

I. SCOPE OF THESE GENERAL CONDITIONS OF SALE AND DELIVERY

1. These General Conditions of Sale and Delivery (GTSD) shall apply to all our business transactions with our Customers. In particular, these GTSD shall apply to all contracts concerning the sale and/or delivery of movable goods regardless of whether or not such movable goods are manufactured by us or purchased from a third party supplier or subcontractor. These GTSD shall apply, however, only if the Customer is a business person, a legal person under public law or a special asset under public law.
2. Our GTSD shall apply exclusively even if we, whilst being aware of the general business conditions of the Customer, accept orders unconditionally, provide services or directly or indirectly refer to documents or similar instruments containing the Customer's or any third party's general conditions. We shall be deemed to have accepted any conflicting, deviating or additional business conditions of the Customer only if we have expressly agreed to such in writing.
3. Our GTSD in their respective current version at the time shall apply as a framework agreement for all future offers and contracts concerning the sale and/or delivery of movable goods with the respective Customer without any need for reference to be made to such in each individual case; in the event that our GTSD are amended or changed, we shall notify the Customer of such without undue delay.

II. CONTRACT FORMATION / WRITING / REPRESENTATION

1. Our offers are subject to confirmation and non-binding insofar as such are not expressly marked as being binding or requiring acceptance within a specific period.
2. An order by the Customer shall constitute a legally-binding offer to form a contract. Our acceptance shall be by a declaration in text form (Textform) (e.g. by our order confirmation or dispatch notice (notice of readiness for collection) or by way of delivery of the goods. The terms of such declaration or notice shall be incorporated into and prevail as part of the contract. Any declarations or notices of a legal nature provided to us by the Customer after contract formation (e.g. notice of deadline, notices of default, notification of defects) must be in writing in order to be effective.
3. An unsigned electronic document, unsigned email or fax shall be deemed to be writing for the purposes of these GTSD.
4. The written contract including these GTSD, which also shall form an integral part of the written contract, shall constitute the entire agreement between the Customer and us in relation to the subject matter. Any other oral understandings made before the concluding of the written contract shall not be legally-binding and shall be superseded by the written contract in full unless otherwise expressly agreed.
5. Individual – including any oral – contractual agreements shall prevail over these GTSD. The exact content of such contract agreements shall be determined by way of a written contract or our written confirmation.
6. Insofar as the Commercial Register or any other corresponding public register does not state otherwise, the Customer acknowledges that any provision of a legally-binding declaration on behalf of our company must be made jointly by two authorized representatives in accordance with our rules concerning authority to represent.

III. RESERVATION OF RIGHTS / NON-DISCLOSURE / CONFIDENTIALITY

1. We reserve all rights of ownership, copyright and property rights in relation to all documents, materials and any other items (e.g. offers, catalogues, price lists, quotations, plans, drawings, illustrations, calculations, product descriptions or product specifications, samples, models or any other tangible and/or electronic documents, information and software) made available by us to the Customer.

Subject to the provisions of mandatory law, the Customer shall not make available the above documents, materials or items or the contents of any of the above documents, materials or items to any third party or notify such to any third party, exploit such, or copy or change such without our prior written approval. The Customer may use the above documents, materials and items only for the purposes of fulfilling its obligations as set out in the contract and shall, upon our request, return the above documents, materials and items and destroy any existing (including electronic) copies (or erase such) insofar as such are no longer required in the ordinary course of business or in order to comply with retention obligations existing at law. Upon our request, the Customer shall provide confirmation or evidence of the return or destruction/erasure in full of the documents, materials or items or, as appropriate, give notice as to which of the documents, materials or items for whatever reason are still required. In relation to software, the provisions set out under XII shall apply.

2. Both parties agree to keep confidential all information received from the other party in the course of the contractual performance. This shall apply also for an indefinite period after the ending of the delivery contract. This obligation shall not apply to any information already known to the receiving party by legitimate means without a corresponding duty of confidentiality or, to any information which the receiving party becomes aware of subsequently by legitimate means and without any corresponding duty of confidentiality or, to any information which is, or becomes, generally known without such being caused by a breach of contract by any of the parties.

IV. PRICES / PROCESSING CHARGES / DELIVERY

1. Unless otherwise agreed, all our deliveries shall be ex works (EXW Incoterms (2010)) (with respect to the warehouse from which we undertake the respective delivery).

2. Notwithstanding IV (1) above, and subject to agreement with the Customer, we shall deliver the goods to a destination specified by the Customer. In such event, the Customer shall bear the transport costs of such delivery (including the costs of packaging). Any risk of accidental loss or deterioration of the goods in relation to any delivery undertaken in accordance with the first sentence of IV (2) shall pass to the Customer upon receipt of notification of the readiness of the goods for shipping or, if the contract does not provide for such notification of readiness for shipping, such risk shall pass at the latest when the goods are handed over to the transport company, freight company or other transportation personnel. This shall also apply in case of any part delivery or in circumstances where we also provide other services (e.g. the above mentioned shipping or transport or assembly).

3. Any risk of accidental loss or deterioration of the goods shall pass to the Customer even if the Customer is delayed in accepting the goods.

4. In relation to any order quantities not achieving the minimum level specified in our applicable price list and/or the specified minimum order value, we shall charge a processing fee at the rate of 10 %, unless agreed otherwise.

5. We are entitled at our own reasonable discretion to determine the method of transport (including in particular the responsible transport company and the transport route) and the packaging (in terms of both material and type).

6. We shall retain all ownership rights to palettes, containers and other reusable packing and the Customer shall return such to our point of delivery free of charge and without undue delay. Any disposable packaging shall be charged to the Customer at cost and shall not be accepted for return.

7. Unless otherwise agreed, the net list prices applicable at the time of the concluding of the contract plus any statutory turnover tax (Umsatzsteuer) shall apply to all transactions. Prices quoted shall be ex works (EXW Incoterms (2010)).

The Customer shall bear all costs for insurance, transportation, packaging and additional costs for any express shipment as well as any other taxes or duties unless agreed otherwise.

8. If the agreed prices are our net list prices, no specific fixed (unchangeable) prices have been agreed and if delivery is made more than four (4) months after the concluding of the contract, the current net list prices at the time of delivery shall apply.

9. In case of any delivery to EU member states ("intra-community deliveries"), the Customer must provide without undue delay support in an appropriate manner to establish that the delivery is indeed an intra-community delivery. We shall be entitled to require, in particular, a signed confirmation with the date of the intra-community delivery and at least the following information: name and address of the recipient of the goods, quantity and customary trade description of the goods as well as the place and date of receipt of the goods. In the event that the Customer does not satisfy its duty to provide such support, it shall be liable for any resulting damage and in particular from any resulting turnover tax (Umsatzsteuer).

V. EXPORT CONTROLS

1. The Customer shall comply with the applicable Federal Republic of Germany (FRG), European Union (EU), United States of America (US) and other export control and sanction laws and regulations (Export Control Regulations).

The Customer shall notify us beforehand and disclose any information necessary for us to comply with Export Control Regulations in case INNO FRICTION products, technology, software, services or any other goods (INNO FRICTION Goods) are specifically ordered for use in connection with

- a) a country or territory, natural or legal person that is subject to the limitations or sanctions of the FRG, EU, USA or is subject to any other Export Control Regulations or sanction provisions or,
- b) the design, development, production or use of military or nuclear goods, chemical or biological weapons, rocket, aerospace technology or carrier systems therefor.

2. The Customer hereby acknowledges that:

a) that – for the purpose of the US Department of the Treasury's Office of Foreign Assets Control (OFAC) regulations on Iran ("ITSR") and Cuba ("CACR") – we are to be treated as a US Person, and therefore

b) that INNO FRICTION Goods shall not – without prior authorization by the competent US governmental authorities – be used, supplied, exported, re-exported, sold or otherwise transferred, directly or indirectly, to any country or territory that is subject to any restrictions or sanctions of the US government or any person or entity on any sanction list maintained by the US government.

3. The fulfillment of the contractual obligations by us is subject to the proviso that the applicable Export Control Regulations do not contravene. In such a case, we are, in particular, entitled to refuse or withhold the contractual fulfillment without any liability towards the Customer.

VI. DELIVERY DATES / DEFAULT DELAY / CALL ORDERS / PART DELIVERIES

1. Any delivery periods/dates for the provision of goods and materials (delivery deadlines) stated by us shall be deemed to be approximate only. This shall not apply if a firm delivery date has been expressly confirmed or agreed.

Confirmed or agreed delivery deadlines shall start to run only after order confirmation or, in relation to deliveries subject to advance payment, only when payment is received and in any event no delivery period shall start to run earlier than from the date of a final agreement being made with the Customer concerning any matters to be clarified before the start of production.

2. We shall not be liable in any event of impossibility or delay in our performance insofar as such arises from circumstances involving force majeure or other events unforeseeable at the time of the concluding of the contract and for which we are not responsible (e.g. operational disruptions of any type, fire, natural catastrophes, weather, flooding, war, uprisings, terrorism, transportation delays, strikes, legitimate lockouts, labour shortages, energy or raw material shortages, delays resulting from the granting of any necessary official permits, measures of any authority/sovereign). Such events shall also include incorrect or delayed deliveries by our suppliers for which we are not responsible and in relation to which we had entered into an appropriate contract with the respective supplier for the satisfaction of our requirements at the time of the concluding of the contract. In case of any of the above events, the related delivery deadlines shall be extended automatically by the period of the respective event plus any necessary additional lead time. We shall notify the Customer as to any such event without undue delay and at the same time shall provide notice of the likely new delivery deadline.

3. In the event that we are not able to deliver within four (4) months after the delivery deadline initially proposed, either party is entitled to withdraw in full or part from the contract with respect to the performance affected by the events; we shall refund any amounts already paid by the Customer without undue delay. The same shall apply if, within a period of three (3) months after the agreed deadline initially fixed or agreed delivery deadline, we are not able to deliver.

4. Default in relation to any delay in delivery shall be determined in accordance with the provisions of law. In any case the Customer shall be required to serve us with notice of default. If, as the result of any default, damage resulting from the delay is incurred by the Customer, the Customer shall be entitled to claim damages from us for such delay. The amount of such damages shall be 0.5% of the net price for each full week of delay but no more than a maximum of 5% of the value of the respective part of the total delivery which, as a result of the delay, cannot be used in time or cannot be used in accordance with the respective contract. Any exercising of this right to claim damages must be made in writing and shall be binding. By exercising this right to claim damages for default delay the Customer waives any right to claim further compensation for any damage caused by the default delay in delivery. In lieu of the compensation for default delay the Customer may claim for the actual damage caused by the default delay in delivery in accordance with the provisions of X.

5. Insofar as it is agreed with the Customer that a fixed quantity shall be delivered within a fixed period ("completion period") and the Customer has the right to specify the date for each delivery, the deliveries shall be requested at least twelve (12) weeks before the desired delivery date. Upon expiration of the completion period, we may deliver and charge the Customer for any quantities not yet requested.

6. We shall be entitled to make part deliveries in the event that (a) a part delivery can be used by the Customer in terms of the agreed purpose of the contract, (b) the provision of the remaining performance has been ensured and (c) the Customer shall not incur any significant additional costs due to the part delivery.

VII. PAYMENTS

1. Payments shall be made without any deductions to one of our bank accounts within 30 days of receipt of invoice. An invoice shall be deemed to have been received within three (3) days of sending unless the Customer is able to prove otherwise. We are entitled, even in relation to on-going transactions, at any time to require payment in advance in whole or in part for any delivery. Such a requirement shall be communicated by us to the Customer in our order confirmation at the latest.

2. The Customer shall be deemed to be in default in relation to any payment as soon as the Customer fails to pay by the agreed payment date unless payment has been delayed as a result of circumstances for which the Customer is not responsible. In case of default in payment, the Customer shall pay the applicable legal statutory interest on the purchase price in default. We shall also be entitled to claim the statutory lump sum for default in accordance with § 288 section 5 sentence 1 Civil Code (BGB). We further reserve the right to assert additional rights and claims arising from damage due to default. In relation to merchants, our statutory entitlement to commercial default interest as from the due date for payment (§ 352, § 353 Commercial Code (HGB)) shall not be affected.

3. The Customer shall be entitled to set-off or claim a right of retention only if (a) the Customer's counterclaim is undisputed or legally established in a way that cannot (any longer) be appealed or challenged or (b) in case of any legal proceedings the last oral hearing is pending judgment or (c) if such exists on the basis of reciprocity (synallagma) in relation to the main claim.

VIII. RETENTION OF TITLE

1. Any goods for which payment has been made in advance shall not be subject to a retention of title. Otherwise, we shall retain title to all goods delivered by us until such time as the full purchase price has been paid (goods subject to retention of title). If goods subject to retention of title are processed or transformed by the Customer (§ 950 Civil Code (BGB)), any such processing or transforming shall be deemed always to be carried out on our behalf as the manufacturer and on our account and we shall directly acquire ownership or, if the processing or transforming is undertaken with materials from of several owners or, if the value of the newly-created object is greater than the value of the goods subject to retention of title, co-ownership (part ownership) of the newly-created object in proportion to the value of the goods subject to retention of title (gross price of invoice). In the event that we do not acquire ownership or co-ownership as described above for whatever reason, the Customer hereby transfers its future ownership or, (to the proportionate extent described above) co-ownership in the newly-created object as a security; we hereby accept this transfer. If the goods subject to retention of title are combined with other items which we do not own within the meaning of § 947 Civil Code (BGB) or, are mixed or blended within the meaning of § 948 Civil Code (BGB), we shall acquire co-ownership in the newly-created object in proportion to the value of the goods subject to the retention of title (gross price of invoice) to the value of the other combined, mixed, or blended items at the respective time of such being combined, mixed or blended; if the goods subject to retention of title are the main object, we shall acquire sole ownership (§ 947 section 2 Civil Code (BGB)).

If one of the other items is considered to be the main object, the Customer hereby transfers title to the co-ownership of the unified item to us in the proportion set out above provided that the Customer is the owner. We hereby accept this assignment.

The Customer shall keep and retain possession of any sole ownership or co-ownership rights to any item for us free of charge.

2. The Customer shall have the right to use, process/transform, combine, mix and/or sell the goods subject to retention of title in the course of ordinary business until such time as the enforcement of a right of retention of title. The Customer hereby assigns to us as security any rights to receive payment it may have against its customers from a resale of the goods subject to retention of title as well any other claims of the Customer may have concerning the goods subject to retention of title and any other claims against its customers or third parties regardless of the legal basis for such (in particular claims based on tortious acts or insurance matters) and covering all account balances, based on our co-ownership share if we hold co-ownership rights to the goods subject to retention of title. We hereby accept this assignment.

3. We herewith authorize the Customer on its own account, but subject to any subsequent revocation by us, to collect on our behalf the claims assigned to us. Our right to collect these claims on our own shall not be affected hereby.

Notwithstanding the above, we shall not collect the claims ourselves and shall not revoke any authorization to collect claims provided that the Customer satisfies its payment obligations to us (and in particular is not in default with any payment) and provided that no application to commence insolvency proceedings in relation to the assets of the Customer has been filed in any court or other body and on condition that there is no impairment to the ability of the Customer to duly perform. In case that of any one or more of the above events occurring we shall be entitled to require that the Customer discloses to us the assigned claims and the respective debtors and that further the Customer notifies the respective debtors of the assignment (such notification may also be undertaken by us taken directly at our discretion) and provides to us over all documents and information required to assert the claims.

4. If requested by the Customer we shall release any goods subject to retention of title and any substitute items or claims insofar as the retention of a right of security is no longer necessary. In such case the selection of the goods to be released from the retention of title shall be undertaken by us at our discretion.

5. The Customer shall not have any right to pledge, transfer or assign as a security any goods subject to a retention of title. If goods subject to a retention of title are accessed or confiscated by any third party, the Customer shall in each case expressly notify such party of our ownership and notify us in writing without undue delay to allow us to pursue and protect our ownership rights. If a third party is unable to reimburse our costs related to any court or out of court proceedings, the Customer shall be liable to us for these costs.

6. Insofar as the mandatory legal provisions of the respective country do not allow for a retention of title in terms of VIII sections 1 to 5, but do recognize other rights to secure claims arising from invoices of the supplier, we hereby reserves such rights. The Customer shall provide support in relation to any measures available to us to protect our rights of ownership or other substitute rights in relation to the goods subject to retention of title.

IX. WARRANTY

1. Any statutory right of Customer with respect to defects in the goods and defects of title shall apply only insofar as no alternative or supplementary provisions are contained in these GTSD.

2. Unless otherwise expressly agreed, (a) our products and services comply exclusively with the statutory requirements applicable in the Federal Republic of Germany and (b) the Customer alone shall be responsible for integrating products into its in-house technical, structural and organizational systems (Customer's responsibility of system integration). The parties agree that typical signs of wear and tear to the goods resulting from normal use and age do not constitute defects.

3. Unless acceptance procedures have been expressly agreed between the parties, the Customer shall undertake to inspect the delivered goods without undue delay upon receipt at the premises of the Customer or a designated third party and the Customer shall further notify us of any defects without undue delay. To satisfy the requirement of not being in delay, any notification of defects shall be sent within seven (7) work days of the delivery date or, where a defect was not detectable during inspection, within no more than three (3) work days of the actual detection of the defect. Notwithstanding the above, if any defect not apparent at inspection was or ought to have been reasonably apparent to the Customer at an earlier date in the normal course of usage than the date it was actually detected, the notification periods set out above shall be deemed to run from the earlier date on which the defect should have been detected. If the Customer fails to undertake a correct and timely inspection and/or notification of any defect, our warranty obligations and other liabilities for the related defects are hereby excluded unless we have fraudulently concealed such defect.

4. Upon our request the Customer shall return any alleged defective goods to us without undue delay and such shall initially take place at the expense of the Customer. In case a notification of defects proves to be justified, we shall reimburse the Customer for the cost of the least expensive transport method; such reimbursement shall not cover any costs incurred due to the goods being at a location other than the location of intended use.

5. Insofar as any claim of the Customer arises against us as a result of defective goods, we shall, at our reasonable discretion, either rectify the defect at no charge or deliver defect-free substitute goods at no charge (hereinafter collectively called "subsequent performance"). The Customer must give us sufficient time and opportunity to provide the subsequent performance required at our discretion. Our right to refuse any subsequent supplementary performance under the conditions set down by statutory law shall not be affected hereby.

6. If the subsequent performance proves not to be successful or if such is not performed within a reasonable time period as determined by the Customer or, if such is dispensable under the provisions of statutory law, the Customer may withdraw from the contract or reduce the purchase price for the defective goods. Notwithstanding the above, a right of withdrawal shall not apply with respect to any claim for minor defects. The right of the Customer to claim damages and reimbursement of any wasted expenses due to defective goods shall be governed by condition X of these GTSD.

7. Any right to claim for defects shall expire 24 months after delivery of the goods unless mandatory law requires a longer limitation period for such rights to claim.

X. LIABILITY FOR DAMAGES

1. Unless otherwise stated in these GTSD, we shall assume liability for breach of contractual and non-contractual duties in accordance with the provisions of statutory law.

2. We shall be liable, regardless of the legal basis and without limitation, any damage resulting from, and reimburse wasted expenses in relation to, any intentional or grossly negligent breach of duty by us, our legally-authorized representatives or our agents.

3. In the event of a breach of duty involving simple or light negligence by us, our legally-authorized representatives or agent, we shall be liable subject to a lesser level of liability existing in accordance with the provisions of statutory law (e.g. for due care in own matters),

a) without limitation, for any resulting damage and/or the reimbursement of wasted expenses due to injury of life, body or health;

b) for damage/reimbursement of wasted expenses due to the breach of a material duty under the contract. Material duties under the contract are any of those duties that must be fulfilled in order to allow due performance of the contract and upon the fulfilment of which the Customer relies on a regular basis or is entitled to rely. In such case the total amount of our liability shall be limited to damage typically foreseeable for this type of contract at the time the formation of the contract.

c) The limitations of liability arising under b) shall not be applicable if we fraudulently conceal a defect, give a guarantee as to the quality of the goods or assume the risk of procurement. In addition, any mandatory statutory liability, especially that arising under the Product Liability Act (Produkthaftungsgesetz), shall not be affected hereby.

d) Provided that all other requirements are satisfied, the Customer shall be entitled to assert any claim for damages covering any contractual penalty claim or liquidated damages for which the Customer is liable in relation to a third party in connection with the goods delivered by us, only if such is expressly agreed or if the Customer has notified us of this risk in writing before contract formation.

e) The Customer is obliged to notify us in writing without undue delay of any damage or loss which we are liable to make good, or allow us to record such damage or loss.

4. Any contractual and non-contractual claim for damages/reimbursement of wasted expenses on the part of the Customer and which result from a defect in the goods shall expire after a period of 24 months from the date of the delivery of the goods, unless applicable mandatory law provides for a longer limitation period. Any claim for damages by the Customer under the Product Liability Act in the circumstances set out in X 2. and X 3. a) or in cases where we fraudulently conceal a defect, shall expire, without any exception, at the end of the statutory limitation period.

5. Insofar as our liability is excluded or limited under the above provisions, such shall apply also to any liability of our bodies, legally-authorized representatives, employees, staff and agents.

XI. GUARANTEE / PROCUREMENT RISK

1. Any provision of a guarantee or a risk of procurement by us must be made by way of an express written agreement designated as such.

2. Both parties agree that any information provided in catalogues, printed documents, advertising materials and other general forms of information shall not at any time constitute a guarantee or assumption of a risk of procurement.

XII. USE OF SOFTWARE

1. If the scope of any delivery includes software, the Customer shall receive a non-exclusive, nontransferable right to use the software exclusively in connection with the goods designated for use with the software, such right being for the finite period set out in the delivery contract and not sub-licensable without our written consent.

2. The Customer shall not duplicate, process or decompile the software without our permission unless such is required under mandatory law. The Customer shall not remove any details of the producer, especially any copyright identification marks, or modify such without our prior written express consent. All other rights to the software, including any copies thereof, are reserved by us.

XIII. DUTY TO NOTIFY IN CASE OF MEASURES RELEVANT TO PRODUCT SAFETY LAWS

In the event that any measures relevant to product safety laws are carried out at the premises of or against the Customer in connection with our products (e.g. monitoring of market activities by the authorities, such as a returning of goods or a recall order) or if the Customer intends to carry out such measures (e.g. report to market monitoring authorities), the Customer shall notify us in writing without undue delay.

XIV. MISCELLANEOUS

1. The place of performance for deliveries shall be the location or warehouse from which we undertake the delivery.

2. The exclusive jurisdiction, also in relation to cross-border matters, for all disputes arising under or in connection with the business relationship between the Customer and ourselves shall be our seat in Hamm/Sieg. Notwithstanding the above, we shall be entitled to commence legal proceedings against the Customer also at its seat or at the place of performance. Any mandatory provisions of statutory law pertaining to exclusive legal jurisdiction shall not be affected hereby.

3. The contractual relationship shall be governed by the laws of the Federal Republic of Germany to the exclusion of the conflict of laws. The application of UN Sales Law (CISG) is hereby expressly excluded.

4. In the event that any provision of these GTSD is or becomes void or ineffective in part or in whole, the effectiveness of the remaining provisions shall not be affected thereby. To the extent that any provision did not become part of the contract or is ineffective, it shall be replaced with an effective provision that most closely reflects the commercial intent of the parties.

5. We hereby give notice that personal data shall be stored only in compliance with the provisions of the law and shall be processed only in connection with business transactions. The Customer hereby gives its consent to such processing.