

Terms and Conditions – Sales

Subject to the terms of any other applicable written agreement you (“**you**”) have with INNOMAR, INNOMAR's sale of Products and provision of Software and related Services are governed by these Terms and Conditions of Sales (“**Terms**”). Every order you place with us is conditioned upon and confirms your acceptance of these Terms. Any commitments which derive from these Terms or any contrary terms or conditions appearing on your orders or associated purchase documentation shall only apply if and to the extent expressly accepted by INNOMAR in writing. These Terms and the other applicable agreements you enter into with INNOMAR constitute the entire agreement between you and INNOMAR for your purchase and use of Products and Software. Each accepted order will be interpreted as a single set of Terms, independent of other orders. “**INNOMAR**”, “**we**” or “**us**” means INNOMAR Technologie GmbH, Rostock, Germany.

1. Definitions

“**Products**” means hardware products provided hereunder. “**Software**” means any software, library, utility, tool, or other computer or program code, in object (binary) or source-code form, as well as the related documentation, provided by INNOMAR to you. Software includes Product firmware, software locally installed on your systems and software accessed by you through the Internet or other remote means. “**Services**” means any services provided by INNOMAR related to Products and Software such as training of your personnel or support and maintenance as described in one or more service contracts (“**Service Agreements**”).

2. General

2.1 Quotations: Our quotations are non-binding unless otherwise expressly stipulated in writing.

2.2 Basic Order Terms: All orders must include the following information: (i) the Products and Software ordered and quantities, (ii) prices, and (iii) delivery instructions.

2.3 Formation of Contract: A supply or other contract shall be concluded only when (i) confirmed by us in writing, or (ii) when a separate contract has been signed by INNOMAR and you or (iii) when the goods have been delivered by INNOMAR and accepted by you. Orders cannot be cancelled for any reason without our prior written consent.

2.4 Software Licenses: All Software is licensed or provided as a service, the title to the Software rests with INNOMAR or its licensors. Software is subject to separate agreements provided by INNOMAR in connection with the Software (“**User Agreements**”). You agree that you will be bound by such User Agreements. If there is a conflict or inconsistency between these Terms and those of a User Agreement, the User Agreement will control. For any Software included with a Product or Service without User Agreement, INNOMAR hereby grants you a

personal, non-exclusive, revocable, non-assignable right to access and use such Software solely as necessary for you to enjoy the benefit of the Product or Service.

2.5 Retention of Title: Delivered Products and Software remain our property until payment is received in full.

2.6 Training: Any training supplied under these Terms will be carried out by INNOMAR personnel or qualified personnel appointed by us. However, it is your obligation to nominate trainees to ensure that these trainees have the necessary basic knowledge for the INNOMAR training to be successful.

3. Delivery, Acceptance, Inspection

3.1 Delivery time: Delivery times are established when INNOMAR accepts your order in writing. We will meet agreed delivery dates, unless you are in default under these Terms or our performance is otherwise excused pursuant to clause 10.3. In the event that delivery is delayed as a result of our fault or negligence by more than eight (8) weeks, you may cancel the order.

3.2 Delivery terms: Delivery shall be ex-works INNOMAR Rostock. This shall also be the place of fulfilment. Risk of loss or damage to Products passes to you when we deliver the Products to the shipping carrier (“**Delivery**”). Unless otherwise agreed, we will deliver the Product freight prepaid, provided that you pay or reimburse us for all applicable costs of carriage, freight, insurance (if applicable), taxes, duty and other related shipping charges. We have the right to make partial deliveries. Software may be delivered electronically at INNOMAR's option.

3.3 Packaging: INNOMAR will pack and protect the Products in order to prevent any damage to the Products before they reach their destination as stated in the contract, provided normal transport.

3.4 Quality: INNOMAR's quality management and all relevant production processes are certified to ISO 9001. Each Product and related Software is tested prior to delivery to ensure conformance with their specifications and a summary protocol is provided to you. If agreed between both parties, this test may serve as Factory Acceptance Test (FAT), which you can attend at extra costs.

3.5 Acceptance and Inspection: Your acceptance of ordered Products is deemed to occur upon our Delivery of the Products to the shipping carrier. Your acceptance of ordered Software is deemed to occur when the Software is activated or otherwise made available for your access or use, whichever date is earlier. You are responsible for giving prompt written notice of identified damage or non-conformance of Products. You must inspect the condition of the packaging and the Products upon receipt and indicate any evident damage to the carrier on the delivery note, have the carrier's agent sign the document and, within two (2) days of receipt of the damaged or non-conforming Products, send all

documents by e-mail or fax to INNOMAR, together with the carrier's references. Concealed Product damage claims must be made by you to the carrier directly and you must also provide us with written notice and a copy of any such claim within ten (10) days of receipt of the affected Products. Likewise you must notify us within ten (10) days of receipt of incorrect Products. If you retain the Product without giving notice within the designated notice period, you will be deemed to have waived your right to reject the Product.

3.6 Compensation: If you cancel an accepted Product order within ten (10) days prior to shipment or reject conforming Products received under an accepted order, we are entitled to claim reasonable compensation for restocking and other expenses actually incurred.

3.7 Return of Product: All Product returns are subject to our prior written consent. You must return Products to us in their original or equivalent packaging, and you are responsible for risk of loss, as well as shipping fees back to INNOMAR.

4. Pricing, Terms of Payment, Taxes

4.1 Prices: Our stated prices for Products and Software do not include applicable sales taxes, Value Added Tax, export or import charges, transportation or insurance charges, customs and duty fees, or similar charges, all of which are your responsibility to pay. Unless you provide us with direct payment authority or an exemption certificate valid in the jurisdiction to which the Product will be delivered, you shall pay us all taxes and governmental fees we are required to collect or pay upon sale or delivery of the Product.

4.2 Payment Terms: Unless we state otherwise in writing, payment terms are net thirty (30) days from our invoice date. Unless otherwise agreed, all payments shall be made in Euro and shall be made free of postal or other charges. We are entitled to offset payments against prior debt balances in your account. We have the continuing right to review your credit and change your payment terms, and may at any time demand advance payment, satisfactory security (such as, but not limited to, a confirmed, irrevocable letter of credit acceptable to us), or a guarantee of prompt payment prior to shipment.

4.3 Overdue Sums: We reserve the right to charge interest on all overdue sums at the rate of 1.5% per month (or the highest legal limit if lower than said amount), measured from the date the sums in question became payable to the date on which we receive full payment.

4.4 Costs: You are liable for any costs incurred by us if you change or cancel any order, and for all costs of collection of past due amounts (including attorneys' fees).

5. Limited Warranty

5.1 Products and Software: We warrant to you, and only to you, as applicable, (a) that our Products

are designed and manufactured to conform to our specifications and will be free from defects in material and workmanship for the warranty period, and (b) that our Software will substantially conform to the functional specifications and current documentation provided by INNOMAR for the warranty period. The warranty period is twelve (12) months from date of delivery, unless agreed otherwise in the contract. During the warranty period, our liability and your exclusive remedy is limited, at INNOMAR's option, to replacing, repairing, correcting, or issuing credit for any Product or Software subject to the warranty in this section. Any costs related to shipping and travel are not covered by the warranty and are on the customer's account, unless agreed otherwise in the contract.

5.2 Warranty Exclusions: The foregoing limited warranty only applies if and to the extent that (a) the Product or Software is properly and correctly installed, configured, interfaced, maintained, stored, and operated in accordance with our applicable documentation and specifications, and (b) the Product or Software is not modified or misused. This limited warranty does not apply to, and we are not responsible for defects or performance problems resulting from (i) the combination or use of the Product or Software with hardware or software products, information, data, systems, interfaces or devices not made, supplied or specified by us; (ii) operating the Product or Software under any specification other than, or in addition to, our standard specifications for them; (iii) the unauthorized installation, modification, repair or use of the Product or Software; (iv) damage caused by accident, lightning or other electrical discharge, fresh or salt water immersion or spray (outside Product specifications); or exposure to environmental conditions for which the Product or Software is not intended; (v) normal wear and tear on consumable parts, or (vi) cosmetic damage. We do not warrant or guarantee the results obtained through the use of the Product or Software. There are no warranties under these Terms with respect to Services, which are provided "as-is".

5.3 Warranty Repair Procedure: If any Product fails during the warranty period for reasons covered by our limited warranty and you notify us of such failure during the warranty period, we will at our option repair or replace a nonconforming Product with new, equivalent to new, or reconditioned parts or Product or, if either of the foregoing is commercially impractical, refund the Product purchase price you paid (excluding separate costs of installation, if any) upon your return of the Product. Any repaired or replaced Product will be warranted for a period of thirty (30) days or the remainder of the original warranty period, whichever is longer.

5.4 Determination of Warranty Applicability: We reserve the right to refuse warranty services if the Product or Software date of purchase cannot be proven, if a claim is made outside the warranty

period or if a claim is excluded under Section 5.2 above. Following our examination of your claim, we will notify you of warranty status and the repair cost of any out-of-warranty Product. At such time you must issue a valid purchase order to cover cost of the non-warranted Product repair and return freight, or authorize return shipment of the Product at your expense as-is.

5.5 Not Responsible for Lost Data: We are not responsible for any modification or damage to, or loss of any programs, data, or other information stored on any media or any part of any Product serviced by us, or stored or hosted by us in connection with a Software service we provide, or for the consequence of such damage or loss. You are solely responsible for backing up data and removing all features, parts, alterations, and attachments not covered by warranty prior to releasing the Product to INNOMAR for service or seeking Software support. Any Product or Software sent to us for support may be returned to you configured as originally provided to you by INNOMAR.

6. Limitation of Liability

Our entire liability for any and all claims arising out of or in connection with these Terms is limited to the amounts you actually paid to us under the Terms. Further, neither we nor our suppliers are liable for any incidental, consequential, punitive damages or other damages, or loss of profits, loss of revenue, loss of data, loss of use of the products or software or any associated equipment, costs of cover, downtime and user time related to the Products or Software. There is no implied warranty of satisfactory data quality or fitness for a particular purpose applying to the Products or Software.

7. Intellectual Property Ownership

You agree that INNOMAR owns all right, title and interest to all intellectual property and other proprietary rights to documents and materials, calculations, drawings, models, plans, sets of tools, technology, software, designs, engineering details, schematics and similar data relating to or incorporated in the Products and Software and any accompanying documentation or information developed or authored by INNOMAR. You shall take reasonable precautions to prevent unauthorized access and use of the Software and documentation by third parties. To the extent permitted by relevant law, you shall not, nor allow any third party to, copy, decompile, disassemble or otherwise reverse engineer the Products or Software, or attempt to do so. You are prohibited from, and shall prevent any third party from, removing, covering or altering any of our patent, copyright or trademark notices placed upon, embedded in or displayed by the Products or Software or their packaging and related materials. We reserve all rights in the Products and Software not specifically granted to you under these Terms.

8. Confidentiality

Any information, including all designs, drawings and specifications, which the Parties disclose to each other relating to the goods and/or services which is not in the public domain at the time of disclosure shall remain the sole property of the disclosing party and be treated by the receiving party as confidential and shall not (save with the prior written consent of the other party) be disclosed to any third party.

9. Default

We reserve the right by written notice of default to cancel or indefinitely suspend an accepted order and to refuse additional orders if: (i) you default in performing your obligations under these Terms, (ii) you cease business operations or enter into any bankruptcy, insolvency, receivership or like proceeding not dismissed within thirty (30) days, or assign your assets for the benefit of creditors, or (iii) when obtaining third-party financing in connection with your Product purchase(s) you fail to do so in a timely manner on terms satisfactory to us.

10. Applicable Law

10.1 Law and Settlement of Disputes: In case of disputes, the parties shall endeavour to settle such dispute amicably. These Terms and any dispute, claim or controversy arising therefrom shall be governed by the laws of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) as well as any other international treaties shall not be applicable. The venue for all disputes under or in connection with these Terms is Rostock, Germany.

10.2 Severability: These Terms may be severable and the invalidity, illegality or unenforceability in whole or in part of any provision does not affect the validity of other provisions.

10.3 Force Majeure: Neither party will be liable for non-performance (except for payment obligations) due to unforeseeable causes beyond its reasonable control, provided that such party promptly notifies the other in writing of such occurrence and makes its best efforts to promptly eliminate the effect thereof.

10.4 Notices: Any notice or other communication given by either party to the other regarding these Terms will be deemed given and served when delivered in writing (i) personally, or by (ii) e-mail with read-receipt, or (iii) by reputable international courier requiring signature for receipt, or (iv) five (5) business days after mailing, addressed to the party at its notice address. Either party may change its notice address by written notice to the other. Your notice address will be the address appearing on the accepted purchase order. Our notice address is: INNOMAR Technologie GmbH, Schutower Ringstr. 4, 18069 Rostock, Germany.

10.5 Official Language: The official language of these Terms is English. If there is a conflict between versions of these Terms in any other language, the English language version controls.