

## General Terms and Conditions for Deliveries and Services of INOVAN

(Status: November 2022)

### 1. Scope of Application

- 1.1. These General Terms and Conditions for Deliveries and Services ("**Terms**") shall apply in business transactions with entrepreneurs within the meaning of Sec. 14 German Civil Code [*Bürgerliches Gesetzbuch* – "BGB"], legal entities under public law or special funds under public law (hereinafter collectively referred to as "**Customer**") for contracts between the Customer and us and our offers and declarations of acceptance. All deliveries and services including proposals, consulting services and other ancillary services (hereinafter collectively "**Deliveries**") shall be made on the basis of these Terms. These Terms shall also apply to future contracts between us and the Customer within the framework of an ongoing business relationship.
- 1.2. Any and all conflicting terms and conditions or terms and conditions deviating from our Terms or from statutory provisions shall not apply unless we have expressly agreed to their validity in writing. This shall also apply if we have not expressly objected or if we have carried out Deliveries without reservation or accepted payments without reservation.

### 2. Conclusion of Contract

- 2.1. Unless expressly stated otherwise by us, our offers are subject to change and non-binding.
- 2.2. We may accept orders and other contractual offers of the Customer within fourteen (14) calendar days after submission. Orders are irrevocable until the expiry of this period. Conclusion of a contract shall require our written acceptance. This requirement of the written form does not include post-contractual amendments and supplements. However, we shall remain entitled to constitute the conclusion of a contract by executing Deliveries without reservation or by invoicing Deliveries in whole or in part.
- 2.3. If our order confirmation is received by the Customer late, the Customer shall immediately inform us.
- 2.4. Our silence does not constitute any trust in conclusion of a contract.
- 2.5. If a confirmation letter deviates from our order confirmation or extends or restricts it, the Customer shall specifically highlight the deviations as such.
- 2.6. For the interpretation of trade terms, the Incoterms in the version applicable at the time of conclusion of the contract shall apply.
- 2.7. We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents. Passing them on to third parties requires our express written consent.

### 3. Prices and Terms of Payment

- 3.1. Unless otherwise agreed, the prices are "ex works" (EXW within the meaning of Incoterms 2020), exclusive of packaging, freight, release, insurance and other ancillary costs and plus the applicable value added tax, if any. In the case of cross-border Deliveries, we shall be reimbursed for all customs duties, taxes, fees or other public charges incurred by the Customer.
- 3.2. Our payment claims are due for payment without deduction fourteen (14) days after receipt of the invoice and acceptance of the Deliveries by the Customer (without deduction). However, payments for the precious metal content in the products delivered or processed by us shall be due immediately upon receipt of the invoice. The receipt of the payment by us is decisive for the timeliness of the payment. Bank charges and expenses shall be borne by the Customer.
- 3.3. In the event of default in payment, interest shall be charged in accordance with the respective bank rates for overdraft facilities, but at least in accordance with the statutory provisions.
- 3.4. In the event that our claims are jeopardized by a significant deterioration in the creditworthiness of the Customer, which becomes apparent after conclusion of the contract, we are entitled to perform outstanding Deliveries only against advance payment or provision of an appropriate security. If the Customer fails to make an advance payment or provide adequate security within a reasonable period of time, we are entitled to withdraw from the contract. Our other rights of withdrawal shall remain unaffected.
- 3.5. The Customer is only entitled to rights of set-off and retention against our claims insofar as counterclaims against us have been legally established or are undisputed, or the Customer's counterclaim with which set-off is to be made originates from the same contractual relationship with our claim. The same shall apply to the Customer's rights to refuse performance.
- 3.6. If the costs for the production and delivery of the respective delivery items concerned (e.g. raw material prices, energy, labour, packaging, transport or insurance costs) increase significantly from the time of conclusion of the contract until the agreed delivery date, we are entitled to increase the prices appropriately at our reasonable discretion (Sec. 315 BGB), taking into account the change in costs and the justified interests of the Customer. As a rule, a significant increase in the costs for the manufacture and delivery of the respective delivery items concerned shall be deemed to exist if these have increased by more than 5% from the

time of the conclusion of the contract or after the last price adjustment until the agreed delivery date.

#### 4. Deliveries and Delivery Dates

- 4.1. We deliver "ex works" (EXW within the meaning of Incoterms 2020), unless expressly agreed otherwise.
- 4.2. If we owe the Delivery on the basis of an agreement deviating from Sec. 4.1, we shall only cover the Delivery with transport insurance at the express request of the Customer; the costs incurred in this respect shall be borne by the Customer.
- 4.3. Partial Deliveries shall be permissible insofar as they are reasonable for the Customer. The same shall apply to early Deliveries. The relevant DIN and EN standards shall apply to compliance with dimensions. Minor deviations in the dimensions and weights of the Deliveries, in particular excess or short weights due to production, do not entitle the Customer to make any complaints and claims for defects, unless otherwise agreed.
- 4.4. Delivery dates shall only be binding if this has been expressly agreed with the Customer. Furthermore, agreed delivery dates are subject to the timely clarification of the technical details, the timely receipt of the documents to be provided by the Customer and the required approvals and releases as well as Customer's compliance with the agreed terms of payment and other obligations to cooperate. Our delivery obligations shall also be subject to proper and timely delivery by our suppliers.
- 4.5. We are entitled to adjust the delivery dates at our reasonable discretion if the preconditions specified in Sec. 4.4 are not met in good time.
- 4.6. In the event of dispatch, the agreed delivery dates shall be deemed to have been met upon notification to the Customer that the delivery items are ready for dispatch. This shall also apply if the Deliveries cannot be dispatched on time, unless we are responsible for this.
- 4.7. If the Customer culpably violates a duty to cooperate, we are entitled to demand compensation for the resulting damage (e.g. additional expenses) without prejudice to other claims.

#### 5. Delay

- 5.1. In the event of delay with Deliveries, our liability shall be limited in amount as follows: The Customer's claim for damages due to delay is limited to 0.5% of the net price for the delayed Delivery for each full week of delay, up to a maximum of 5% of this net price in total. This limitation shall not apply in the event of liability due to intent or gross negligence.
- 5.2. If the dispatch of the Deliveries is delayed by more than four (4) weeks after notification of readiness for dispatch for a reason for which the Customer is

responsible, we may charge the Customer for storage costs of 0.5% of the net price of the Deliveries to be stored for each month commenced (liquidated damages – "*pauschalierter Schadensersatz*"). This claim for liquidated damages shall be limited to a maximum of 5% of the net price of the Deliveries to be stored. The Customer is entitled to prove a lesser damage. We shall also remain entitled to assert a claim for damages incurred in excess of the claim for liquidated damages.

- 5.3. The Customer may only withdraw from the contract due to a delay in delivery in accordance with the statutory provisions insofar as we are responsible for the delay or if the Customer cannot reasonably be expected to adhere to the contract due to the delay. Statutory rights of termination remain unaffected by this.
- 5.4. The above provisions do not imply a change in the burden of proof.
- 5.5. At our request, the Customer must declare within a reasonable period of time whether he will withdraw from the contract due to the delay in delivery or if he further insists on delivery.

#### 6. Transfer of Risk and Acceptance

- 6.1. The risk of accidental loss and accidental deterioration of the Deliveries – partial Deliveries included – shall pass to the Customer when and to the extent we have made the Deliveries available for collection at the agreed place of delivery and have notified the Customer thereof, at the latest when and to the extent we have handed over the Deliveries to the carrier.
  - 6.2. In the case of services under a contract for work and services, the risk of accidental loss or accidental deterioration shall pass to the Customer as soon as the service is under the Customer's control, but no later than upon the respective (partial) acceptance.
  - 6.3. If Deliveries to the Customer are delayed for reasons for which the Customer is responsible, the risk of accidental loss and accidental deterioration of the Deliveries shall pass to the Customer at the time at which it would have passed to the Customer without the aforementioned circumstances. In the event of default in acceptance by the Customer, the risk shall pass to the Customer at the time of default in acceptance.
  - 6.4. If acceptance is required by law or agreed, the Customer shall carry out the acceptance within two (2) weeks after our notification of readiness for acceptance. If this does not occur, acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place if the delivery is put into use.
- #### 7. Retention of Title, Rights to Results
- 7.1. We retain title to all delivery items ("**Reserved Goods**") until fulfilment of all claims to which we

are entitled against the Customer arising from the business relationship.

- 7.2. The Customer is obliged to cooperate in all measures required to protect our retention of title; in particular, upon conclusion of the contract, the Customer authorizes us, at the Customer's expense, to make any necessary entry or notation of our retention of title in public registers and to fulfil all other formalities required under the applicable property law.
- 7.3. The processing or transformation of the Reserved Goods by the Customer shall always be carried out free of charge for us as manufacturer within the meaning of Sec. 950 BGB. The Customer shall keep the new item for us with the due care of a prudent businessman. The new item shall be deemed to be Reserved Goods. If the Customer processes, combines or mixes the Reserved Goods with other items, we are entitled to co-ownership of the new item in the ratio of the invoice value of the Reserved Goods to the invoice value of the other goods used. If our retention of title expires due to combination or mixing, the Customer shall already now transfer to us the property rights to which he is entitled in the new stock or the new object to the extent of the invoice value of the Reserved Goods and shall store them for us free of charge. Our (co-)ownership rights arising hereunder shall be deemed to be Reserved Goods.
- 7.4. The Customer is obliged to store the Reserved Goods separately from other items belonging to the Customer or third parties, to treat them with care and to maintain them at its own expense for the duration of the retention of title and to insure them in our favour against theft, breakage, fire, water and other risks at replacement value. Necessary maintenance and inspection work on the Reserved Goods shall be carried out by the Customer at its own expense and risk. The Customer already now authorizes us to assert all claims for compensation from these insurances.
- 7.5. During the existence of the retention of title, the Customer is prohibited from pledging or transferring ownership by way of security. Disposal of the Reserved Goods is only permitted in the ordinary course of business of the purchaser. By way of security, the Customer hereby assigns to us all claims arising from the resale of the Reserved Goods. The Customer is hereby authorized to collect the claim. If the Reserved Goods are sold by the Customer together with other goods not sold by us, the assignment of the claim from the resale shall only apply to the amount of the resale value of the Reserved Goods sold in each case. If the Customer includes the claim from the resale in a current account relationship with his client, the recognized balance, which is assigned in the amount of the resale value of the respective Reserved Goods sold, shall take the place of the current account claim after it has been balanced. In the event of the sale of goods in

which we have co-ownership shares in accordance with Sec. 7.3, the assignment of the claim shall apply in the amount of the corresponding resale value of these co-ownership shares.

- 7.6. We are entitled to revoke the authorization to sell the Reserved Goods and the authorization to collect if the Customer defaults on payment or disposes of the Reserved Goods outside the ordinary course of business or if, after the conclusion of the contract, a significant deterioration in the Customer's financial circumstances becomes apparent which jeopardizes a claim on our part, in particular in the event of a cessation of payments by the Customer or an application to open insolvency proceedings against the Customer's assets. In the event of a revocation of the collection authorization, we are entitled to demand from the Customer that he immediately informs us about the transferred claims and names their debtors, provides any information required for the assertion of the claims, hands over the relevant documents and informs the debtors of the transfer.
  - 7.7. If the Reserved Goods are used by the Customer for the performance of a contract for work and services or a service contract, the Customer's claim arising from the contract for work and services or the service contract shall be assigned to us to the same extent as set out in Sec. 7.3, 7.5.
  - 7.8. In the event of seizures, confiscation or other dispositions or interventions by third parties, the Customer must notify us immediately.
  - 7.9. Insofar as the value of the security interests to which we are entitled exceeds the amount of the secured claims by more than 10%, we shall, at the Customer's request, release a corresponding part of the security interests at the Customer's discretion.
  - 7.10. No transfer or granting of rights in connection with the Deliveries shall take place unless expressly agreed otherwise in writing. This shall apply in particular to any work results, industrial property rights, applications for industrial property rights, inventions, know-how, any rights not covered by copyright, as well as to all reports, plans, drafts, drawings, lists, calculations or other documents or data provided by us in physical or electronic form in connection with the Deliveries. Insofar as the Customer is granted rights in connection with the Deliveries, these shall be limited to the specific purpose agreed in the contract.
- 8. Material Defects**
- 8.1. Characteristics of the goods named in advance of the conclusion of the contract shall only be part of the agreed quality insofar as they are also expressly named in the contractual declarations.

- 8.2. Insofar as the goods correspond to the quality agreed by the parties, the goods shall be in conformity with the contract and free of defects, even if they do not meet the objective requirements.
- 8.3. We do not grant any quality or durability guarantee.
- 8.4. The Customer is obliged to carefully inspect the Deliveries immediately after delivery, insofar as this is feasible in the ordinary course of business, and shall immediately notify us in writing of any material defects, i.e. visible material defects shall be notified in writing immediately, however, no later than five (5) days after delivery (*Ablieferung*), hidden material defects shall be notified in writing immediately, however, no later than five (5) days after discovery. Otherwise, the goods shall be deemed to have been approved.
- 8.5. In the event of a material defect, we shall first be given the opportunity to remedy the defect within a reasonable period of time. Subsequent performance shall be effected, at our discretion, by repair or new delivery, insofar as the material defect already existed at the time of the transfer of risk. In the case of a new delivery, we shall either take back the originally delivered goods at our expense or the Customer shall return or dispose of the originally delivered goods at our expense upon our request, unless the return and/or disposal is associated with considerable inconvenience for the Customer. Furthermore, in the case of seller's recourse (*Verkäuferregress*), the Customer is obliged, in deviation from Sec. 445a Para. 2 BGB, to provide us with the opportunity to remedy the defect within the period set to the Customer by its buyer. The setting of a deadline is only dispensable if the setting of a deadline in accordance with Sec. 445a Para. 2 BGB is already dispensable in the relationship between the Customer and its buyer, so that the Customer cannot give us the opportunity for subsequent performance.
- 8.6. Unless otherwise agreed, the place of subsequent performance shall be the original place of delivery.
- 8.7. If subsequent performance fails, the Customer shall be entitled - without prejudice to other rights - to withdraw from the contract or to reduce the remuneration under the statutory conditions.
- 8.8. Our obligation to pay damages or reimbursement of expenses shall be governed by Sec. 10.
- 8.9. At our request, the Customer shall declare within a reasonable period of time whether he will withdraw from the contract due to a material defect or if he continues to insist on delivery.
- 8.10. Defect rights do not exist if and to the extent that the usability of the Delivery concerned is only insignificantly impaired, in the case of only insignificant deviations of the Deliveries from the agreed quality, in the case of natural wear and tear and damage which occurs after the transfer of risk as a

result of incorrect or negligent handling, excessive stress or which occurs due to special external influences on the delivery which we did not have to expect.

## 9. Infringement of Third Party Property Rights

- 9.1. Rights or claims of third parties based on industrial property rights, copyrights or other intellectual property shall constitute a defect in title only to the extent that they exist in accordance with the usual national standards, including the EU patent requirements, in the country of our general place of business as well as at the general place of business of the Customer ("**IP Rights**").
- 9.2. The Customer shall inform us in writing and without delay of all claims asserted against the Customer which involve the infringement of IP Rights of third parties.
- 9.3. A defect due to the infringement of IP Rights of third parties shall not exist insofar as (i) the infringement of an IP Right is based on specifications provided by the Customer; (ii) the infringement of an IP Right is based on a use of the Deliveries in a manner not foreseeable by us; or (iii) the infringement of an IP Right is based on the fact that Deliveries were subsequently modified or used in connection with products or in another manner for which these Deliveries were not intended.
- 9.4. Sec. 8.5 to 8.8 shall apply *mutatis mutandis* to the infringement of IP Rights and other defects of title.
- 9.5. If Deliveries are made according to drawings or other information provided by the Customer and if this infringes the IP Rights of third parties, the Customer shall indemnify us against all claims in this respect.

## 10. Compensation for Damages and Reimbursement of Expenses

- 10.1. Claims for damages and reimbursement of expenses by the Customer ("**Claims for Damages**"), irrespective of the legal grounds, are excluded.
- 10.2. The above exclusion of liability shall not apply in the event of
  - a) Claims for reimbursement of expenses according to Sec. 439 Para. 2 BGB, Sec. 439 Para. 3 BGB and Sec. 445a Para. 1 BGB;
  - b) intent or gross negligence;
  - c) liability on the basis of the Product Liability Act [*Produkthaftungsgesetz* – "*ProdHaftG*"];
  - d) liability for culpable injury to body, life or health;
  - e) the assumption of a quality guarantee;
  - f) liability for culpable breach of essential contractual obligations, i.e. obligations the fulfilment of which is essential for the proper

performance of the contract and on the fulfilment of which the Customer regularly relies on and may rely on. In the event of a breach of material contractual obligations, our liability shall be limited to foreseeable damage, the occurrence of which must typically be expected, unless we are liable for intent or gross negligence, injury to body, life or health or under the Product Liability Act.

- 10.3. To the extent that our liability is limited in accordance with this Sec. 10, this shall also apply to the corresponding personal liability of our employees, vicarious agents, bodies and legal representatives.
- 10.4. The above provisions do not imply a change in the burden of proof to the detriment of the Customer.
- 10.5. In the event of damage caused by delay, Sec. 5 shall take precedence over this Sec. 10.

## 11. Limitation

- 11.1. The limitation period for claims and rights due to a material or legal defect (damages instead of or in addition to performance, claims for reimbursement of expenses, reduction, withdrawal or subsequent performance) shall be one (1) year.

Notwithstanding the foregoing, the statutory limitation period shall apply

- a) with regard to all claims and rights of the Customer in the case of Sec. 438 Para 1 No. 1 BGB (rights in rem of third parties), Sec. 438 Para. 1 No. 2 (buildings and objects), Sec. 445b BGB (recourse claims in supplier recourse), Sec. 634a Para. 1 No. 2 BGB (buildings) or in the case of fraudulent concealment of the defect by us

and

- b) in the case of Claims for Damages: in the event of injury to body, life or health, claims under the Product Liability Act and grossly negligent or intentional breaches of duty.

- 11.2. The suspension of expiry pursuant to Sec. 445b Para. 2 BGB shall end no later than five (5) years after the date on which we delivered the goods to the Customer.
- 11.3. Rectifications or replacement Deliveries shall be carried out by us as a gesture of goodwill and without acknowledgement of a legal obligation. An acknowledgement with the consequence of a new start of the limitation period shall only exist if we expressly declare this to the Customer. With the exception of an expressly declared acknowledgement, no new limitation period shall commence with rectification or replacement delivery. The statutory provisions on suspension, recommencement and interruption shall remain unaffected.
- 11.4. For other claims of the Customer, irrespective of the legal grounds, which are not due to defects of

the subject matter of the contract, the regular limitation period shall be reduced to two (2) years from the statutory commencement of the limitation period. This shall not apply to Claims for Damages in accordance with Sec. 11.1 lit. b).

## 12. Force Majeure

- 12.1. If the performance of a contract is impaired by force majeure ("**Force Majeure**"), i.e. circumstances for which the parties to the contract are not responsible and which could not have been foreseen at the time of the conclusion of the contract even with the exercise of reasonable care, in particular due to partial or general mobilization, war, civil war, acts of war or warlike acts or conditions, immediate danger of war, government intervention or control within the framework of the war economy, monetary and trade policy measures or other sovereign measures, arbitrary acts of politics and public authorities, riots, terrorism, natural disasters, accidents, industrial disputes, epidemics, pandemics, major operational disruptions (e.g. fire, breakdown of machinery or rollers, shortage of raw materials or energy of more than short-term duration) or obstructions of traffic routes or other unusual delays in transport, in each case of more than short-term duration, the contractual obligations of the parties shall be suspended and the periods and dates provided for the performance of the Deliveries shall be extended accordingly, irrespective of whether these circumstances occur at our premises, those of a supplier or subcontractor.
- 12.2. The other party shall be notified about the Force Majeure event without undue delay. In such a case, the parties shall negotiate an appropriate adjustment of the contract (also taking into account the commercial content). If such an adjustment of the contract cannot be achieved, both parties shall have the right to withdraw from the contract or to terminate the contract, but no earlier than three (3) months after the notification of the Force Majeure event. Statutory rights of withdrawal and termination or rights regulated in these Terms shall remain unaffected.

## 13. Export Control

- 13.1. The fulfilment of the contract by us shall be subject to the proviso that there are no obstacles to fulfilment due to national or international regulations of foreign trade law or embargos and/or other sanctions.
- 13.2. When passing on the goods delivered by us or the other services provided by us to third parties in Germany and abroad, the Customer shall comply with the applicable provisions of national and international (re-) export control law. In any case, the Customer shall observe the (re-) export control regulations of the Federal Republic of Germany, the European Union, Great Britain, Switzerland and the United States of America.

13.3. If required for export control inspections, the Customer shall, upon request, immediately provide us with all information on the final recipient, final destination and intended use of the goods delivered by us or the other services provided by us as well as any export control restrictions in this respect.

13.4. The Customer shall indemnify us against all claims asserted against us by authorities or other third parties due to the Customer's failure to comply with the aforementioned export control obligations, unless the Customer is not responsible for them. A reversal of the burden of proof is not associated with this.

#### **14. Confidentiality**

14.1. The Customer is obliged to treat as confidential vis-à-vis third parties all information, in particular know-how and trade secrets, which it obtains from us and which are marked as confidential or where it is evident from the circumstances that they are confidential ("**Confidential Information**"), irrespective of whether they have been communicated in written, electronic, embodied or oral form. In particular, the Customer is not authorized to disclose or make available the Confidential Information to any third parties without our prior consent. The Confidential Information shall only be used for the purposes of the contract. The Purchaser also undertakes not to examine or analyse, disassemble, decompile or determine by other methods of reverse engineering the composition of our products which have not been made publicly available. Sec. 69e [*Urhebergesetz* – "UrhG"] remains unaffected. This prohibition of reverse engineering shall apply irrespective of whether the Customer uses Confidential Information in the process. The Customer shall oblige his employees and other persons who obtain access to the Confidential Information in connection with the performance of the contract to maintain secrecy accordingly.

14.2. From the obligation in Sec. 14.1 information shall be exempt which (a) was demonstrably already

known to the Customer at the time of the conclusion of the contract or subsequently becomes known to the Customer from a third party without violating a confidentiality agreement, statutory provisions or official orders, (b) is already generally known at the time of the conclusion of the contract or subsequently becomes generally known, provided this is not based on a violation of this contract, (c) was developed independently by the Customer without access to our Confidential Information, or (d) must be disclosed due to statutory obligations or by order of a court or an authority.

14.3. The obligations of this Sec. 14 shall continue to apply beyond the termination of the contract and the business relationship, irrespective of the manner in which the contract or the business relationship is terminated.

#### **15. General Provisions**

15.1. Insofar as a written form requirement is stipulated in these Terms, text form within the meaning of Sec. 126b BGB (permanent data carrier such as fax, e-mail, letter) shall suffice.

15.2. In the event that individual provisions of the contract are invalid, the remaining provisions shall remain valid.

#### **16. Jurisdiction and Applicable Law**

16.1. The exclusive place of jurisdiction for all legal disputes arising from or in connection with the contractual relationship is Birkenfeld, Germany. However, we are also entitled in any case to bring an action at the general place of jurisdiction of the Customer or any other competent court.

16.2. These Terms as well as the contractual relationship between us and the Customer shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).