the Seller of the price.

9. TITLE RETENTION

- 9.1. Until the purchase price of the Goods comprised in this or any other contract between the Seller and the Buyer and all other sums whatsoever which are or shall become outstanding from the Buyer to the Seller shall have been paid or satisfied in full (and if by cheque, then only upon clearance):
- 9.1.1. The property in the Goods remains vested in the Seller (notwithstanding the delivery of the same and the passing of the risk therein).
- 9.1.2. The Buyer shall store the Goods in such a way that they can be readily identified as being the Seller's property.
- 9.1.3. The Buyer shall on request inform the Seller of the precise location of each item of the Goods identified where applicable by its serial number, by supplying the Seller at the Buyer's expense within seven days of the Seller's request with a written schedule of the said locations.
- 9.1.4. The Buyer shall notify the Seller without delay of any attachment of the Goods or actions by third parties which might infringe our title to the Goods.
- 9.1.5. Upon determination of the Buyer's power of sale the Seller shall be entitled by itself its servants or agents to enter upon any of the Buyer's premises for the purpose of removing and repossessing such Goods or their proceeds of sale and the Seller shall be entitled to claim from the Buyer the costs and expenses incurred by the Seller in and ancillary to the process of such removal and repossession.
- 9.1.6. Until title in the Goods has passed to the Buyer, the Buyer shall not purport to be the owner of the Goods and shall not show the Goods as stock in the Buyer's accounts.
- 9.2. Nothing in these Conditions shall:
- 9.2.1. Entitle the Buyer to return the Goods or to delay payment thereof; or
- 9.2.2. Constitute or be deemed to have constituted the Buyer as the Seller's agent; or
- 9.2.3. Render the Seller liable to any third party for any unauthorised representation or warranty made or given by the Buyer to such third party in relation to the Goods; or
- 9.2.4. Prevent the Seller from maintaining an action for the price notwithstanding that the property in the Goods may not have passed to the Buyer.

10. LIEN

- 10.1. The Seller retains a general lien on any of the Buyer's equipment or materials in its possession for any unpaid balance the Buyer may owe to the Seller. The Seller shall be entitled to sell such equipment or materials in the event that payment is not made in full within 28 days of notice given to the Buyer by the Seller of its exercise of the lien. The proceeds of sale may be taken by the Seller for reimbursement of the expense of exercise of the lien and the sale, and payment of the said balance, and the Seller shall account for any surplus.

11. DELIVERY

- 11.1. Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or, if some other place for delivery is agreed by the Seller, by the Seller delivering the Goods to that place.
- 11.2. Any dates quoted for delivery of the Goods are approximate only and Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Seller in writing. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
- 11.3. All delivery and other periods stated or agreed by the Seller have, to the best of its knowledge, been determined based on data known to the Seller when it entered into the Contract. The Seller shall properly exert its best efforts to observe agreed delivery and other periods as much as possible. The mere fact that a stated or agreed delivery or other period has been exceeded shall not cause the Seller to be in default. In all cases, hence, even if the Parties have expressly agreed on a firm date in writing, the Seller shall not be in default because of a time period being exceeded until the Buyer has provided it with a written notice of default.
- 11.4. Where the Goods are to be delivered in instalments, each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these Conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the Contract as a whole as repudiated.
- 11.5. If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable control or by reason of the Seller's fault) then, without prejudice to any other right or remedy available to the Seller, the Seller may:

- 11.5.1. store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or

- 11.5.2. sell the Goods at the best price readily obtainable and (after deducting all reasonable storage insurance and selling expenses) account to the Buyer for the excess over the price under the Contract or charge the Buyer for any shortfall below the price under the Contract.

12. GUARANTEE AND LIABILITY

- 12.1. The Seller hereby guarantees to the Buyer that, if any defects occur within a period of three months following delivery of the Goods: -
- 12.1.1. The Seller shall free of charge either repair or, at its option, request a replacement from a Third Party Supplier and or to employ its best endeavors to work with the Buyer to overcome the defect, PROVIDED THAT:
- 12.1.1.1. notice in writing of the defects complained of shall be given to the Seller upon their appearance, and
- 12.1.1.2. such defects shall be found to the Seller's reasonable satisfaction to have arisen solely from the Seller's faulty design, workmanship or materials.
- 12.1.2. For the avoidance of doubt, defects will not be regarded as having arisen solely from the Seller's faulty design, workmanship or materials in any of the following circumstances:
- 12.1.2.1. where such defects arise in parts, materials, or equipment which have not been manufactured or designed by the Seller but have been purchased at the Buyer's request by the Seller from their designer and manufacturer or from some other third party ("the Third Party Supplier").
- 12.1.3. Any repaired or replaced Goods shall be redelivered to the Buyer free of charge to the original point of delivery but otherwise in accordance with and subject to these Conditions.
- 12.1.4. Alternatively to Condition 12.1.1, the Seller shall be entitled at its absolute discretion to refund the price of the defective Goods in the event that such price shall already have been paid by the Buyer to the Seller, or, if such price has not been paid, to relieve the Buyer of all obligation to pay the sum by the issue of a credit note in favour of the Buyer in the amount of such price.
- 12.2. The Buyer agrees to insure itself against loss and damage arising in the circumstances identified in clause 12.1.2.
- 12.3. In respect of all Goods supplied to the Seller by a Third Party Supplier the Seller will pass on to the Buyer (in so far as possible) the benefit of any warranty given to the Seller by such Third Party Supplier and will (on request) supply to the Purchaser details of the terms and conditions of such warranty and copies of any relevant product information sheets, technical data sheets or product leaflets issued by such Third Party Supplier and the Buyer shall be solely responsible to the entire exclusion of the Seller from complying with the same.
- 12.4. The Seller's total liability for imputably failing to perform the Contract shall be limited to compensating direct damage, up to at most the amount of the price (exclusive of VAT) stipulated for that Contract. If the Contract is primarily a continuing performance agreement with a term exceeding one year, the price stipulated for the Contract shall be set at the total of the fees (exclusive of VAT) stipulated for one year. The total compensation for direct damage shall not, however, in any case exceed € 100.000,- (one hundred thousand euro's). "Direct damage" shall mean:
- 12.4.1. reasonable expenses which the Buyer would have to incur to make the Seller's performance conform to the Contract; this alternative damage shall not be compensated, however, if the Contract is rescinded by or at the suit of the Buyer;
- 12.4.2. reasonable expenses which the Buyer has incurred out of necessity to keep its old system or systems and related facilities operating longer because the Seller did not provide delivery on a firm delivery date which was binding for it, minus any savings resulting from the delay in delivery;
- 12.4.3. reasonable expenses incurred to determine the cause and scope of the damage, insofar as the determination relates to direct damage within the meaning of these Terms and Conditions;
- 12.4.4. reasonable expenses incurred to prevent or mitigate damage, insofar as the Buyer demonstrates that these expenses resulted in mitigation of direct damage within the meaning of these Terms and Conditions.
- 12.5. The Seller's liability for consequential damage, consequential loss, lost profits, lost savings, loss of goodwill, damage through business interruptions, damage ensuing from claims by the Buyer's buyers, mutilation or loss of data, damage relating to the use of objects, materials or software of third parties prescribed by the Buyer for the Seller and damage relating to engagement of suppliers prescribed by the Buyer for the Seller shall be excluded.
- 12.6. A Party shall not be under any liability for any failure to perform any of its obligations under the Order due to Force Majeure. For the purpose of this Condition, "Force Majeure" means:
- Act of God, explosion, flood, tempest, fire or accident; war or threat of war, sabotage, insurrection, civil disturbance or requisition; acts, restrictions, regulations, bye-laws, prohibitions or measures of any kind on the part of any governmental, parliamentary or local authority; import or export regulations or embargoes; strikes, lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party); difficulties in

- obtaining raw materials, labour, fuel, parts or machinery; power failure or breakdown in machinery.
- 12.7. If a situation of Force Majeure lasts for more than 90 days, the Parties shall be entitled to terminate the Contract by rescinding it in writing. What has already been performed pursuant to the Contract shall in that case be settled proportionally, without the Parties otherwise owing each other anything.
- 13. TERMINATION OF THE CONTRACT**
- 13.1. Each of the Parties shall only be entitled to rescind the Contract if the other Party imputably fails to perform material obligations under the Contract – in all cases, after having received a proper written notice of default which is as detailed as possible and in which it has been given a reasonable time period to remedy the breach.
- 14. HEALTH AND SAFETY**
- 14.1. The Seller shall comply with all current relevant health, safety, environmental and/or labor requirements including but not limited to recommendations issued by any competent committee and such additional health, safety, environmental and/or labor requirements of Buyer, as notified in writing to the Seller. The Seller shall comply with all laws applicable to its business. The Seller should support the principles of the United Nations Global Compact, the UN Universal Declaration of Human Rights as well as the 1998 International Labour Organization Declaration on Fundamental Principles and Rights at Work, in accordance with national law and practice.
- 15. CONFIDENTIALITY**
- 15.1. The Seller shall use all reasonable endeavours to keep confidential all information relating to the Buyer's business to the extent that the Seller safeguards information relating to its own business for so long as and to the extent that such information is and remains unpublished and is not known to the Seller at the time of disclosure by the Buyer or is not thereafter lawfully obtained by the Seller from a third party.
- 16. PROTECTION OF TO SELLER'S "KNOW HOW"**
- 16.1. The Buyer, subject as hereinafter provided, shall be responsible for keeping and procuring to be kept secret and confidential all information (hereinafter referred to as "the Know-How") supplied by the Seller of a secret or confidential nature provided that the Seller shall first have given notice in writing to the Buyer of the secret or confidential nature of such information before so supplying it.
- 16.2. The obligations under this Paragraph shall cease within twelve months of the publication by the Seller or any third party of information comprising or being part of the Know-How to the extent of such publication, or of agreement by the Seller that such information or part thereof is in the public domain.
- 17. INTELLECTUAL PROPERTY**
- 17.1. The copyright subsisting or which subsequently subsists in all documents, drawings, specifications, designs, programmes or any other material prepared by the Seller whether readable by humans or by machines shall belong to the Seller absolutely and they shall not be reproduced or disclosed or used in their original or translated form by the Buyer without the Seller's written consent for any purpose other than that for which they were furnished.
- 17.2. The Buyer shall only acquire the rights of use expressly granted in these Terms and Conditions and by law. Any other or more extensive right of the Buyer to reproduce software, websites, databases or other materials shall be excluded. A right of use to which the Buyer is entitled shall be non-exclusive and non-transferable to third parties.
- 17.3. The Seller accepts no responsibility for the accuracy of drawings, patterns or specifications supplied by the Buyer. The Buyer shall indemnify the Seller against all claims whatsoever for damages and costs and against all liability in respect of any infringement of patent or other intellectual property rights resulting from compliance with the Buyer's instructions express or implied and the Buyer will indemnify the Seller against any liability in respect thereof and shall pay all costs and expenses which may be incurred by the Seller in reference to any such claim. The indemnity shall extend to any amount paid on a lawyer's advice in respect of any such claim.
- 17.4. If and insofar as the Seller provides software from third parties to the Buyer, those third parties' terms and conditions shall replace the provisions in these Conditions and shall apply with regard to that software. The Buyer shall accept the aforementioned third-party terms and conditions. These terms and conditions shall be available for the Buyer's inspection at the Seller's and the Seller shall send these terms and conditions free of charge to the Buyer at its request. If and insofar as the aforementioned third-party terms and conditions are deemed or declared inapplicable to the relationship between the Buyer and the Seller for whatever reason, the provisions in these Conditions shall fully apply.
- 18. INDEMNITY**
- 18.1. If any claim is made against the Buyer that the Goods infringe or that their use or resale infringes the patent, copyright, design, trade mark or other industrial or intellectual property rights of any other person, then (except where clause 12.1.2.3 applies) the Seller shall indemnify (with a maximum of € 500.000,-) the Buyer against all loss, damages, costs and expenses awarded against or incurred by the Buyer in connection with the claim, or paid or agreed to be paid by the Buyer in settlement of the claim, provided that:
- 18.1.1. the Seller is given full control of any proceedings or negotiations in connection with any such claim;
- 18.1.2. the Buyer shall give the Seller all reasonable assistance for the purpose of any such proceedings or negotiations;
- 18.1.3. except pursuant to a final award, the Buyer shall not pay or accept any such claim, or compromise any such proceedings without the consent of the Seller (which shall not be unreasonably withheld);
- 18.1.4. the Buyer shall do nothing which would or might vitiate any policy of insurance or insurance cover which the Buyer may have in relation to such Infringement, and this Indemnity shall not apply to the extent that the Buyer recovers any sums under any such policy or cover (which the Buyer shall use its best endeavours to do);
- 18.1.5. the Seller shall be entitled to the benefit of, and the Buyer shall accordingly account to the Seller for, all damages and costs (if any) awarded in favour of the Buyer which are payable by or agreed with the consent of the Buyer (which consent shall not be unreasonably withheld) to be paid by any other party in respect of any such claim; and
- 18.1.6. without prejudice to any duty of the Buyer at common law, the Seller shall be entitled to require the Buyer to take such steps as the Seller may reasonably require to mitigate or reduce any such loss, damages, costs or expenses for which the Seller is liable to indemnify the Buyer under this clause.
- 19. GENERAL**
- 19.1. The Seller reserves the right to sub-contract the fulfilment of the Contract (including any installation) or any part thereof.
- 19.2. The Buyer shall not assign any rights under this agreement without the prior consent in writing of one of the Seller's directors.
- 19.3. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed to that other party at its registered office or principal place of business of such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.
- 19.4. No waiver by the Seller of any breach of the Contract by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 19.5. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provisions in question shall not be affected thereby.
- 19.6. These Conditions and the Contract(s) shall be governed by the laws of The Netherlands and the parties shall submit to the sole jurisdiction of the Dutch court namely Rechtbank Overijssel, location Almelo.