

*Applicable to transactions with companies, legal persons under public  
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## **I. Applicability**

1. Any innoelectric AG (hereafter: "innoelectric") offers, deliveries and services are exclusively subject to the following General Terms and Conditions of Purchase (hereafter: "GTC"). These GTC also apply to any future innoelectric deliveries and/or services, even if their applicability is not expressly agreed to with the buyer.
2. The buyer's terms and conditions shall not apply, without innoelectric's express written consent. The buyer's own terms and conditions shall not apply even if innoelectric executes the delivery and/or service without reserve and without the need to reject them again.

## **II. Offer, Contract Conclusion**

1. Offers made by innoelectric remain non-binding, unless expressly described as binding by innoelectric. Unless stated otherwise in an offer, innoelectric will be bound to an offer for four weeks from its submission. innoelectric may cancel any offer until its acceptance by the buyer. The buyer will remain bound to their request for a contract until its acceptance or rejection by innoelectric, at most, for four weeks from innoelectric's receipt of the request for a contract.
2. The scope of the deliveries and/or services performed by innoelectric is determined exclusively by the order confirmation, which includes these GTC, issued to the buyer in written form. This comprises all the agreements concluded between the parties regarding the object of the contract. Changes or additions to concluded agreements or to these GTC must be issued in written form to be effective. Telecommunicative or electronic transmission, especially by fax or email, suffices to fulfill this text form requirement if a copy of the declaration amending or supplementing the contract is transmitted.
3. Statements by innoelectric regarding delivery or service objects (e.g., measurements, weights, technical data, resilience or tolerances) are approximate descriptions of the deliveries or services and do not represent guarantees or assured characteristics. innoelectric is permitted to make deviations if and to the extent that they serve the fulfillment of legal requirements or technical improvements (e.g., by replacing components) and the intended purpose of the delivery and/or service is not impaired.
4. innoelectric reserves title and copyright exploitation rights to its technical specifications, product descriptions, prospectuses, drawings and other documents (hereafter: "documents") without limitation. Documents may only be made accessible to third parties with innoelectric's prior consent and must be returned to innoelectric without delay on request if an order is not placed. Sentences 1 and 2 apply correspondingly to the buyer's documents; however, these may be made accessible to third parties (e.g., subcontractors) to whom innoelectric has permissibly delegated deliveries and/or services for contract performance.
5. If the scope of the delivery and/or service includes software for managing the delivery object, the buyer will receive non-exclusive and non-transferrable usage rights to use the software as intended in case of standard software or innoelectric firmware. Beyond that, innoelectric reserves the right to demand the conclusion of a separate licensing agreement for use of the management software from the buyer.
6. innoelectric may employ subcontractors. The buyer may object to subcontractors in case of legitimate doubts regarding their qualifications.

## **III. Prices, Price Calculations, Price Changes, Payment Conditions, Payment Default**

1. The prices stated in innoelectric's order confirmation apply to the scope of the corresponding delivery and/or service. Non-listed additional services will be invoiced to the buyer separately. innoelectric determines prices and prepares invoices exclusively in euros. Prices are subject to statutory VAT and, unless otherwise agreed, without packaging, transportation, unloading, installation, assembly or insurance costs or customs or other public duties which shall be invoiced to the buyer separately.

2. Orders placed based on innoelectric list prices are valid for the delivery and/or service for four months as of the date of order confirmation by innoelectric. If a delivery and/or service is performed more than four months after innoelectric's order confirmation, the list prices at the time of performance will apply if the delivery and/or service date has been agreed with the buyer and innoelectric is not behind with the performance of the delivery and/or service.
3. For price agreements with the buyer with continuing obligations (serial deliveries), innoelectric may and must adjust its prices at its discretion (Section 315 of the German Civil Code [Bürgerliches Gesetzbuch, BGB] in the case of cost increase or decrease—e.g., due to changes to wage and/or production and/or material and/or raw material and/or procurement costs of pre-suppliers—after conclusion of the contract that affect innoelectric's price calculations for the commissioned delivery and/or service. On request, innoelectric will prove the circumstances that led to the price or cost changes to the buyer.
4. The buyer must be notified if measures that may result in the price stated as binding being exceeded by more than 10% become necessary for orderly delivery and/or service performance. The buyer's consent to these measures will be considered to have been granted if the buyer does not object to the price increase within an appropriate period set by innoelectric. innoelectric will state the consequences of the failure to object to the buyer in the price increase notification.
5. If the stated data used for innoelectric's price determination prove to be inaccurate after conclusion of the contract and the price agreement with the buyer, innoelectric may adjust the price on the basis of accurate data. This applies equally to matters for which the buyer is responsible that affect the time and scope of contractual deliveries and/or services, about which innoelectric was not fully informed in preparation of the offer.
6. The buyer must settle innoelectric's invoices by the date specified in the offer. Invoices must be settled in euros, even if the buyer is based outside of the Eurozone. If an offer does not include a due date, innoelectric invoices must be settled within 10 days of receipt by the buyer. innoelectric may issue partial invoices to the buyer for completed partial deliveries or services.
7. If the buyer fails to settle an invoice in accordance with Subsection 6 above despite being due, the buyer will be in default without requiring notice of default (Section 286(2) of the German Civil Code). In case of default, the buyer will owe default interest to innoelectric of 9% above the base rate of the Deutsche Bundesbank (Section 288(2) of the German Civil Code). innoelectric reserves the right to exercise greater default damage claims against the buyer.
8. The buyer may only use counterclaims for set-off or exercise rights of retention if their counterclaims are uncontested or have been legally established. Rights of retention are also excluded for counterclaims not based on the same contractual relationship.
9. The place of fulfillment for any payments by the buyer is innoelectric's registered office in Bochum, Germany.

## **IV. Extended Retention of Title, Withdrawal by innoelectric**

1. The delivery objects (hereafter: "reserved goods") will remain the property of innoelectric until the complete settlement of any claims of innoelectric against the buyer under the business relationship. While title is retained, the buyer may not pledge or use reserved goods as collateral and reserved goods may only be resold by resellers through the ordinary course of business and only under the condition that the reseller is paid by their customer or requires that title be transferred after the fulfillment of their payment obligations.
2. If the buyer sells reserved goods, the buyer already hereby assigns any future claims against their customers from the sale with all ancillary rights—including any balance claims—without requiring further notice, and innoelectric hereby accepts. If reserved goods are sold with other items without an individual price for the reserved goods, the buyer shall assign to innoelectric, and innoelectric accepts, the part of the total price claim that corresponds to the price invoiced by innoelectric for the reserved goods.

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3. The following applies to the processing, mixing and combining of reserved goods with other items:

- a) The buyer may process, mix or combine reserved goods with other items. Processing will be performed for innolectric. The buyer must store the new object for innolectric with the care of a prudent businessperson. The new object will be considered a reserved good.
- b) The buyer and innolectric hereby agree that innolectric will be entitled to co-ownership of any new objects produced through combinations of or mixing with items not owned by the buyer for the ratio of the value of the combined or mixed reserved goods to the remaining items at the time of the combining or mixing. The new object will be considered a reserved good.
- c) Subsection 2 on claims assignments also applies to the new object. However, assignments are only valid for the amount corresponding to the value of the processed, combined or mixed reserved goods invoiced by innolectric.
- d) If the buyer combines the reserved goods with movable objects, they must, without further notice, assign to innolectric, and innolectric accepts, the compensation claims to which they are entitled for the combination and any ancillary rights for the ratio of the value of the combined reserved goods to the remaining combined objects at the time of the combination.

4. Until cancellation, the buyer may collect claims assigned from resales. In case of a compelling reason, especially payment default, payment suspension, opening of insolvency proceedings, bill protests or reasonable indications of over-indebtedness or impending insolvency of the buyer, innolectric may cancel the buyer's resale and collection authorization. Furthermore, with prior warning and an adequate notice period, innolectric may disclose the collateral assignment, exploit the assigned claim and demand disclosure of the collateral assignment by the buyer to their customers.

5. The buyer may neither pledge nor provide reserved goods to third parties as collateral. The buyer must notify innolectric without delay about any pledges, confiscations or other disposals by third parties and must provide any information and documents necessary for safeguarding innolectric's rights. The buyer must note innolectric's ownership to any enforcement officers and third parties.

6. If the value of the collateral to be achieved by innolectric exceeds the claim to be secured by more than 20%, the retention of title will expire to the exceeded extent or the claim will belong to the buyer to the exceeded extent.

7. In case of breaches of duty by the buyer, especially payment default, in addition to retrieval, innolectric may withdraw from the contract after an appropriate grace period provided to the buyer for payment; legal regulations on the dispensability of grace periods remain unaffected. The buyer will be required to hand over the reserved goods. If innolectric retrieves or exercises rights of retention for or pledges the reserved goods, this will not represent withdrawal from the contract, unless declared expressly by innolectric.

## **V. Prices, Payment Conditions**

1. Delivery periods are stated in innolectric's order confirmations. Meeting delivery periods requires all documents, necessary permits and approvals, especially plans, to be provided and compliance with agreed payment conditions and other obligations by the buyer. If these requirements are not fulfilled in time, delivery periods will be extended appropriately, unless innolectric is responsible for the delay.

2. If deadline non-compliance is due to

- a) Force majeure, e.g., mobilization, war, acts of terrorism, unrest or similar events (e.g., strikes or lockouts),
  - b) Virus or other attacks on innolectric's IT system by third parties, despite the customary diligence for protective measures,
  - c) Hindrances caused by German, American or other applicable national, EU or international foreign trade regulations or other circumstances for which innolectric is not responsible or
  - d) Late or improper supplies to innolectric by pre-suppliers,
- the deadline will be extended appropriately.

3. In case of default by innolectric, the buyer may—if they can plausibly explain how they incurred damages—obtain compensation of 0.1%, though no more than 2%, of the price for the part of the

delivery that could not be used as intended due to the default for every full week of default.

4. The buyer's damage compensation claims for delivery delays and damage compensation instead of performance that exceeds the limitations of the above Subsection 3 are excluded for any case of delayed performance, even after the expiration of a grace period set for innolectric. However, this shall not apply if innolectric is liable for intent, gross negligence or injuries to life, limb or health. The buyer may only withdraw from the contract to the legally permissible extent if innolectric is responsible for the delay. The above regulations do not entail changes to the burden of proof for the buyer's detriment.

5. If requested, the buyer must inform innolectric within an appropriate period whether they will withdraw from the contract due to the delivery delay or insist on delivery.

6. If shipping or delivery is delayed by more than one month by the buyer's request after indicating shipping readiness, storage fees of 0.1%, though no more than 2%, of the price of the stored delivery may be charged to the buyer. The buyer may prove that storage costs were lower and innolectric may prove that storage costs were higher.

## **VI. Shipping Type, Packaging and Transfer of Risk**

1. Unless otherwise agreed between the buyer and innolectric, innolectric's deliveries will be made "EXW" ("ex works") from innolectric's registered offices in Bochum, Germany, or from the production location specified by innolectric in the order confirmation in accordance with ICC Incoterms 2010 (available (in German) at <http://www.iccgermany.de/standards-regelwerke/incoterms/>).

2. innolectric packs delivery objects with the care of a prudent businessperson. innolectric will decide the specifics of delivery packaging at its dutiful discretion.

3. Risk of random deterioration or destruction will be transferred to the buyer after the delivery of the delivery objects and the handover to the carrier commissioned by the buyer.

Beyond that, the buyer must bear any warehousing costs incurred by innolectric for reasons for which the buyer is responsible.

## **VII. Delivery Inspections by the buyer**

1. The buyer must examine the type, quantity and characteristics of delivery objects immediately upon their delivery. The buyer must report any obvious defects discovered during incoming goods inspections to innolectric in writing, within 3 business days of the receipt of the goods. If a defect that was not detectable during the examination ("hidden defect") is subsequently discovered, the buyer must report this hidden defect to innolectric in writing immediately upon learning of it or, at the latest, within 3 business days.

2. The examination, inspection and reporting obligations in the above Subsection 2 apply irrespective of whether delivery objects are delivered to the buyer or directly to their customers. The buyer may therefore delegate these tasks to their customers. Defect reports submitted to innolectric on time by the buyer's customers will be considered orderly defect reports of the buyer.

3. The buyer shall bear the inspection costs for delivery objects if the inspection finds the delivered goods to be defect-free or if innolectric is not responsible for the defect. Otherwise, the costs of the inspection shall be borne by innolectric. Defective goods must be provided to innolectric for inspection on request.

4. Items delivered by innolectric shall be deemed free of defects with regard to contractual and statutory claims if a notice of defects is not submitted or is submitted late. This does not, however, apply to the buyer's damage compensation claims based on intent or malice by innolectric or product liability.

5. The buyer must also immediately report any visible damage to delivery objects that was obviously caused by loading or transportation to the carrier on site. If the carrier was commissioned by the buyer, innolectric will not be responsible for transportation damage..

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### **VIII. Acceptance Obligation of the Buyer**

1. If innoelectric demands acceptance following completion of a delivery, the buyer must accept the delivery within two weeks. Whether the buyer lets the two-week deadline pass or if the delivery objects are used—if applicable, after completion of an agreed test phase—is irrelevant for acceptance.
2. Legal regulations on self-help sales (Section 383 et seq. of the German Civil Code) do not apply to completed deliveries that have not been accepted by the buyer. For reasons of expertise protection, innoelectric is not required to sell goods to third parties or to take part in auctions. The buyer's objection that innoelectric is guilty of a breach of its duty to mitigate damage due to a failure to sell goods that have not been accepted to third parties shall be excluded in this respect.

### **IX. Delivery Object Characteristics, Defect Rights of the Buyer**

1. innoelectric guarantees free rectification or replacement deliveries at its discretion for material or legal defects if the buyer returns defective delivery objects to innoelectric. If rectification fails or replacement deliveries remain defective, the buyer may, at their discretion, reduce the price for the faulty performance or withdraw from the order. The buyer's right to damage compensation is determined under Section XIV.
2. innoelectric does not provide guarantees for characteristics of delivery objects in the sense of Sections 311 & 443 of the German Civil Code. innoelectric is not liable for the material or technical accuracy of specifications made by the buyer or other technical documents or information provided to innoelectric by the buyer which is not based on innoelectric's product development. innoelectric will only be liable for construction defects or design errors for which innoelectric are responsible.
3. If errors or defects in delivery objects necessitate a recall, the buyer must notify innoelectric, coordinate efficient implementation of the recall with innoelectric and enable innoelectric to participate. If and to the extent that innoelectric is responsible for the errors or defects in the delivery objects that caused the recall, innoelectric will be liable to the buyer in accordance with Section XIV for the costs they incurred through the recall.
4. The limitation period for defect rights is one year from delivery. This limitation does not, however, apply in the case of fraudulent concealment of a defect or violation of any characteristics guaranteed by innoelectric..

### **X. Industrial Property Rights, Copyrights**

1. Unless otherwise agreed, innoelectric is only required to perform delivery in the destination country free of third-party industrial property rights and copyrights (hereafter: "property rights"). If a third party exercises legitimate claims against the buyer for property rights violations due to deliveries performed by innoelectric and used as contractually intended, innoelectric will be liable to the buyer as follows for the period specified in Section IX Subsection 4:
  - a) innoelectric will, at its discretion and expense, either obtain usage rights for the respective deliveries, amend the delivery objects so that property rights are no longer violated or replace the delivery objects. If innoelectric is unable to do so under reasonable conditions, the buyer will be entitled to legal contract withdrawal or price reduction rights.
  - b) innoelectric's damage compensation obligations follow Section XIV.
  - c) innoelectric's above-stated obligations only apply if the buyer notifies innoelectric in writing without delay regarding the claims exercised by third parties, does not recognize the infringement and if all defensive measures and settlement actions remain reserved by innoelectric. If the buyer suspends the use of delivery objects for damage minimization or other reasons, the buyer must notify the third party that suspension of usage does not represent recognition of the alleged rights infringement.
2. The buyer's claims are excluded if they are responsible for the property rights infringement.
3. The buyer's claims are further excluded for property rights infringements caused by the buyer's special specifications,

applications unforeseeable to innoelectric or the buyer using the delivery objects in altered condition or with products not supplied by innoelectric.

### **XI. Conditional Performance, Exports**

1. In the case of direct delivery by innoelectric to the buyer's customers abroad, contract performance is conditional on the delivery not being hindered by German, American or other applicable national, EU or international foreign trade regulations or embargos or other sanctions.
2. The buyer must provide to innoelectric any information and documents necessary for export, goods declarations, customs or import into the destination country. In the case of export, the buyer must determine whether the ordered delivery objects comply with laws and ordinances of the destination country. On the buyer's request, innoelectric will perform the necessary review for a separate fee.

### **XII. Impossibility**

If delivery is impossible, the buyer may obtain damage compensation, unless innoelectric is not responsible for the impossibility. The buyer's damage compensation claims of are limited to 10% of the value of the part of the delivery that cannot be used as intended because of the impossibility. This limitation does not, however, apply in case of innoelectric's unlimited liability for intent, gross negligence or injuries to life, limb or health; this does not entail changes to the burden of proof of the buyer's detriment. The buyer's right to withdraw from the contract remains unaffected.

### **XIII. Loyalty, Contract Adjustments**

If events in the sense of Section V Subsection 2 Letters a to c significantly affect the economic significance or value of a delivery or innoelectric's operations, the contract will be adjusted appropriately in consideration of good faith principles. If this is economically unreasonable, innoelectric has the right to withdraw from the contract. The same applies if necessary export permits are not granted or useable. Should innoelectric wish to exercise its right to withdrawal, innoelectric must notify the buyer of this without delay upon learning of the extent of the event, even if an extended delivery period is agreed with the buyer.

### **XIV. Liability of the Parties**

1. The parties are only unlimitedly liable to each other by law for or in relation to damages caused through the performance of the contract in case of:
  - a) Intent,
  - b) Gross negligence by their legal representatives or managing directors or
  - c) Culpable injuries to life, limb or health.
2. Conditional on the above Subsection 1, the parties' liability for culpable violations of essential contractual obligations is limited to damages typical to the contract and foreseeable as a result of a violation. Essential contractual obligations are obligations on the fulfillment of which orderly contract performance depends, on compliance with which the parties may regularly rely and the violation of which threatens the achievement of the contract's purpose. The parties' liability is therefore limited to damages typical to the contract for the respective value of the order.
3. The parties' liability for subsequent damages, especially, but not exclusively, production downtime and lost earnings, is excluded if and to the extent that such damages are not caused by intent or gross negligence.
4. If third parties exercise damage compensation claims against one or both parties, the party who is singly responsible for the breach of duty must hold the other party harmless, including from necessary legal defense costs.
5. If claims are exercised against one or both parties based on violations of the German Product Liability Act

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[Produkthaftungsgesetz, ProdHaftG] or of international product liability regulations, the party responsible for the delivery object errors or defects that established the claims must hold the other party harmless.

6. Damage compensation claims of the parties against each other, for whatever legal reason, are excluded. Liability by law or for fraudulent concealment of a defect by innoelectric, the parties' liability under the German Product Liability Act and mutual obligations to hold each other harmless under the above Subsections 4 & 5 remain unaffected by this exclusion.

7. This does not entail changes to the burden of proof of the buyer's detriment.

## **XV. Confidentiality**

1. The parties must maintain strict confidentiality over the other party's trade and/or industrial secrets of which they learn, through or in relation to the order or the performance of the delivery and/or service or that become known and may not make them accessible to unauthorized third parties.

If the parties include third parties (e.g., pre-suppliers or subcontractors), confidential information or data may only be transferred to the third parties if they have been required in writing to maintain confidentiality prior to the receipt of the confidential information or data.

These confidentiality obligations will continue to apply for five years after the contractual relationship between the parties ends.

2. The parties must properly store any documents and data carriers received from the other party and must especially ensure that they cannot be viewed by unauthorized third parties. After their contractual relationship ends, the parties must completely return any documents and data carriers received from the other party.

## **XVI. Final Provisions**

1. The contractual relationship between the buyer and innoelectric, including its interpretation, is subject to German law under exclusion of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

2. The buyer acknowledges that, for orderly contract performance in compliance with data protection laws and ordinances, innoelectric collects data which it fully or partially transmits to third parties (e.g., subcontractors, shipping companies or insurance providers) if required for contract performance.

3. The place of jurisdiction for any dispute from or in relation to the contractual relationship between innoelectric and the buyer is Bochum, Germany.

4. In case of the legal ineffectiveness of any of its individual regulations, these GTC will remain binding in all other parts. This does not, however, apply if maintaining the remaining terms and conditions represents an unreasonable burden for a party.