

# InnoMa System GmbH Commercial Terms and Conditions

[Note: This translation is provided for information purposes only. In the event of any discrepancy between it and the original German version, the latter shall prevail.]

1. The following commercial terms and conditions shall be deemed to have been agreed once an order has been placed and accepted.

Any deviations herefrom shall be confirmed in writing.

Any commercial terms and conditions set out by the ordering party shall only be deemed to be part of the contract if confirmed by us in writing.

2. Unless expressly stated otherwise, all offers are subject to change and are non-binding.

Drawings, cost estimates and other documents shall not be made available to third parties and shall be returned without delay in the event that an order is not placed. Copyright and proprietary rights are and shall remain ours.

As InnoMa System GmbH (hereafter: "the Company" or "we") provides circuit proposals at no charge, the Company shall reject any costs resulting from circuit errors or a misinterpretation of the conceptual formulation of the problem.

We shall not be required to execute the order if there are documented mistakes, particularly clerical errors, typographical errors and errors of calculation, even if these are unknown to the buyer. In such cases, no separate challenge is required.

Return of goods:

Goods that have been properly delivered in accordance with the order cannot be returned. Material can only be returned with our express consent. The costs associated with returning the goods shall be determined after assessment.

All arrangements, including those reached with representatives, employees etc. require our written confirmation.

3. Unless otherwise stated, our prices are quoted net ex-works and exclusive of value added tax (VAT), packaging, shipping, insurance, assembly and commissioning. Shipment shall, at our discretion, be either ex factory or ex Schwalbach-Hülzweiler. Prices shall be subject to VAT charged at the rate applicable at the time of delivery. The risks and rewards of ownership shall pass to the customer once the goods have been dispatched.

4. Our invoices are to be paid within 14 days from the invoice date less a 2 % settlement discount, or within 30 days net. If payment is not made by the due date, we reserve the right to charge interest on the amount owed at a rate of 1 % per month plus administrative fees.

5. The customer shall not be permitted to withhold payment because of any complaints or warranty claims, nor in order to offset any counterclaims, unless they have been accepted by us or established by declaratory judgment.

6. Packaging is charged at cost and is non-returnable.

7. In cases of force majeure or in the event of other circumstances beyond our control, particularly delivery problems, insufficient raw materials etc., we reserve the right to terminate the contract in part or in full, even if performance of the contract is only frustrated for a limited period.

In the event that the contract is terminated, no claims for damages against us shall be admissible.

8. Shipping shall be at the buyer's risk and at the buyer's expense, even if carriage-paid delivery was agreed or if the goods are transported with our own motor vehicles.

9. In the event of a justified claim, we shall remedy any defects either by repair or replacement. In this case, shipping costs shall be borne by us. If repair or replacement is not possible, the buyer can demand a reduction in price or can rescind the contract. Unless we have been shown to have acted with wilful intent or gross negligence, no further liability shall be accepted on our part, in particular for damage to anything other than the goods supplied. The goods for which a complaint is filed shall be returned to us in appropriate packaging. Repairs shall be made without warranty if a defect report is not submitted. In the event of faulty repair work, obvious defects shall be reported no later than two weeks after receipt of the goods. Hidden defects shall be reported within six months.

10. Examining and processing customer complaints does not extend the warranty period.

Proof that the goods supplied were properly treated shall be borne by the buyer. No compensation shall be provided for direct or indirect damage, e.g. damage to property or personal injury. The warranty shall be void if the object of purchase is modified either by a third party or by installation of third-party components.

11. If the buyer fails to comply with the terms of payment, the seller shall not be bound to provide warranty cover for the period in which the buyer is in default.

In the event of a dispute regarding the type and extent of defects and if the purchase price has not yet been paid, the buyer shall, if so requested by the seller, deposit the purchase price or furnish alternative security ("collateral"). This applies both to obvious and hidden defects. The warranty does not cover damage or premature wear to parts, where such damage or premature wear is attributable to the material characteristics of the parts or the use to which are put, or is the result of natural wear and tear, or is caused by improper or careless treatment, by excessive stress, by the use of unsuitable auxiliary materials, or by influences of a chemical, electrochemical or electrical kind, including the effects of the weather and other natural factors.

12. The performance of the equipment shall be determined by the results achieved on the supplier's test bench. We shall not be liable for faults caused by the installation environment or by improper care. If individual components are supplied, we shall be liable only for the correct functioning of these components in accordance with the technical specifications and drawings. Any improvement or repair work shall not extend the warranty period. Any further claims by the ordering party, particularly regarding compensation for direct or indirect damage or for installation or removal costs, are excluded.

13. We shall retain title to all equipment supplied, even when delivered by a third party on our behalf, until such time as we have collected in full all receivables arising from the business relationship.

Retention of title shall also extend to cover those parts of items supplied by us that have been combined with other items to produce a single unit. This also applies in cases in which the items we supply are incorporated into a building structure.

In all these cases, installation is temporary, becoming final only when all our claims arising from the business relationship have been satisfied. This shall also apply in the event of insolvency proceedings, bankruptcy proceedings or compulsory sale by auction.

Insofar as our property ceases to exist independently after being installed, we shall have joint ownership of the new item arising as a result of installation. Our share of ownership shall be calculated from the amount of the accounts receivable being claimed by us relative to the total value of the new item.

14. The buyer may resell or process the goods only in the ordinary course of its business. The goods may not be pledged or assigned as security.

By selling the goods supplied by us to a third party purchaser, the buyer assigns to us the third-party receivables from the sale, including all incidental rights, until all our claims against the buyer have been settled in full.

The buyer shall inform any third-party vendor of this agreement to assign accounts receivable to us. If the value of the collateral furnished on our behalf exceeds our claims against the buyer by more than 25 %, we shall be obliged to release the collateral if so requested by the buyer. The buyer is obliged to notify us immediately of any seizure or any infringement of our proprietary rights by a third party.

Delivery of the goods by the buyer to a third-party purchaser is understood to be provisional until we have received full payment for the goods. This also applies in cases in which the goods have been combined with other items or integrated into a building. In all cases in which our goods are combined with other items to produce a single unit, we shall have joint ownership of the new item with our share of ownership equal to the proportional value of the installed goods supplied by us and subject to retention of title.

The buyer shall inform us which goods supplied by us and subject to retention of title have been installed and shall identify the purchaser of the resulting product.

The buyer shall provide assurances that it has not assigned accounts receivable either in full or in large part to any third parties (banks, suppliers, etc.). The buyer undertakes to inform us immediately if an assignment of this kind is planned as part of the sale of the business relationship.

15. Place of performance is Schwalbach-Hülzweiler. The place of jurisdiction is Saarlouis even in cases in which the goods are delivered to the buyer on our behalf by a third party, unless the law provides otherwise in the case of non-merchants.

Saarlouis is also the place of jurisdiction if legal action is taken on bills of exchange or cheques, irrespective of where the bills or cheques are payable.

16. The buyer is not entitled to assign its contractual rights to a third party without our consent.

17. Should any part of these commercial terms and conditions be invalid, the validity of the remaining provisions shall be unaffected.

The invalid provision shall be replaced by a provision that would apply if the invalid provision had not been adopted.

**Stand: Dezember 2007**