

#### Article 1 General, scope of application

Deliveries, services and offers of INCOE shall be based only on these Terms and Conditions. These Terms and Conditions shall also apply to all future business relationships even if not expressly agreed again. These Terms and Conditions shall be deemed as accepted at the latest on acceptance of the goods or services. Terms and conditions to the contrary or dissenting terms and conditions of the customer to the Terms and Conditions of INCOE are not accepted irrespective of how the customer discloses his terms and conditions. It is already objected to any counter confirmations of the customer relating to dissenting terms and conditions.

Deviations from these Terms and Conditions shall only be effective if confirmed by INCOE in writing unless expressly otherwise agreed between the parties. Individual agreements made by the parties shall take precedence over these Terms and Conditions. A written agreement or written confirmation by INCOE is decisive with regard to the content of all agreements made between INCOE and the customer for the purpose of executing the contract. Transmission by telecommunication (for example by fax) is sufficient.

References to legal provisions in these Terms and Conditions are for clarifying purposes only; the legal provisions shall also apply without such clarifications unless otherwise agreed in these Terms and Conditions.

#### Article 2 Offer and conclusion of contract

The offers of INCOE shall be nonobligatory and non-binding.

By its order, the customer bindingly declares that he intends to acquire the goods (offer of contract).

Unless otherwise expressly agreed between the parties, declarations of acceptance and all orders shall only come into effect upon written confirmation by INCOE. The same applies to supplements, amendments, deviating agreements or collateral agreements. Drawings, pictures, measures, weights or other data or characteristics shall only be binding if expressly agreed in writing.

#### Article 3 Property rights, copyrights

The customer shall be obliged to ensure that goods which are produced and/or delivered by INCOE do not infringe the property rights of third parties. Should a claim be raised against INCOE by a third party for such goods, the customer has to indemnify INCOE from all claims of this third party including but not limited to all involved legal costs; the customer is exempted from this indemnification if INCOE knew positively about this property right infringement or was not aware due to gross negligence.

#### Article 4 Prices, price amendment

The prices indicated by INCOE in the order confirmation plus statutory applicable VAT shall exclusively be binding. Shipments and services additionally requested by the customer (for example: transportation insurance requested by the customer) shall be charged separately.

If the customer changes the order after execution of the order confirmation and this order amendment is accepted by INCOE, the customer shall be obliged to bear the additional costs incurred.

Unless otherwise agreed, the prices are ex works excluding packaging and freight.

If the completion of goods is, due to reasons for which the customer is responsible, delayed for more than 4 months referring to a non-binding or binding delivery date and if the wages, material costs or market-cost prices increase, INCOE shall be entitled to increase the price reasonably in accordance with the cost increase.

In case of cross-border transactions, the customer shall bear all costs and expenses involved with the border crossing, namely fees for import and export licenses and customs duties, irrespective whether INCOE initially covered the costs.

#### Article 5 Delivery date and delay in delivery

An "estimated time of delivery" stated in the order confirmation by INCOE shall not be binding. A binding delivery period shall be subject to an explicit agreement. Delivery periods shall commence upon receipt of the order confirmation by the customer, however, not before receipt of all documents, permissions, irrevocable approval and clarification of all technical details to be rendered by the customer as well not before receipt of possibly agreed initial payments. Delivery periods and/or performance periods shall be extended reasonably if the customer omits or delays the necessary or agreed cooperation. The delivery period shall also be extended accordingly in case of later amendments of the scope of delivery. Delivery dates and delivery periods refer to the date of the readiness for shipment.

In case INCOE is unable to comply with binding delivery dates for reasons INCOE is not liable for (unavailability of service), INCOE will inform the customer immediately about this fact and at the same time inform him about a new delivery period. If the performance is also not available during the new delivery period, INCOE shall be entitled to withdraw from the contract in whole or in part; a consideration rendered by the customer shall be immediately reimbursed by INCOE. A case of unavailability of performance within this meaning shall be (i) if a supplier of INCOE does not deliver INCOE in time, (ii) if INCOE concluded a congruent hedging transaction, (iii) if neither INCOE nor the supplier can be held liable or (iv) if INCOE, in an individual case, shall not be obliged to take care of providing.

In any case, a reminder of the customer shall be mandatorily in case of delay in delivery.

Customer's claims for compensation due to delay shall be restricted to 5% of each net price (delivery value) of the goods having been delivered with delay.

The rights of the customer pursuant Article 8 of these Terms and Conditions as well as the statutory rights of INCOE shall remain unaffected.

#### Article 6 Payment, maturity, damages

Unless otherwise agreed in writing, payment claims from INCOE shall be payable after receipt of the invoice and shipment or acceptance of the goods within 14 days with 2% discount or within 30 days net.

INCOE shall be entitled to request an advance payment of 30% of each order value. INCOE shall provide the customer with a respective advance payment invoice. The advance payment shall be due within 14 days after receipt of the advance payment invoice.

If the customer defaults in payment of the purchase price and/or the advance payment INCOE may charge default interest in the amount of 9%-points above the base interest rate. The assertion of further damages due to delay shall be reserved. § 355 German Commercial Code (commercial default interest) shall remain unaffected.

INCOE may offset payments against older debts of the customer. If costs and interest already incurred INCOE shall be entitled to offset the payment first against the costs, then against the interest and at last against the main claim. Payment shall be deemed as effected only after INCOE can dispose of the payment, in case payment is made by check, after the check is cashed. In case the customer does not meet its payment obligations, does not cash a check, stops payments or in case other circumstances are revealed which cause doubts that the customer is credit-worthy, INCOE shall be entitled to claim all

remaining debts even if checks were accepted. In this case, INCOE shall further be entitled to request provision of security and to withdraw from current contracts.

The customer shall only be entitled to offset and to keep payments if counter claims are legally binding established by court or approved by INCOE. Counter rights of the customer shall remain unaffected in case of defects.

In case the customer withdraws from the contract for reason for which INCOE cannot be made responsible, INCOE may request flat-rate compensation in the amount of 25% of the net purchase price. The customer shall be entitled to prove that no damage incurred at all or at least to a significantly lower extent. The lump-sum shall be credited to further compensation claims of INCOE.

If it is revealed after conclusion of the contract that claims from INCOE are jeopardized by lack of performance of the customer (for example by opening of insolvency proceedings) INCOE is entitled according to legal provisions relating to refusal of performance and – if case may be after setting a period – to withdraw from the contract (§ 321 German Civil Code). With regard to contracts on the production of specific items (for example individual production), INCOE may immediately withdraw from the contract; this shall not affect the legal provisions concerning the dispensability of setting a period.

#### Article 7 Delivery, passing of risk, default in acceptance

Unless otherwise expressly agreed by the parties, all deliveries shall be made ex works which is also the place of performance. On request and cost of the customer, INCOE also delivers the goods to another place. Unless otherwise agreed between the parties, INCOE shall be entitled to determine the way of shipment (carrier, dispatch route, packaging).

The risk of accidental loss and the accidental deterioration of the goods shall pass to the customer as soon as the goods are handed over to the person executing the transport or left the work or the stock of INCOE for the purpose of dispatch, irrespective the fact who bears the freight costs, at the latest, however, with transfer of the goods to the customer. In case delivery is delayed without any fault of INCOE, the risk shall pass to the customer at the time of receipt of the readiness for dispatch. Dispatch packaging can be returned to INCOE without remuneration. INCOE does not bear costs of return.

In case the customer will be in default in acceptance, refrains from cooperation or delivery is delayed due to other reasons for which the customer is liable, INCOE shall be entitled to request compensation for the damages incurred including additional costs (for example storage costs).

#### Article 8 Rights and obligations of the customer in case of defects

Statutory provisions shall apply regarding the rights of the customer in case of material defects and defects of title unless otherwise agreed in the following.

The basis for liability for defects of INCOE shall mainly be the specific agreement entered into with regard to the condition of the goods (Beschaffenheitsvereinbarung). All product information being object of each individual contract between INCOE and the customer shall be deemed as such a condition agreement (Beschaffenheitsvereinbarung); in such case, it is irrelevant who (INCOE or the customer) provided the product specification.

The customer may only assert claims for defects if he complied with his legal duty to inspection and objection (§§ 377, 382 German Commercial Code). The customer shall be obliged to inform INCOE immediately in writing about any obvious defects, at the latest within one week after receipt of the goods. Defects which could not be detected immediately, i.e. even with careful inspection, (hidden defects) have to be notified in writing immediately to INCOE, at the latest one week after detection. Should the customer fail to notify a defect in due time the delivered goods shall be regarded as accepted, i.e. customer's right regarding defects shall be excluded.

If INCOE is informed by the customer about defects in due time the customer's rights are subject to the applicable statutory provisions of §§ 437 to 444 German Civil Code with the following amendments:

1. Subsequent performance is restricted to the right to request deletion of the defect; the right for INCOE to deny the subsequent performance subject to legal provisions shall remain unaffected. INCOE shall be entitled to omit the owed subsequent performance until the customer fully pays the due purchase price; the customer shall, however, be entitled to retain a portion of the purchase price appropriate in relation to the defect. The way of the remedy of the defects and the place of performance shall be determined by INCOE. INCOE may, due to its own discretion, deliver defect free goods instead of remedying the defect. In any case, the customer shall be obliged to return the defective goods on request of INCOE, in particular for inspection. In case the customer requests that the subsequent performance shall be made at a place he determines, INCOE may accept this request whereas in this case all additional costs for work, travel expenses and expenses at standard rates incurred to INCOE shall be borne by the customer. The subsequent performance does not at all include the disassembling of the defective product and/or the new installation and the costs and expenses involved unless INCOE has been initially obliged to execute the installation.

2. The expenses (for example: transport costs, work costs and material costs, not: assembling and disassembling costs) necessary for the inspection and subsequent performance shall be borne by INCOE in case a defect is actually given. If it is revealed afterwards that a request for defect elimination was unjustified, the customer shall be obliged to reimburse the incurred costs to INCOE.

3. If the subsequent performance fails or a period set by the customer for the subsequent performance lapses without success or can be waived according to legal provisions, the customer may withdraw from the contract or may reduce the purchase price. If the defect is insignificant the customer shall not be entitled to such right of withdrawal.

4. Claims for damages by the customer or reimbursement of wasted expenses shall only exist pursuant to Article 12 of these Terms and Conditions; in all other respects such claims shall be excluded.

5. Claims for damages by the customer shall become time-barred after one year, starting at the moment the goods are delivered to the customer. This shall not apply to claims of the customer pursuant to § 438 para. 1 no. 1 and no. 2 German Civil Code, due to fraudulent intent and promised guarantee of INCOE (§ 438 para. 3 German Civil Code). The customer shall exclusively be entitled to claims due to defects; such claims are not transferable.

6. No defects in terms of Article 8 of these Terms and Conditions shall be:

- wear or damages incurred by wear;
- damages incurred by non-compliance with operating or maintenance instructions of INCOE;
- damages incurred by amendments of the goods by the customer, replacement of components or use of consumables which do not comply with the original specification, by improper handling, use or repair of the goods and by faulty or improper storage;
- damages incurred by operating conditions of the goods which were not agreed between the customer and INCOE as basis for the order;
- damages incurred by use of goods not supplied by INCOE.

#### Article 9 Retention of Title

The customer grants INCOE the following securities until all claims (including all account balance claims) due to INCOE now or in the future on whatever legal grounds are settled by the customer:

1. INCOE shall retain full title of the goods.

2. Pledging and assignments as security regarding the goods shall not be permitted. The customer shall be obliged to inform INCOE immediately in writing if and when third parties exercise rights on the goods delivered by INCOE.

3. In case of breach of the contract by the customer, in particular non-payment of the due purchase price, INCOE shall, according to statutory provisions, be entitled to withdraw from the contract or/and to request return of goods due to retention of title. The request of return shall not include at the same time the declaration of withdrawal; INCOE shall be entitled to request the return of the goods being under retention of title and only reserve the right of withdrawal. In case the customer does not pay the due purchase price, INCOE may immediately assert the above mentioned rights as soon as an appropriate deadline for payment which has been set to the customer ceases or such setting of a period may be dispensed due to legal provisions.

4. The customer shall be entitled to process and to sell the goods subject to retention of title in the ordinary course of business as long as he is not in default. Additionally, the provisions set out in the following numbers 5. to 8. shall apply hereto.

5. Processing, combining and mixing of the goods shall always be deemed as performed on behalf of INCOE as manufacturer, but without any obligation for INCOE. Should the ownership of INCOE expire through processing, combining or mixing with products of third parties, it shall already be agreed that the (co-)ownership of the customer in the produced (uniform) goods is proportionally (invoice amount) assigned to INCOE. The customer shall store the goods which are (co-)owned by INCOE free of charge. Goods in which the customer is entitled to (co-) ownership which is assigned to INCOE according to the above provision is hereinafter referred to as "goods subject to retention of title" (Vorbehaltsware). In all other respects, the same applies to the "goods subject to retention of title" (Vorbehaltsware) as to the goods delivered by INCOE under retention of title.

6. The customer shall hereby already assign for security purposes in full amount to INCOE all claims arising from the resale of the "goods subject to retention of title" (Vorbehaltsware) or from other legal reasons (including but not limited to insurance, unlawful act, all account balance claims). INCOE herewith agrees to the assignment. The obligations of the customer outlined in this Article under no. 2 shall apply accordingly to the assigned claims. In case of any action of third parties against the "goods subject to retention of title" (Vorbehaltsware), the customer shall notify such party of the (co-)ownership of INCOE and immediately inform INCOE about such action.

7. INCOE authorizes the customer revocably to collect assigned receivables for INCOE's account and on its own behalf. Such authorization may only be revoked if the customer does not properly fulfill his payment obligations, if bills of exchange or checks have been sent for protest, if an application to open insolvency proceedings was filed (including application made by creditors) or if there is a lack of customer's performance ability. In such cases, INCOE may request that the customer immediately discloses the assigned claims and its debtors, gives all necessary information for collection, provides the corresponding documents and notifies the debtors (third parties) of the respective assignment.

8. If the realizable value of the securities exceeds the claims of INCOE for more than 10%, INCOE will release securities on the customer's request due to its own discretion.

#### Article 10 Construction amendments

INCOE reserves the right to make at any time amendments regarding construction and form, particularly if required by law; INCOE shall, however, not be obliged to make such amendments to already delivered goods.

#### Article 11 Secrecy

Unless otherwise agreed in writing, all information received from the customer or otherwise gained within the business relationship between the parties shall not be confidentially for INCOE.

#### Article 12 Liability

Unless stipulated otherwise in these Terms and Conditions including in the following provisions, INCOE shall be liable for infringements of contractual or non-contractual obligations pursuant to respective statutory provisions.

INCOE shall be liable for damages – no matter for what legal reason – in case of intent and gross negligence. In case of simple negligence INCOE shall only be liable for:

- damages from injury to life, body or health;
- damages from a breach of essential contractual obligations (i.e. an obligation the orderly fulfillment of which constitutes a condition sine qua non and on the fulfillment of which the customer regularly relies and may rely).

In case of damages not resulting from injury to life, body or health, the liability of INCOE shall be restricted to the replacement of the foreseeable, typically occurring damage.

The aforementioned restrictions of liability shall not apply if INCOE did maliciously conceal the defect or has given a quality guarantee for the goods. The same applies with respect to claims of the customer against INCOE under the German Product Liability Act.

The customer may only withdraw from the contract or terminate the contract due to a breach of an obligation which does not consist of a defect, if INCOE has culpable committed such breach of contract. A free right of termination for the customer (in particular according to §§ 651, 649 German Civil Code) shall be excluded. In all other respects, the statutory requirements and consequences shall be applicable.

Article 8 no. 5 of these Terms and Conditions shall apply accordingly for contractual and non-contractual claims for damages of the customer, based on a defect, unless this would, in the individual case, result in a shorter limitation period compared to the regular statutory limitation period (§§ 195, 199 German Civil Code). The statutory limitation periods of claims for damages resulting from injury to life, body or health and the product liability act shall remain unaffected.

#### Article 13 Services

If INCOE renders maintenance or repair services with regard to goods delivered to the customer beyond warranty rights, these services shall be subject to separate agreement between INCOE and the customer (service agreement and service order). In addition to the conditions agreed in the service agreement and the service order as well as the respective applicable statutory provisions, the following provisions shall apply to the respective service agreements and service orders:

1. Objections to the invoices of INCOE for the rendered services shall be made by the customer in writing. If no objections are made by the customer within one week after receipt of the invoice the said invoice will be considered as approved.

2. The customer may only terminate the respective service agreement and service order for good cause pursuant to § 649 German Civil Code.

3. The customer must object to obvious defects within one week after acceptance in writing. Defects which could not be detected even with careful inspection (hidden defects) have to be notified in writing immediately to INCOE, at the latest one week after detection. Should the customer fail to notify a defect in due time the work shall be regarded as accepted, i.e. customer's right regarding defects are excluded.

4. Claims of the customer for damages shall become time-barred after one year, starting with the acceptance of the work by the customer. This shall not apply to claims of the customer pursuant to §§ 634a para. 1 no. 1 and no. 2 German Civil Code, if INCOE did maliciously conceal the defect or has given a quality guarantee for the work (§§ 634a para. 3 German Civil Code). Only the customer shall be entitled to claims due to defects; such claims are not transferable.

5. INCOE shall be liable within the scope of the service agreements and service orders – except infringement of essential contractual obligations (i.e. obligations the orderly fulfillment of which is necessary to achieve the purpose of the contract) and damages resulting from injury of life, body or health – only in case of intent and gross negligence as well as to the amount of the foreseeable, typically occurring damage. For damages resulting from injury of life, body or health the liability of INCOE shall, however, not be limited in amount.

#### Article 14 Applicable law

These Terms and Conditions and the entire legal relationship between the parties are subject to the laws of the Federal Republic of Germany excluding the UN-Convention on Contracts for the International Sale of Goods (CISG), even if the customer resides abroad. Requirements and consequences of the retention of title pursuant to Article 9 of these Terms and Conditions are subject to the law applicable at the place where the goods are stored if according to this legislation the respective regulations of these Terms and Conditions have no effect.

#### Article 15 Place of jurisdiction

Exclusive legal venue with regard to all disputes in direct or indirect connection with the contractual relationship between the parties shall be Frankfurt am Main, Germany. INCOE shall, however, be entitled to file a suit at the registered office of the customer.

#### Article 16 Authorized recipient

In case the customer has no independent affiliate in Germany, he shall notify INCOE of an appointed domestic authorized recipient pursuant to § 184 Code of Civil Procedure within two weeks after conclusion of the contract.

If no such appointment is made within this period, the representative resident in Germany (resident agent) shall be authorized as recipient of the customer.

If no authorized recipient is appointed by the customer even after being requested again and the customer has further no representative residing in Germany, INCOE shall be entitled to appoint an authorized recipient for the customer. This right shall expire 6 months after maturity of the purchase price.

#### Article 17 Partial voidance

Should any provision of these Terms and Conditions or a provision within other agreements be or become invalid, the validity of all other provisions shall not be affected.

#### Article 18 Miscellaneous

If the customer wants to transfer rights or duties concluded in this agreement to third parties the prior written consent of INCOE shall be required.