

## **General Terms and Conditions for Sale of Products**

**Date:01/01/2020**

### **1. General**

These General Terms and Conditions for Sale of Products shall, unless otherwise agreed to in writing, apply to Buyer's purchase of Products from INNORAPID. All references to this "Agreement" in these General Terms and Conditions for Sale of Products shall mean the purchase and sales agreements, including purchase orders and schedules (the "SOW"), between Buyer and INNORAPID. All references to "Product" shall mean the Products purchased by Buyer according to the specifications as agreed in the written order confirmation under Section 3 of this Agreement.

If due to any mandatory applicable law or a decision or act by any competent authority, any of the provisions in this Agreement or these General Terms and Conditions for Sale of Products, cannot be enforced or an amendment of any provision is required, INNORAPID and the Buyer shall endeavor to find an alternative solution to replace the existing provisions to meet the needs of both parties.

### **2. Product information**

The price lists, prices, information and technical specifications provided by INNORAPID in brochures and on websites and the like are given for information only and shall not be binding on INNORAPID. Information from INNORAPID concerning the Product is only binding if it is expressly included in the written order confirmation under Section 3 of this Agreement.

### **3. Purchase orders**

All purchase orders shall be sent to INNORAPID signed by Buyer by email or submitted through the website of INNORAPID. Purchase order placed by Buyer is an inquiry form specifying the required fields including name of products, quantities, budget price in currency desired by Buyer, delivery date, ship-to address, carrier if desired, etc.

Purchase order placed by Buyer will be reviewed by INNORAPID, if it is acceptable to INNORAPID after exchange of comments with Buyer and INNORAPID will present a quotation by email to Buyer for confirmation (the "SOW"). No purchase order shall be binding upon INNORAPID unless expressly accepted, by way of a written order confirmation which will form part of this Agreement, by a duly authorized employee of INNORAPID (ie. representing the SOW duly signed by both parties). An identification code (called a "user ID") contained in an electronic document sent by INNORAPID is sufficient to verify the sender's identity and the document's authenticity.

### **4. Modifications of purchase orders**

Any modification of a purchase order requested by Buyer shall be subject to INNORAPID's express agreement. The purchase price and delivery time shall be revised accordingly.

If INNORAPID incurs extra costs due to incomplete instructions from Buyer or due to Buyers request for changes or amendments, such extra costs shall be added to the price.

## **5. Deliveries and inspections**

The Product is delivered "EXW" (Ex Works) according to the latest prevailing version of "INCOTERMS", unless otherwise expressly agreed between INNORAPID and the Buyer. All present and future duties, taxes, freights, etc. pertaining to delivery of Product shall be paid by the Buyer. The Buyer is responsible for obtaining import licenses and all other permits required for the deliveries.

As soon as the Product is delivered to the carrier designated by Buyer or otherwise agreed by both parties (the "Delivery Date"), INNORAPID shall send Buyer a copy of the invoice by email with the picture of the Product on it, but in no event less than one business day after the Delivery Date. Buyer shall respond in one business day by email to acknowledge the invoice was received and the payment date was confirmed.

Upon Buyer's receipt at its ship-to address of the Product, Buyer shall conduct a visual inspection of the Product. If, as a result of the visual inspection, Buyer discovers a defect in the delivery (e.g. wrong quantity, wrong Product), it shall inform INNORAPID of the defect within three business days after its receipt of the Product, and INNORAPID shall thereby promptly remedy the situation, at its own expense. Any defects that cannot be ascertained by a visual inspection (e.g. defects that become apparent only upon the use of the Product) shall be subject to the applicable Seller's warranty.

The Buyer shall not be entitled to any other form of compensation, for damage or loss of any kind, due to delayed delivery. If a delay in delivery is caused by force majeure circumstances stated in Section 14, or by an act or omission on the part of the Buyer, the time of delivery shall be extended accordingly during such circumstance, act or omission.

## **6. Packaging**

Unless otherwise agreed, packaging shall be included in the purchase price. The Product shall be delivered in INNORAPID's standard packaging.

## **7. Price**

The Buyer shall pay the price for the Product as set forth in the written order confirmation issued by INNORAPID under Section 3 of this Agreement. The price shall not include VAT, import or export duties or other public charges and fees unless otherwise agreed. All prices are expressed in US dollars ("USD") and shall be paid in USD.

## **8. Payment**

Unless otherwise agreed, payment shall be made by telegraphic transfer to a bank account designated by INNORAPID.

Unless otherwise agreed, Buyer shall complete 100% of the payment immediately after the date of written order confirmation send by INNORAPID, INNORAPID shall manufacture the Product after receipt of the payment is confirmed.

Each party shall be responsible for any fees charged by its bank in connection with such telegraphic transfers.

Buyer shall pay in a timely manner in accordance with the payment terms agreed by both parties, any such amount not paid by the due date shall accrue interest at the rate of 10% per calendar year, simple interest.

All sales, consumption, value-added, or similar taxes assessed in connection with the sales of Product under this Agreement will be the responsibility of Buyer.

## **9. Retention of title**

To the extent that retention of title is permitted by the applicable law, the Product shall remain the property of INNORAPID until it has been fully paid. The Buyer shall, upon INNORAPID's request, assist INNORAPID and take all necessary measures in order to secure INNORAPID's rights to the Product in accordance with this Section 9.

## **10. Local laws and regulations**

Unless otherwise agreed, the Buyer is responsible for all permits required, inspections, information and other requirements concerning the Product in the country of destination of the delivery. The Buyer shall furnish INNORAPID with all information necessary for the Product's compliance with applicable local rules and regulations.

## **11. Warranty**

INNORAPID warrants that the Product sold by INNORAPID complies with the technical specifications and descriptions agreed upon. INNORAPID undertakes to remedy, at no cost for Buyer, any defects in Product, or if

INNORAPID so chooses, compensate Buyer for the value of such defective Product up to a maximum amount corresponding to the price for the defective Product provided that

- (a) Buyer notifies INNORAPID in writing within the warranty period, promptly upon discovery of defects;
- (b) the defective Product is returned to INNORAPID, shipping charges prepaid by Buyer; and
- (c) INNORAPID's examination of such Product discloses to its reasonable satisfaction that defects were not caused by negligence, misuse, abuse, misapplication, accident or unauthorized repair or modification or any other cause outside the scope of INNORAPID's warranty. Any repair or other operation performed on the Product by a person not authorized by INNORAPID shall automatically void this warranty.

INNORAPID does not warrant the merchantability, aptness, utility, functionality of Product or Product's fitness for a particular purpose, unless specified in this Agreement.

The INNORAPID's warranty above is limited to defects which are discovered and reported within one (1) month from delivery date. The original warranty period for any Product which has been repaired or replaced by INNORAPID will not be extended.

The provision in this Section 11 shall constitute INNORAPID's exclusive liability and sole remedy for any and all damages resulting from defects in the Product.

INNORAPID's liability towards the Buyer is, as set out above, limited to replacement or repair of Product or refund of purchase price. No other remedies, warranties, conditions or provisions on liability stated or implied through application of law or regulation are applicable.

## **12. Liability**

Buyer acknowledges that if Product is a prototype or a specific tailor made component to be used solely for test purposes and agrees that Product may not be used for any other purposes. Buyer agrees to fully indemnify INNORAPID for any and all damages which may arise resulting from Product being used for other than test purposes.

The total liability of INNORAPID for any claim whether in contract, tort (including negligence) or otherwise arising out of, connected with or resulting from the manufacture, sale, delivery, resale, replacement or use of any Product shall in no event exceed the price agreed for the Product or part thereof which have given rise to such claim.

In no event, including without limitation if the Product is nonconforming, defective, infringing, delayed, or not delivered, will INNORAPID be liable for any special, incidental, indirect, or consequential damages (such as lost profits), whether under a contract, tort, warranty, or other legal theory. In no event will INNORAPID's total liability to Buyer relating to the Product or its use exceed the amount which Buyer pays INNORAPID for the Product.

INNORAPID does not undertake any responsibility for the consequence of the use of any Product in combination with any other defective or substandard material, substance or product. INNORAPID shall not be liable for any personal injury or property damage caused by the Product. Buyer undertakes to enter into and maintain an insurance covering such damages and to indemnify and hold INNORAPID harmless if any such damage would occur.

### **13. Subcontracting**

INNORAPID may subcontract any part of the manufacturing process of the Product to one or more subcontractors as authorized by INNORAPID. However, this will not affect INNORAPID's obligations to Buyer under the provisions of this Agreement. Any reference to INNORAPID's employees and personnel in this Agreement includes INNORAPID's authorized agents and subcontractor staffs.

### **14. Force Majeure**

INNORAPID shall not be liable for failure or delay in the performance of any obligation under this Agreement if the failure or delay is caused by circumstances beyond INNORAPID's control which hinder or considerably obstruct the manufacture or delivery of Product. Such circumstances shall be deemed to be difficulties with the procurement of raw materials for the Product as well as other hardships and disturbances such as, including but not limited to, civil disturbances, strikes, lock-outs, fire, flood, tidal wave, earthquake, or other natural disaster, nuclear accident, riots, war, explosions, shortage of fuel or energy, lack of transportation, obstruction or stoppage of shipping and other transport difficulties and break-downs or failure of any kind to or of INNORAPID's equipment or facilities necessary for the performance of the obligations of INNORAPID, and which obstruct or delay delivery from INNORAPID. INNORAPID's delivery time for the Product shall be extended for a period corresponding to the duration of any such cause.

### **15. Intellectual Property**

In no event shall the purchase of the Product grant Buyer any right to use the intellectual property rights attached to the Product. INNORAPID retains all intellectual property rights in relation to the Product, and shall obtain any modifications or improvements to the Product that may result from

suggestions or input from Buyer, including but not limited to rights under patent, copy-right, trademark, mask work, and trade secret laws, in all jurisdictions.

INNORAPID shall indemnify and hold Buyer harmless from any third party claim made against Buyer alleging the Product, or Buyer's use thereof, infringes third party rights.

INNORAPID's obligations under this Section 15 will not apply, however, to claims of infringement based on

- (i) modifications to the Product not made or authorized by INNORAPID, or
- (ii) use of the Product in combination with any other Product that are neither furnished by INNORAPID nor specified by INNORAPID for use with the Product.

INNORAPID's obligations under this Section 15 are further expressly conditioned on Buyer's notifying INNORAPID in writing of any claim of infringement within ten (10) days after Buyer's notice thereof, and giving INNORAPID full and complete authority, information, and assistance necessary for the settlement and defense of any such claim.

#### **17. No license**

These General Terms and Conditions for Sale apply to the sale of the Product to Buyer, and not to any software provided to Buyer with the Product. All such software, if any, is licensed to Buyer pursuant to the terms and conditions of the license agreements separately provided to Buyer.

#### **18. Confidentiality**

INNORAPID agrees that information labeled as confidential by Buyer, including all financial, statistical, customers, marketing and personnel data relating to Buyer's business, in each case as disclosed to INNORAPID in connection with this Agreement are confidential information of Buyer ("Buyer Confidential Information"). Buyer agrees that information labeled as confidential by INNORAPID, including INNORAPID's methodologies, products, tools and proprietary software, training materials, industry templates and data, and any updates, changes and additions to the foregoing that may be made in connection with this Agreement, in each case as disclosed to Buyer in connection with this Agreement are confidential information of INNORAPID ("INNORAPID Confidential Information"). Buyer Confidential Information and INNORAPID Confidential Information are collectively referred to as "Confidential Information".

During the term of this Agreement and thereafter, both parties shall keep in confidence for all Confidential Information, in whatever form, whether tangible

or intangible, under the provisions of Clauses in below prior to executing this Agreement or pursuant to this Agreement.

18.1 Neither party will, without the prior written consent of the other, disclose to any third party any Confidential Information which is received from the other party for the purposes of the Product purchased by the Buyer from INNORAPID. Each party agrees that any such Confidential Information received by it from the other may be used by its (and its respective Affiliates') personnel only for the purposes of providing or receiving the Product under this or any other contract between the parties. These restrictions will not apply to any information which:

- (i) is or becomes generally available to the public other than as a result of a breach of an obligation under the Clauses in Section 18 of this Agreement ;
- (ii) is acquired from a third party without an obligation of confidentiality;
- (iii) is or has been independently developed by the recipient (or one of its Affiliates) or was known to it or them prior to receipt; or
- (iv) is generally known or easily ascertainable by non-parties of ordinary skill in computer or process design or programming or in the business of both Parties.

Any Confidential Information will be disclosed to the limited employees and personnel of both Parties having a need to know or to receive such Confidential Information to produce the Product(s) and shall be used solely for the purpose for which it was furnished. Also both Parties are obliged to take necessary steps to protect the Confidential Information from disclosure, leakage or non-permitted usage, and shall be responsible for any losses or damages arising out of the disclosure, leakage or non-permitted usage by its officers, directors or employees.

Neither party will be liable to the other for inadvertent or accidental disclosure of Confidential Information if the disclosure occurs notwithstanding the party's exercise of the same level of protection and care that such party customarily uses in safeguarding its own confidential information. Confidential Information disclosed under this Agreement will be subject to this Clause for 36 months following the initial date of disclosure.

18.2 Notwithstanding Clauses above, each party will be entitled to disclose Confidential Information of the other:

- (i) to its respective insurers or legal advisors; and
- (ii) to a third party, to the extent that this is required by any court of competent jurisdiction, by a governmental or regulatory authority, or where there is a legal right, duty or requirement so to disclose,

provided that where reasonably practicable (and without breaching any legal or regulatory requirement) not less than 2 business days' notice in writing is first given to the other party.

18.3 Notwithstanding anything to the contrary, INNORAPID may disclose Confidential Information to:

- (i) INNORAPID's Affiliates (including staffs and employees of group companies, authorized agents and subcontractors), or
- (ii) a third party as may be necessary for the delivery of the Product, subject to such third party agreeing, in writing, to be bound by similar terms and conditions. INNORAPID may similarly retain the engagement work papers in 'hard copy' or electronic format for INNORAPID's or its Affiliates' internal use.

18.4 Notwithstanding Clauses above, INNORAPID may cite the past performance of the Product sales to its clients and prospective clients as an indication of INNORAPID's experience, unless it is specifically objected in writing by the Buyer to INNORAPID.

## **19. Cancellations and Termination**

Unless specifically agreed in writing, Buyer shall not be permitted to cancel purchase orders ("SOW") as confirmed by INNORAPID. INNORAPID shall be entitled to recover its reasonable attorneys' fees and Product costs incurred in such unauthorized cancellation of the confirmed purchase order from the Buyer.

If either Party is not able to perform its obligations under this Agreement due to a force majeure and such force majeure continues in effect for more than [one] month, the other Party shall have the right to terminate this Agreement effective immediately upon written notice to the non-performing Party.

## **20. Governing law and disputes**

This Agreement as well as all claims arising out of or in connection with this Agreement or the transactions contemplated by this Agreement (including all tort and other non-contract claims) shall be governed by and construed in accordance with the substantive laws of Hong Kong, a Special Administrative Region of the People's Republic of China.

If any dispute arising out of or in connection with this Agreement or the transactions contemplated by this Agreement (including any tort and other non-contract claims) cannot be amicably resolved by the Parties, the exclusive forum for resolution of such dispute shall be finally settled by the Arbitration Court of Hong Kong, a Special Administrative Region of the People's Republic of China, which arbitration award shall be binding on the



Parties with no right of appeal. The prevailing Party shall be entitled to recover its reasonable attorneys' fees and costs incurred in such arbitration.

During the course of arbitration, this Agreement shall continue to be performed except for the part which the parties are disputing and which is undergoing arbitration. Claims for payment for Product or work performed may however be instituted by INNORAPID in any competent court of justice.

## **21. Miscellaneous**

All communications between the Parties relating to this Agreement shall be in the English.

INNORAPID reserves the right from time to time to change any part of the terms and conditions of this Agreement in order to comply with prevailing rules and regulations for the sale of Products.