

# General Terms of Sale for INELCO GmbH and subsidiaries

Valid as per July 1<sup>st</sup>, 2018



## OVERVIEW

- § 1 General, Scope of Validity
- § 2 Offers, Contract
- § 3 Prices, Terms of Payment
- § 4 Terms of Delivery
- § 5 Transfer of Risk
- § 6 Warranty
- § 7 Scope of Liability
- § 8 Retention of Title
- § 9 Copyright
- § 10 Data Protection
- § 11 Ineffectiveness of particular provisions
- § 12 Venue, Place of Performance, Choice of Law

### **§ 1 General, Scope of Validity**

- (1) Our offers are addressed only to entrepreneurs. An entrepreneur is a natural person or legal entity or legally responsible joint partnership that acts in pursuance of its business operations or professional activities.
- (2) The subject General Terms of Sale shall apply exclusively unless otherwise agreed upon in writing for the individual case. The Customer's terms shall not be accepted. This condition also applies if we carry out a delivery without reserving any rights, although we are informed of the Customer's contrary conditions.
- (3) All agreements applicable for the relation between the Customer and us shall be derived from the subject General Terms of Sale.
- (4) The subject General Terms of Sale shall also apply for all future business transactions with the Customer.

### **§ 2 Offers, Contract**

Our offers are not binding. The customer shall remain bound to his order until such time as a reply may be expected. A contract comes only into existence, if we confirm the order of the customer by mail, fax or written.

### **§ 3 Prices, Terms of Payment**

- (1) Our list prices are net prices. Any taxes, expenses and costs due shall be added. The list prices are applicable ex works Shanghai/China.
- (2) We can change the list prices at any time with immediate effect. The new list prices shall apply to all orders after the date of the change.
- (3) Unless otherwise indicated in the confirmation of the order, the purchase price including any taxes, expenses and costs payable shall be due immediately upon receipt of the invoice without any deduction.
- (4) Customer will be in delay of payment 30 days after the due date and after receiving the invoice. We then shall be entitled to charge maturity interest of 9 %-points p.a. above the basis interest rate published by the European Central Bank. The accrual of a higher damage is not affected thereby.
- (5) In the case of any default of payment we shall be entitled to accelerate the complete remaining debt - also under the current account relation -, to claim prepayment for existing additional orders, or not to fulfil existing supply commitments.
- (6) The deduction of discounts and rebates requires a specific written agreement.
- (7) The Customer shall only be entitled to set-off if his counter-claims have been finally and absolutely ascertained, if they are undisputed or recognized by us. The right of retention can only be asserted, if the counter-claim is based on the same contract relation.
- (8) For all orders totalling less than € 500, - we will charge a € 50, - processing fee.
- (9) For each part-order under the Minimum Order Quantity - MOQ - we will charge additional 15% of that part-order, regardless of whether the total order is under or above € 500, -.
- (10) Value indication: INELCO reserves the right, by giving notice to the buyer with effect for any future delivery that takes place 4 months after the conclusion of the delivery contract, to increase the purchase price, if any beyond the control of INELCO related conditions, such as changes in exchange rates, currency regulations, change of duties and taxes, unexpected raise of cost. Particularly with regard to changes in exchange rates INELCO reserves the right to make readjustment of prices when the basis for calculation of the exchange rate EUR / USD has changed with respect to at least +/- 5% at the time of quotation.

### **§ 4 Terms of Delivery**

- (1) The duration of the delivery term stipulated by us is subject to the solution of all technical problems.
- (2) It is a precondition for the adherence to our commitment to deliver, that the Customer complies with his commitments correctly and in due time.
- (3) If the Customer should default in acceptance or fail to perform his duty of co-operation, we shall be entitled to claim for damages for the damage and for any additional expenses incurred by us. In such case the risk of accidental loss or accidental deterioration of the object of purchase or sale shall pass to the Customer no later than at the time he defaults in acceptance.
- (4) In the case of delivery problems of our supplier for which we cannot be held responsible we shall be entitled to effect partial delivery (performance). We shall inform the Customer within reasonable time of such circumstance. In such case we shall not be in default of delivery.

- (5) In cases of force major the contractual commitments are suspended for both parties. We shall inform the Customer when the respective condition ends.

**§ 5 Transfer of Risk**

- (1) Unless otherwise stipulated in the confirmation of an order, the delivery shall be agreed "ex factory". The risk shall pass with delivery to the carrier.
- (2) If required by the Customer, we shall take out transportation insurance for the shipment at the Customer's expense.

**§ 6 Warranty**

- (1) It is a precondition for the customer's claim of damages that he has complied with his duty for inspection of delivered goods and for immediate notification of defects (§ 377 German Commercial Code).
- (2) We shall have the choice to rectification of defect or replacement.
- (3) If we should not be in a position to remedy the defect or to provide a replacement, or if remedy should fail, the Customer has the choice to rescind the Agreement or to claim a reduction of the purchase price. However, if the defect is insignificant Customer has no right to rescind the Agreement.
- (4) The warranty period shall be 1 year after transfer of risk
- (5) Only the product specifications of the producer or vendor are warranted. Publications, public statements, declarations, advertising materials of the producer or vendor shall not be considered as warranted characteristics.

**§ 7 Scope of Liability**

In case of negligence our liability for damages shall be limited to the typically predictable damage. Our liability shall remain unaffected for damage to life body or health a rod in case of breach of fundamental contract obligations or if the legal liability is mandatory.

**§ 8 Retention of Title**

- (1) We retain title to the goods until receipt of all payments in full. In case of breach of contract by the customer including, without limitation, default in payment, we are entitled to take possession of the goods.
- (2) The customer may resell or process to the above retention of title only in the course of his regular business. As far as we are entitled to take possession of the goods we are also entitled to prohibit the customer the reselling or processing of the goods.

**§ 9 Copyright, intellectual property**

We hereby expressly reserve the ownership and all copyrights to illustrations, drawings, calculations, samples, tools, casting moulds lists and other documentation. Such documentation must not be disclosed to third parties. This applies specifically to documentation marked as "Confidential".

**§ 10 Data Protection**

- (1) If personal data of employees or business partners is exchanged between the customer and us, the data must be treated with the utmost care and confidentiality as well as in accordance with the applicable legal requirements regarding data protection. The customer is responsible for obtaining the legally required consent to the processing of its respective employees or business partners.
- (2) The customer agrees that we use the personal data of its contact persons necessary for the execution of the business relationship. In compliance with the statutory conditions, this use also includes the transmission of data nationally and internationally. Should personal data be transmitted to companies in countries without adequate data protection, the protection of the data will be guaranteed by contractual privacy clauses.

**§ 11 Ineffectiveness of particular Provisions**

The ineffectiveness of any provision in these General Terms of Sale shall not affect any part of the remaining provisions. It specifically remains without prejudice to consider another provision as agreed which most appropriately serves the agreed commercial purpose of the invalid provision.

**§ 12 Venue, Place of Performance, Choice of Law**

- (1) Venue shall be Frankfurt in Germany. We are also entitled to file an action against the Customer at his place of residence.
- (2) Place of performance for both parties to the Agreement shall be Frankfurt/Germany.
- (3) The Law of Germany shall apply (excluding the Convention on Contracts for the International Sale of Goods (UN-Kaufrecht)).