

Partner Terms and Conditions

Version November 1, 2009

General Terms and Conditions of Sale, Delivery, and Business [GTC] of

INFRANORM® Technologie GmbH**1. Validity**

All our legal transactions, deliveries, other services, and offers are made exclusively on the basis of these terms and conditions. The customer acknowledges that we hereby object to any deviating provisions in an order or other business documents of the customer. Deviating terms and conditions of the customer shall not be recognized by us and shall only apply if we confirm them in writing, even if we do not expressly object to them again in individual cases. These terms and conditions shall also apply as a framework agreement for all further legal transactions with the customer.

2. Conclusion of contract

Our offers and price lists are non-binding and subject to change. Contracts are only concluded upon our written order confirmation or an act of performance by us (e.g., delivery/shipment of the goods). All other agreements or subsidiary agreements, including those made at a later date, shall only become effective upon our written confirmation. Our employees are not authorized to make legally binding statements on our behalf unless we have granted them special powers of attorney disclosed to the customer. Items sent for inspection and selection as part of orders shall be deemed to have been approved by the customer if they are not returned within 14 days (of receipt by us). Technical information in our documents is to be understood as approximate values only, unless expressly guaranteed as binding. We reserve the right to make changes and deviations due to design or production requirements in all cases. Mere clerical and calculation errors in quotations, order confirmations, or invoices may be corrected by us

INFRANORM® Technologie GmbH

Bauernstraße 11 | A-4600 Wels | Austria
+43 7242 93 96 81 - 50 | office@infranorm.com | infranorm.com
Firmenbuch-Nr.: Fb249272b | Gericht: LG Wels | UID-Nr.: ATU57979147





at any time. All documents provided to the customer, in particular cost estimates, drafts, models, technical calculations, and the like, remain our property. The customer is not entitled to make these documents available to third parties. If the customer does not place the order, these documents must be returned to us immediately upon request.

3. Prices

All prices quoted by us are subject to change and, unless otherwise expressly stated, are in euros (€), excluding sales tax. Any discounts, bonuses, credit notes, or similar granted shall be calculated on the basis of the prices excluding sales tax. Unless otherwise agreed in writing, cost estimates are provided without any guarantee of their accuracy. Any changes in labor costs due to collective agreements or statutory regulations or internal company agreements, as well as changes in other cost centers relevant to the calculation or costs necessary for the provision of services, such as those for materials, energy, transport, external work, financing, etc., entitle us to increase the prices accordingly. For this reason, the customer is not entitled to withdraw from the contract or to assert the discontinuation of the basis of the transaction. Unless otherwise agreed in writing, all prices are exclusive of ancillary costs. Costs for packaging, shipping, customs, and other services (assembly, installation, etc.) will be invoiced separately. Transport is at the expense and risk of the customer. We are not obliged to take out transport insurance for the goods. The prices quoted in the offer are only valid if the entire offer is ordered. It is assumed that delivery and assembly can be carried out in a single operation. Additional costs incurred as a result of unforeseeable interruptions to assembly that become necessary in connection with the construction work will be invoiced separately. Work ordered but not included in the offer will be carried out according to the time and effort involved, in accordance with our terms and conditions and billing rates. In the case of billing according to the extent of the work, this shall take place in sections according to the progress of construction or work. The joint measurement of the extent of the work must take place within 14 days of our request. If the customer does not participate in the measurement, they thereby acknowledge our measurement.



4. Delivery

Agreed delivery periods or dates shall commence upon dispatch of the order confirmation by us. However, the respective period shall not commence before we have confirmed receipt of all technical or other information, documents, advance payments, or other services from the customer that are necessary for the fulfillment of our obligations. In the event of default in agreed payments, the delivery period shall be extended accordingly. The delivery period shall be deemed to have been met if the delivery item leaves our warehouse before the end of the period or if we notify the customer that the item is ready for delivery by that time or, in the case of agreed installation, if the system is ready for operation at the end of the delivery period. The system is deemed to be ready for operation if it can be used for its intended purpose and there are no significant defects preventing its use. This also applies if the manufacture of non-essential parts (e.g., insulation or paintwork) is not completed until later, or if any necessary preliminary work by other companies commissioned to manufacture the system or by the customer has not been performed and does not allow for trial operation, or if the system has not been accepted despite a deadline having been set. If, through no fault of our own, trial operation is not possible immediately after completion of the system, the additional costs incurred as a result will be charged separately. Promised delivery dates will be adhered to as far as possible but are not binding. Delays in delivery do not entitle the customer to withdraw from the contract or to assert warranty, error avoidance, or damage claims. We are entitled to make partial or advanced deliveries and to invoice them. We reserve the right to choose the shipping method and route, excluding any liability. In particular, there is no obligation to choose the cheapest mode of transport. Partial and advanced deliveries shall be packaged in the manner customary in the trade. Any additional packaging shall be at the customer's expense. Express and air freight surcharges shall be invoiced separately. Transport insurance shall only be taken out on behalf of and at the expense of the customer. Operational disruptions and events of force majeure as well as other events beyond our control, in particular delivery delays and the like on the part of our suppliers or other third parties, entitle us, to the exclusion of any legal claims, in particular warranty, error avoidance and damage claims, to either extend the deadlines accordingly or to withdraw from the contract for the part not yet fulfilled. This also applies if events occur at a time when we are in default. The delivery period shall be extended appropriately if, for structural reasons or due to official requirements or at the customer's request, changes in the



design are necessary which require additional deliveries or services, or if, for reasons for which we are not responsible, a trial run is impossible or only possible at a later date. Any additional costs incurred as a result shall be borne by the customer. Upon notification of readiness for shipment by us to the customer, but no later than upon dispatch of the delivery from our warehouse, in the case of direct delivery from our supplier's warehouse, the price and performance risk shall pass to the customer, irrespective of any price regulations agreed separately for the delivery; this shall also apply if we have undertaken additional services (such as installation, assembly, etc.). If the dispatch of goods ready for shipment or the agreed assembly is not possible through no fault of our own, we shall be entitled to store the goods at the customer's expense and risk at our own discretion, whereby the delivery shall be deemed to have been made; in this case, we shall in particular be entitled to store the goods ourselves at market prices or to store the goods ready for shipment with third parties on behalf of and for the account of the customer.

5. Service & assembly

The preparatory work for the performance of the service & assembly must be carried out by the customer in good time so that the service & assembly can be started immediately upon arrival of the personnel and carried out without delay until acceptance by the customer; otherwise, we shall be entitled to postpone the start of assembly without any consequences of delay, whereby the costs already incurred shall be charged to the customer. The customer must ensure that the delivered parts, scaffolding, and equipment are protected from moisture, dust, dirt, and other adverse influences and are stored carefully. We accept no liability for damage to the work or the delivered material occurring on the construction site, e.g. due to fire, explosion, lightning, water, chemical influences and/or damage to property by the customer or third parties. Furthermore, the customer is responsible, at their own expense and risk, for providing timely technical assistance and all on-site services necessary for the fulfillment of the contract, such as the provision of the tools and auxiliary equipment required for assembly and commissioning, e.g., forklifts, cranes, hoists, scaffolding, and other items beyond the normal tools of the trade, required tools, as well as heating, lighting, and operating power, including the necessary connections. For ancillary work directly related to the service and installation of a system, the customer shall provide the necessary and suitable assistants (e.g., locksmiths, laborers, etc.) at their own expense and risk. If production is based on documents (design specifications, drawings, models, etc.) provided by the customer, we



shall not be liable for the correctness of the design but shall only ensure that the work is carried out in accordance with the customer's specifications. Any duty of warning on our part is expressly excluded. We are not obliged to check the documents provided to us for infringement of third-party property rights. In the event of any infringement of such third-party rights, the customer shall indemnify and hold us harmless in every respect. All documents (design specifications, drawings, models, etc.) that we create for the customer are our intellectual property and may not be used or passed on without our written consent. The customer does not acquire any rights of any kind to them. The customer agrees that we may reproduce the products created for them for advertising purposes and present them elsewhere (e.g., as samples); the design of the presentation and the selection of the presentation medium shall be at our sole discretion. After delivery and/or assembly—even if it is only a partial assembly/delivery—the customer is obliged to accept the system immediately after notification of readiness for acceptance and to sign the acceptance report—if necessary, specifying any objections in detail—otherwise the delivered (partial) system shall be deemed to have been accepted immediately as free of defects.

6. Terms of payment, default, prohibition of set-off, international deliveries

Our invoices – including partial invoices – are due for payment 8 days after the date of issue, net, free of charges and deductions, in particular without cash discounts. Bills of exchange or checks are only accepted by separate agreements and only on account of payment. We reserve the right to allocate incoming payments to any number of claims at our discretion. If the customer is in default of payment, we shall be released from all further performance and delivery obligations and shall be entitled to withhold outstanding deliveries or services or to demand advance payments or securities. Furthermore, the customer is obliged, regardless of fault, to pay default interest at a rate of 1% per month, whereby we are entitled to claim additional bank interest at the usual rate. In addition, the customer shall reimburse us for any reminder and collection costs incurred, whereby the customer specifically undertakes to reimburse the fees charged by the collection agency engaged, which are based on the BMwA regulation on the maximum fees payable to collection agencies. If we issue a reminder, the customer undertakes to pay an amount of € ...,00 per reminder. If, after conclusion of the contract, there is a significant deterioration in the customer's financial circumstances or if circumstances become known which, in our opinion, are likely to reduce the customer's creditworthiness, all claims shall become due for payment immediately. In this



case, further deliveries will only be made against advance payment. The customer is not entitled to withhold or offset payments on the basis of counterclaims of any kind. In the case of export transactions, the customer is solely responsible for obtaining and maintaining the necessary export, customs, and other permits and the like at their own expense. We do not give any warranty or guarantee whatsoever for the permissibility of exporting the purchased goods. Furthermore, the customer must return all original export and customs documents and the like to us, otherwise they are obliged to pay any value added tax. In addition, for deliveries abroad, the opening of an irrevocable documentary letter of credit at a bank designated by us, usable upon presentation of the shipping documents or forwarding agent's certificate of acceptance, is a prerequisite for our delivery.

7. Retention of title

We reserve the right of ownership of all goods delivered by us until full payment of the purchase price or work remuneration, including interest and ancillary fees, regardless of the legal basis – including from previous transactions. In the case of current accounts, the reserved ownership also serves as security for our balance claim. The assertion of the retention of title shall not be deemed a withdrawal from the contract, provided that we do not declare our withdrawal from the contract, to which we are unilaterally entitled, and shall not release the customer from his obligations, in particular the obligation to pay the remuneration. During the existence of the retention of title, any sale, pledging, transfer by way of security or other disposal of the purchased item to a third party is not permitted. The retention of title also extends to the products resulting from processing. If our goods are processed, combined, or mixed with other materials, we shall acquire co-ownership of the resulting products in proportion to the value added. If the customer nevertheless sells the delivery item, they hereby assign to us in advance their claims against their customers up to the amount of our claim against them. The customer is obliged to provide us immediately with the names and addresses of his customers, the inventory and the amount of the resale. resulting claims and to notify his respective customer of the assignment of claims. Furthermore, the customer is obliged to make the assignment of this claim to us clearly visible in his business records in an appropriate manner. We are entitled to notify the customer's buyer of the assignment at any time. The customer must notify us immediately of any seizure or other (whatever the nature) impairment of ownership by third parties. The customer is obliged to bear the costs and measures for remedying the interference, in particular the costs



of intervention proceedings and the like. If the customer fails to meet its obligations or suspends its payments, the entire remaining debt shall become due immediately, even if bills of exchange with a later maturity date are still outstanding. In this case, we shall be entitled to demand the immediate return of the purchased item, excluding any right of retention. After taking back the purchased item, we shall be entitled, at our discretion, either to sell the purchased item and credit the proceeds to the customer's outstanding obligations, less 20% resale expenses, or to take back the purchased item at the invoice price, less any depreciation, and to charge the customer the usual rental price for the products delivered for the period of his possession.

8. Warranty, compensation, product liability

Complaints must be made in writing by the customer immediately after receipt of the delivery, but no later than 3 days after delivery or acceptance of the work, otherwise warranty and/or damage claims and/or avoidance on the grounds of error shall be excluded but shall not entitle the customer to withhold the invoice amounts or parts thereof. Our advice, whether verbal or written, is non-binding and does not release our customers from their own obligation to check our products for their suitability and for the intended purpose. Claims for damages under this title are excluded. In the case of subsequent deliveries, we do not guarantee exact conformity with the initial delivery. The warranty period is six months and is neither extended nor interrupted by attempts at improvement; it also applies to partial deliveries. The customer must always prove the defectiveness of the delivered goods at the time of delivery. The warranty expires if the customer or third parties make changes or repairs to the delivered goods without our written consent. In the event of a complaint, the customer is obliged to first accept the goods, unload them properly, and store them. For those goods that we have purchased from suppliers, we only provide a warranty within the scope of the warranty claims to which we are entitled against the supplier. We only guarantee that the products we deliver have the characteristics normally expected for these products. We only provide a warranty for any additional properties, in particular those contained in public statements, such as advertising and product information, if these properties have been guaranteed by us in writing when the order was placed. In the case of systems, spare parts, and devices, only defects that affect functionality and not merely the external appearance. Any warranty obligation relates exclusively to the defective equipment parts, but not to the working time and travel costs required to remedy the defect. It is at our discretion whether we



fulfill warranty claims by replacement, improvement, price reduction, or conversion. The assignment of warranty and damage claims or similar is not permitted. If the customer resells the delivered goods, all claims against us under the warranty are void, and the right of recourse pursuant to § 933 b ABGB (Austrian Civil Code) is excluded. We shall only be liable for damages incurred by our customers in the course of business transactions up to a maximum of the order value placed with us in cases of gross negligence on our part or gross negligence on the part of our vicarious agents, with the exception of personal injury, for which we shall be liable even in cases of slight negligence. Instructions given in brochures, operating instructions, or other product information must be strictly followed by the customer in order to avoid any damage. We expressly warn against any use beyond the defined areas of application. We are not subject to any obligation to check and/or warn regarding the materials and/or data provided by the customer. In particular, we do not check the accuracy of the data stored on any data carriers provided. We accept no liability whatsoever for direct or indirect damage caused by errors in such data and materials. If our customer is held liable under the Product Liability Act, they expressly waive any recourse against us within the meaning of Section 12 of the Product Liability Act. If our customer places the goods delivered by us on the market outside the European Economic Area, they undertake to exclude the obligation to pay compensation under the Product Liability Act vis-à-vis their customer, insofar as this is possible under the law applicable or agreed between them and the customer. In this case, or if this exclusion obligation is not fulfilled, the buyer is obliged to indemnify and hold us harmless regarding third-party claims arising from product liability.

9. Withdrawal from the contract

In the event of default of acceptance or other important reasons, such as, in particular, bankruptcy of the customer or rejection of bankruptcy due to lack of assets, as well as in the event of default of payment by the customer, we shall be entitled to withdraw from the contract immediately without setting a grace period, without prejudice to any other claims of any kind. The withdrawal shall become legally effective by our unilateral declaration. Withdrawal from the contract by the customer is excluded in all cases for custom-made products.



10. Data protection, change of address, and copyright

The customer agrees that the personal data contained in the contract may also be stored and processed by us using automated means in fulfillment of this contract. The customer is obliged to notify us of any changes to their residential or business address in a verifiable manner, unsolicited and without delay, as long as the contractual legal transaction has not been fully fulfilled by both parties. If the customer fails to provide this notification, declarations to the customer shall be deemed to have been received even if they were sent to the last address known to us. It is the customer's responsibility to provide proof of receipt of their notification of change in each individual case. Plans, sketches, or other technical documents, as well as samples, catalogs, brochures, illustrations, and the like, remain our intellectual property at all times; the customer does not receive or acquire any rights of any kind to them, such as rights of use or exploitation.

11. Place of performance, choice of law, place of jurisdiction, severability clause

The place of performance for all contractual obligations of the contracting parties is the location of our headquarters in A-4600 Wels, regardless of any agreement on the place of delivery and the assumption of any transport costs or the place of payment. This agreement is subject exclusively to Austrian substantive law. The conflict of laws provisions of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG) are hereby expressly excluded. The place of jurisdiction for all legal disputes arising from or in connection with this contractual relationship is exclusively the court with jurisdiction for Wels/Austria. However, we are entitled, at our discretion, to sue the customer in any other court that may have jurisdiction under national or international law. The invalidity of individual provisions of our terms and conditions shall not affect the validity of the remaining provisions of these terms and conditions. The contracting parties are obliged to agree on a new provision that comes closest to the purpose of the invalid provision.

12. Miscellaneous

The headings of the provisions contained in these Terms and Conditions of Purchase are for clarity only and shall not be used for their interpretation. No business development between



the contracting party and us and no delay or omission in exercising any right, remedy, or recourse granted to us under these Terms and Conditions of Sale shall be deemed a waiver of such rights. Each right and remedy granted to us in this document or each legal remedy granted to us in this document is cumulative and exists on an equal footing, alongside and in addition to other rights, legal remedies, and legal recourse granted by law. Insofar as these Terms and Conditions of Sale require compliance with the written form, this cannot be replaced by the electronic form within the meaning of the Signature Act (BGBl I 1999/190).