

General Terms of Business of Innominate Security Technologies AG (Innominate)

This translation is for convenience purposes only.

§ 1 Scope

The subject of these terms and conditions is the delivery of hard / software products as well as maintenance, consulting and other services supplied by Innominate. The scope of individual deliveries/services owed by Innominate is defined in the respective offer, order form and the present general terms of business. All offers made by Innominate are non-binding. A specific agreement shall only be deemed to have been entered into after written confirmation by Innominate and in any event by execution of the agreement by Innominate. Innominate may accept customers' orders within one week after receipt of the order. Innominate reserves the right to amend the promised delivery or services even after conclusion of an agreement to the extent such amendments or alterations are customary in the industry or non-material and do not affect contractually guaranteed features. Except for deliveries of hard- and (standardized) software products, services supplied by Innominate will normally be defined as either "works" ("Werkleistungen") – specific results defined as the contractual obligation) or "services" ("Dienstleistungen" – specific services defined as the contractual obligation).

§ 2 Execution of the Order/Deliveries

Innominate furnishes its services under a common commercial standard of care and with regard to the state of the art prevailing at any time.

Deliveries are always ex-works, at cost and expense of customer (ex-works according to INCOTERMS 2000).

Deadlines for deliveries and services are only binding if explicitly agreed upon as binding. Agreed-upon deadlines for deliveries shall be deemed as fulfilled if the merchandise has been sent of or made ready for collection before expiry of the deadline. Agreed-upon deadlines are automatically extended in all events of delays beyond the influence of Innominate, Acts of God and delayed deliveries by suppliers. Deadlines requested by the customer and confirmed by Innominate are also binding for the customer. Should customer later request alterations of such deadlines, Innominate reserves the right to claim the additional costs thus incurred.

Innominate is entitled to employ third parties for delivery of their services. Delivery and services may also be supplied in parts or stations.

§ 3 Cooperation, Participation, Supply

Customer promises to effect its agreed-upon and other acts of participation and supply to the required extent and quality, and at the agreed-upon dates, and grants Innominate the required work conditions. In the event of installations at customer's premises, customer will supply the required installation conditions such as telephone and network connections, system capacities etc.

If such acts of participation and/or supply are not provided by customer, or not satisfactorily or not in time, agreed-upon deadlines for deliveries or services are no longer binding. In this event, Innominate reserves the right to charge customer for the additional work and expenses thereby incurred.

§ 4 Remuneration

Customer is to pay Innominate the agreed-upon-remuneration plus the at any time applying statutory value added tax (VAT). Prices and remuneration are laid down in the applicable offer by Innominate, alternatively in the price list in force at the time of the agreement. Absent specific agreements prices are ex-works (EXW) according to INCOTERMS 2000. If remuneration is agreed upon on a time and material basis, invoicing may be effected with fourteen days intervals; Innominate may in this case request a retainer in the amount of the forecasted remuneration for one month.

For projects with a fixed price, the remuneration is payable once the order is accepted.

In cases where a fixed price has been agreed upon and where the subsequent planning in detail by Innominate demonstrates that its inception results in an inadequate project price, Innominate may require an adequate amendment of the project price.

Travel expenses and other costs will be charged by Innominate as laid down in the offer or the price list in force from time to time.

§ 5 Terms of Payment

All invoices are payable immediately upon issuing net and without deduction.

In case of payment delays, Innominate may claim interest according to § 288 of the German Civil Code without prejudice to a claim of further damages.

Customer may only set off with validly determined (court order, out-of-court settlement) or undisputed claims.

Innominate may at its own discretion request advance payment for deliveries and supplies if a customer is in default with any of Innominate's claims or if customer's financial situation has materially deteriorated.

§ 6 Right of Use to Software Products

Upon payment, Innominate grants customer a non-exclusive right unlimited in time to use the software and the acquired work results for internal purposes and within the agreed-upon scope. The right to use third party products may be determined by such third party's conditions supplied. In as far as the software relies on open-source-components and in as far as the software is not an independent work of Innominate but rather a derivative work relying on said open-source-components, the licensing conditions of said open-source-software also apply. An overview of the licensing conditions applying to Innominate's products relying on open-source-software is available from Innominate. In the event of a conflict between the licensing conditions of the open-source-software and these general terms, the licensing conditions of the open-source-software shall prevail.

The scope of the right to use (both with regard to capacity and with regard to the number of users) is defined by the offer, the acceptance of the offer, the order form and the underlying purpose.

Customer may copy the software to the extent necessary for use of the programme. In particular, necessary copying includes the installation of the programme from the original database to the installed memory of the hardware and the loading of a programme into the random access memory. Furthermore, customer may create one backup copy. Customer

may generally only create and store one single backup copy. Such backup copy is to be marked as a backup copy of the programme supplied.

If Innominate provides customer with hardware into which Innominate's software products are integrated (in particular the product line "mGuard") customer may only use the software on the hardware supplied by Innominate. The same applies for updates or upgrades of the integrated software.

If Innominate supplies customer with software which is not integrated into specific hardware, customer may use the software on any hardware at customer's disposal unless use of the software is explicitly restricted to specific hardware. If customer exchanges hardware, customer is obliged to delete the software from the hardware no longer employed. Simultaneous storage or use on more than one piece of hardware is not allowed. Use of the software within a network or other forms of computer systems with multiple access is not allowed if this enables simultaneous use of the programme. Customer may sell or give away the software to third parties provided the third party declares consent with the present general terms except if Innominate may restrict such transfer for cause. In any case of transfer, customer is obliged to furnish the third party with all copies of the programme including, if applicable, backup copies, and to destroy copies not transferred. Any transfer invalidates customer's right to use a programme. Customer is also obliged to furnish Innominate with complete name and address of such third party, without specific request by Innominate. Customer has no further rights of use and exploitation. In particular, this simple right to use does not include further copyrights to the software (such as the right to lend, lease, disseminate etc.) nor to transfer the source code.

Customer is obliged to prevent unauthorized access to the software by third parties through adequate means. Customer is not permitted to alter or amend the software. Decompilation of software into other code forms beyond the privileges under § 69 e of the German Copyrights Act is also not permitted.

Customer may not transfer the software to third parties if customer has cause to believe that the third party will violate these general terms, in particular create prohibited copies. This also applies to third party's employees.

Copyright markings may not be removed.

§ 7 Liability

In all cases of contractual or extra-contractual liability, Innominate is only obliged to damages to the following extent:

- (i) for intentional acts, to the full amount;
- (ii) in cases of gross negligence in the amount of the foreseeable damage which should have been avoided through adherence to the obligation violated;
- (iii) in cases of absence of a guaranteed functionality only to the amount of the foreseeable damage which should have been averted by the guarantee;
- (iv) in all other cases only for breach of a material contractual obligation required for the appropriate execution of the agreement and on which the contractual partner may rely ("Kardinalpflicht"), if such breach endangers the purpose of the agreement.

Furthermore, Innominate shall not be reliable for random, indirect, special, consequential or punitive damages of any kind, nor for lost income or profits, loss of business, loss of information, loss of data or other financial losses resulting from the sale, the installation, the maintenance, use, performance, failure or interruption of business of and by products or solutions provided by Innominate, or which result of a connection therewith, irrespective whether contractual, quasi-contractual or based in tort. This also applies if Innominate or its authorized dealers were informed of the possibility of such damages. For each case, the amount of damages is limited to EUR 500,000 for material damage and to EUR 150,000 for financial losses. This limitation of liability does not apply for (i) intent, or (ii) gross negligence of the officers or leading employees of Innominate. In case of data loss, Innominate is only liable if customer has saved its data in adequate intervals, at least once per day, and in appropriate form allowing restoration of such data at acceptable expense.

For all claims against Innominate to damages or compensation based on contractual or extra-contractual liability, a superannuation period of one year applies except in cases of intent or bodily harm. The superannuation period begins at the time laid down in § 199 par. 2 of the German Civil Code, and no later than the maximum terms laid down in § 199 par. 3 and 4 of the German Civil Code. This paragraph does not affect the different superannuation regime for warranty claims (§ 8.3).

This paragraph does not affect claims under the German product liability Act.

§ 8 Warranty

8.1 Scope

Innominate warrants that the products delivered or the services provided comply with the performance specifications specifically laid down in writing or, where no such performance specifications have been agreed upon, that they will be suited for the use contractually foreseen or commonly assumed and that they are of a quality usual for deliveries and services of this kind and which customer may expect, and that they are free of any third party rights.

8.2 Examination and Notification Obligations

Customer must examine the products delivered or the services supplied without undue delay upon receipt and to their completeness and compliance with the order confirmation and invoice, and with regard to the functionality of fundamental functions. Notified or notifiable defects must be notified in writing to Innominate no later than 8 days after delivery. Such notification must include a detailed description of the defect. If customer fails to supply such notification, or if the notification does not contain a detailed description of the defect within 8 days upon delivery, the product and / or services shall be deemed to be accepted by customer. With this modification, the regulations of § 377 of the German Commercial Code apply. Non-material defects which do not impair the functionality of the product of the service do not entitle customer to refuse acceptance.

8.3 Warranty Claims

Innominate will repair defects or deficiencies of services within the warranty term of one year, beginning with the delivery (acceptance in the case of works), and after written notification by customer. Innominate may choose between repair and supply of a product without defects. If the product must be sent back to Innominate for purposes of repair or exchange with a product without fault, customer arranges for shipment at own costs.

If the defect cannot be repaired within adequate time or if repair or supply of a faultless product fails for other reasons, customer may at its discretion reduce the purchase price, abandon the agreement and claim damages or compensation. Scope and preconditions of these two latter claims are regulated by § 7 of these general terms. Abandonment of the

delivery agreement does not exclude a right to damages. Failure of repair or exchange with a faultless product may only be assumed if Innominate has been granted sufficient time for repair or exchange with a faultless product without success, if repair or re-supply are impossible, if they are refused or delayed unacceptably, if customer has cause to doubt their success or if such remedies are unacceptable to customer for other reasons. If Innominate fails with repairs within an adequate term which comprises at least two attempts at repair, customer may set Innominate an adequate last deadline comprising another two attempts at repair. If a defect cannot be established and if it is established that the systems were not defective, customer is responsible for the costs of examination according to Innominate's price list in force from time to time. This applies in particular for cases of incorrect use of the product or the software or in the event of other malfunctions beyond Innominate's influence. This warranty does not apply for malfunctions of other products or parts thereof caused by the use of a communication service which customer maintains for use with the product.

Innominate is not responsible if examinations and tests by Innominate demonstrate that alleged defects or limitations of the product's functionality either do not exist or have been caused by abuse, negligence or incorrect installation or testing, unauthorized attempts to open, repair or alter the product, or by other causes beyond the foreseen scope of use, or by accident, fire, lightning, blackouts or other risks or Acts of God. This warranty also does not apply if the malfunction results from use of the product in combination with accessories, other products, additional or peripheral devices and Innominate establishes that no malfunction rests with the product.

Except where provided otherwise in this warranty, Innominate shall not be responsible for software, firmware or information or data of customer contained, stored or integrated into a product sent to Innominate for repair within the warranty term or thereafter.

Warranty for third party products is limited to transfer of Innominate's respective warranty claims to customer or – where applicable – shall be deemed to be satisfied by such third party's manufacturer's warranty, supplied to customer at delivery.

If a third party raises claims which impair the contractual right of use, customer is obliged to inform Innominate comprehensively in writing and without undue delay. Customer by this contract authorizes Innominate to conduct such dispute with the third party, in and out of court, in its own responsibility. If Innominate, at its own discretion, makes use of this option, customer may not accept third party's claims without Innominate's consent and Innominate is obliged to defend itself against such claims at own cost and to hold customer harmless from all cost and damages resulting from such defence unless based on faults attributable to customer. Innominate may alternatively comply with third party's claims or replace products in dispute with products compatible with the agreement. With this modification the statutory rules regarding deficiencies in rights apply with a superannuation term of 1 year. Sentences one and three apply regardless of superannuation.

8.4 Special Provisions for Software Products

Innominate warrants that the software in all material aspects complies with the programme specifications. Innominate warrants that the means of data storage containing the software function without defect. Upgrades will only be provided by virtue of a separate maintenance agreement. Innominate accepts no warranty for other software licensed to customer by third parties. Innominate's obligation under this warranty is limited at Innominate's discretion to the replacement of defective means of data storage and / or to repair defective software products, or to replace such software which in all material respects complies with Innominate's published specifications. Repair may also be effected through an update or the creation of an acceptable workaround.

Customer has no warranty claims if customer or a third party has altered the software, except if customer proves that its alterations to the software does not materially encumber Innominate's repairs.

Innominate does not warrant that its software products comply with customer's demands not specified with the order, that they perform in combination with hardware or software products of third parties, that the software products perform without malfunctions and free of faults nor that all defects of the software products can be remedied.

An Innominate product may comprise software of third parties or be delivered in combination with such software, use of which is regulated under a separate end-user license agreement. This warranty does not apply to software of a third party. Customer is obliged to familiarize itself with the applicable warranty in the end-user license agreement regulating use of such software, or in the documentation provided with the software.

Additionally, the other provisions of this paragraph 8 apply.

8.5 Access to Warranty Services

In order to access warranty services, customer must approach a representative for technical support or service unit of Innominate within the applicable warranty period and obtain a Return of Material Authorization (RMA). This requires documentation (with date) of the original purchase from Innominate or from an authorized dealer. Innominate shall not be responsible for products or parts received from customer without RMA. Products or parts thereof sent by customer to Innominate must be sent in packaging / wrappings adequate for such transport. It is recommended to provide insurance or to use a mode of transport where the itinerary can be traced. If Innominate sends customer a replacement in advance, and if the customer does not send the original product or part within in thirty (30) days upon issue of the Warranty Service Approval to Innominate, Innominate is entitled to charge customer with the list price for this product or part in force from time to time.

§ 9 Retention of Title

Innominate shall retain title to all delivered products until all of the receivables arising from its business relationship with customer have been fully paid. Customer has the right, at any time revocable, to sell the products to which Innominate retains title (hereafter referred to as "reserved products") in the course of its ordinary business, provided that customer equally retains title to the reserved products. Customer may, however, not pledge or otherwise encumber the reserved products. If third parties raise claims with regard to the reserved products, customer is obliged to inform such third party about Innominate's retention of the title and to inform Innominate without undue delay. With any sale of a reserved product, customer is obliged to ensure that purchaser acknowledges Innominate's rights.

If customer is in default with its obligations, in particular in default with payments, Innominate is entitled to repossess reserved products and to commercialise such products otherwise. Such repossession shall not be deemed to imply abandonment of the agreement.

Customer herewith assigns all receivables resulting from any resale as a security to Innominate in the invoice amount payable from time to time and until complete payment, and Innominate hereby accepts such assignment.

If the value of the securities granted hereunder exceeds Innominate's payments claims by more than 20 per cent, Innominate will, at customer's request, release the exceeding part of the securities.

§10 Additional Rules for Works

If tasked with specific works, Innominate shall be responsible for the supervision, guidance and control of the performance. When specific products are developed only the final concept or an agreed upon specification shall form the basis of such development. Developments may also be charged in stages.

10.1 Amendments to the Specifications

If customer alters its specifications within a development order, Innominate may require an adequate adjustment of its remuneration. Agreed upon deadlines for the development will be altered accordingly. Customer shall submit any alteration request in writing. Innominate shall examine such requests without undue delay and inform customer in writing. If the parties do not agree on the requested amendment to the development, the development shall be continued in its original form.

10.2 Acceptance of Works

Works are subject to acceptance. Innominate may require that separable parts of a development are accepted separately. In this case the entire work shall be deemed accepted with the last acceptance of a separable part. Innominate shall notify customer that a work is subject to acceptance. Upon receipt of such notification customer is required to examine the development without undue delay and to notify Innominate within ten days – at Innominate's request in writing – of the acceptance. Acceptance is to be declared if the development in all material aspects complies with the specifications. Only such defects which severely affect the entire functionality shall justify refusal of acceptance. Commercial use of the development and / or signing of the Use Report shall be deemed as acceptance. If customer fails to declare acceptance within the aforementioned deadline, acceptance shall be deemed to have occurred unless customer reports existing defects. The method of testing shall be defined by Innominate with customer's responsibility for providing the test data. At testing / acceptance, the parties shall produce a common report to be signed by both, detailing, if applicable, the remaining defects.

Innominate shall be notified without undue delay of any material defects. These shall be repaired within an adequate time span. Thereupon, a new acceptance procedure regarding such defects shall be arranged.

§ 11 Additional Rules for Services

Services are aimed at advice and support of customer. Services shall be charged on the basis of time and material according to the prices detailed in the offer and, in case of absence of such offer, on the basis of Innominate's list prices. Services provided at customer's premises will always be charged on the basis of full days. The remuneration shall be payable upon provision of the services and invoicing.

Innominate shall furnish the services through qualified employees. These employees will not take directions from customer, but only from Innominate.

Innominate's contractual obligation shall only be the service and never a specific result.

Agreed upon deadlines regarding an installation shall be deemed to having been met if the installation occurs within this deadline. In as far as services have been provided adequately, customer shall con-firm this in writing upon request

§ 12 Additional Rules for Service / Support

12.1 Innominate shall provide service and support to the extent and on the conditions detailed in the offer and/or the order form and/or the offer confirmation and according to these general terms. The description of services in product flyers, other documents or on Innominate's websites are not basis of the agreement unless specifically detailed in writing.

12.2 Contacts

Customer shall furnish Innominate with contact data (telephone, fax, email address) of the contact persons named in the order, including their deputies.

12.3 Cooperation of Customer

Customer is obliged to comply with instructions in the pertinent user documentations. Support in case of operational difficulties will be charged separately.

If required, Innominate coordinates with customer required actions to prevent damage. Customer is obliged to effect the measures agreed upon to prevent damage in the shortest possible time.

12.4 Damage Prevention by Innominate

If customer is unable to take action to avoid damage or if Innominate is responsible for such actions then Innominate may independently take such action.

12.5 Duration

The agreement enters into force at the date specified in the order and / or order confirmation. In as far as the agreement does not refer to a single provision of services, the agreement remains in force indefinitely. Absent provisions to the contrary, the agreement may be terminated by either party with three month's notice to the end of a calendar year, however not before the end of the first (contract-) year.

The right to terminate the agreement for cause, in particular in case of default with contractual obligations on the side of customer, shall remain unaffected.

§ 13 Additional Rules for Test- and Demo-Versions

Products delivered for the purposes of testing (hardware, software etc.) remain Innominate's property. They are to be handled with adequate care and only to be used on the basis of specific agreements with Innominate.

Innominate may at any time request their return. Test installations and demo-versions never qualify for warranty claims.

§ 14 Disposal of Used Hardware

Innominate and customer agree according to § 10 par. 2, 3rd sentence of the German Act on Used Electric and Electronic Appliances that customer is responsible for the disposal of hardware, including parts thereof, delivered to customer. Customer is obliged to handle and

dispose of the hardware and their parts which can no longer be used in compliance with the rules of the aforementioned act and other regulations. Customer is responsible to ensure that electrical appliances are not transferred to consumers. Innominate is not obliged to foresee for customer adequate options for the return of used products nor for their disposal.

§ 15 Miscellaneous

Should a provision of this agreement be invalid or unenforceable, the validity and enforceability of remaining provisions shall remain unaffected. In this case the parties will agree upon a replacement provision, its contents as close as possible to the provision affected. Amendments and supplements to this agreement require the written form. This also applies to a change of the written form requirement.

All disputes arising under this agreement and the parties' cooperation shall be settled by the courts in Berlin. This agreement shall be governed exclusively by German law. The UN Convention on Contracts for the International Sale of Goods shall not apply.

Place of performance for all deliveries and services under this agreement shall be the seat of the Innominate office accepting the respective order.

If customer also employs general terms of business, the agreement shall enter into force also if no agreement can be reached regarding the application of general terms of business. In as far as the parties' general terms of business concur, those terms shall be applicable. In as far as customer's general terms of business contain terms not included in the present general terms of business, German contract law shall apply. If the present general terms of business contain terms not included in customer's general terms of business, the pre-sent general terms of business shall apply. In case of conflicting individual terms the general terms of business of Innominate shall apply also if Innominate does not explicitly reject customer's general terms of business. Conflicting or additional terms in customer's general terms of business only apply if Innominate explicitly accepts customer's general terms of business in writing.

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