

Am Stollen 19, 38640 Goslar, Germany

## **§ 1. Validity of the Conditions**

The INENSUS GmbH (in the following INENSUS) offers products and services for the integration of renewable energy sources into integrated and isolated networks. Because of the specific features of the services rendered by INENSUS, the legal arrangement of the contractual relationship to our customers requires some particular adjustments. Usually general terms and conditions for purchasing are mostly adjusted to standard businesses; hence they typically do not meet the requirements of our specified services.

Therefore the contractual conditions of INENSUS are exclusively effective. This also applies to future business connections. Any contract conditions of our client can not be accepted.

## **§ 2. Conclusion of the Contract/Escape Clause**

- (1) The contract becomes effective thus the client places an order due to an offer by INENSUS. This offer may be subject to change and is noncommittal also regarding to price quotations. In General the client submits a written order (offer), which is confirmed by INENSUS (acceptance). Also orders placed orally by the client are binding.
- (2) INENSUS reserves the right to make credit assessments even after conclusion of the contract and to withdraw from the contract, if the result is clearly negative. We also reserve the right to withdraw from the contract in case the goods are not available for a period of at least four weeks or data error are existent, which cause that the order can not be carried out.

## **§ 3. Payment**

- (1) All prices are net amounts, value added tax will be additionally charged. No regular deductions will be granted. Received bills are immediately due for payment and to be balanced within 14 days upon receipt.
- (2) For the rest the payment practices individually agreed with the client are effective. As long as not otherwise stipulated, additional services agreed with the client are billed separately after service provision.
- (3) Shipping expenses are to be borne by the client.

## **§ 4. Service Provision/Arranging of Appointments**

- (1) The processing of orders of delivery of goods will be carried out upon receipt of full payments. At services in the context of an initial-assignment the remittance work begins, in general, after the payment of the entire sum; at follow-up orders, generally after receipt of 40 % of the order sum.
- (2) Appointments for services to be rendered are to be made in writing before realisation of the order. We only accept changes of these dates or a belated regulation to be binding, when it was met amicably.
- (3) If an appointment on location, e.g. for taking measurements or installing tools, is cancelled by the client less than 24 hours before the date stipulated, a processing flat

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charge to the amount of the thereby usually incurring damage of EUR 500,00 arises. INENSUS reserves the right of assertion of further damages.

It is up to the client to provide evidence, that INENSUS suffered a lower damage.

#### **§ 5. Notice of Non-Conformity by the buyer**

- (1) In the case of sale of goods the client is obliged to notify the seller in writing about obvious defects of objects or rights within seven days after receipt of the goods. It is sufficient to dispatch the notification within this time limit. The buyer has to describe the defects as detailed as possible.
- (2) Further duties of inspection, notification and rejection in compliance with the commercial law remain hereby unaffected.

#### **§ 6. Distance Contracts – Right to revoke/to return**

The following provisions are additionally effective for distance contracts, e.g. via Internet or telephone:

- (1) At contracts concerning the delivery of goods, each private customer (consumer in the sense of Art. 13 of the German Civil Code) is entitled to withdraw the order by returning the delivered goods within two weeks. The revocation period begins with the customer's receipt of the ordered goods, or respectively the first part of an accumulative delivery. For keeping the term; it is sufficient to ship the goods back to INENSUS within the time limit. The return does not have to include an explanatory statement. It has to be sent to: INENSUS GmbH, Am Stollen 19, 38640 Goslar, Germany.
- (2) In contracts including services can be withdrawn by private customers by written notice of revocation. The time limit begins on the day of the conclusion of the contract. The right of revocation ceases as INENSUS starts (with the client's explicit consent or on the client's own request) to carry out the services before the end of the revocation period. The revocation does not have to include an explanatory statement. For keeping the term it is sufficient to forward the revocation in time. It has to be delivered in text form (letter, fax, e-mail) and to be sent to: INENSUS GmbH, Am Stollen 19, 38640 Goslar, Germany; fax: +49 5321 6855109; e-mail: info@inensus.com.
- (3) Goods delivered have to be returned to the preceding address of INENSUS. INENSUS bears the risk of the return and, as a basic principle, its costs. **Please return the goods by using the same type of delivery we had chosen before. Possible additional fees incurred by express deliveries have to be agreed with by INENSUS beforehand. Otherwise they are to be borne by the client.** Additional costs for returning, which accrue through the choice of another type of delivery, will not be borne by INENSUS. INENSUS compensates the purchase price immediately after receipt of the goods. Any costs of return will be compensated as well on presentation of the respective receipt. In case the return was done 'cash on delivery'; there will be no compensation for shipping costs. The compensation will be accomplished by bank transfer to an account specified by the client.

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- (4) The costs of return are not to be borne by INENSUS, if
- a. the value of goods amounts to EUR 40,- at most or
  - b. the value of goods amounts to more than EUR 40,- and at the time of revocation the purchase price was not yet totally paid or INENSUS did not receive an agreed down payment,

unless the delivered goods do not match the client's order.

- (5) In case of degradation of the goods INENSUS will demand compensation. To avoid such liability; we recommend, not to use the goods like property and to leave everything undone, that interferes with its value as long as the revocation period runs. Compensation is not to be paid if the degradation of the goods results from its inspection as it would have been possible in a shop.
- (6) The right of revocation according to para. 1 is not applicable to the order of such goods that were produced on request and of the client's specification or which is clearly custom-tailored (custom-made product). This also applies particularly for purely optical individualisations.

#### **§ 7. Price Adjustment Clause**

- (1) Concerning continuous contractual obligations; INENSUS reserves the right to modify its prices proportionately, if price increases occur, e.g. due to tariff agreements, after conclusion of the contract.
- (2) Regarding services that are to be rendered more than six weeks after conclusion of the contract, INENSUS has the right towards entrepreneurs to modify the prices proportionately in the cases stated above.
- (3) On request of the client INENSUS will provide evidence for the price increases.

#### **§ 8. Retention of Title**

- (1) The delivered goods remain property of INENSUS until all claims towards the client are fulfilled.

Furthermore the following regulations concerning retention of title are applicable to contracts with commercial clients:

- (2) The client is allowed to process the delivery item or to connect it to other objects. The processing or connection (in the following referred to as "processing" and in respect to the delivery item "processed") is carried out on behalf of INENSUS; the objects developed from processing is denoted as "factory-new goods". The customer keeps the factory-new goods with diligence of a prudent businessman and reasonable care.

At processing with other objects not belonging to INENSUS' property, INENSUS is entitled to co-ownership in the factory-new goods. The co-ownership amounts to the share proportionally resulting from the relation of the delivery item to be processed and the rest of the objects to be processed at the time of processing. If the client is sole

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owner of the factory-new goods; INENSUS and the client agree, that the client transfers ownership to INENSUS in relation to the value of the processed item to the rest of goods to be processed at the time of processing.

- (3) If the delivery item or the factory –new goods are sold, the client herewith assigns his claim (including all accessory rights and claims against the customer resulting from the re-selling) to INENSUS by assignment for security, without the requirement of any further declarations. The assignment also applies to any possible payment balance requests. The assignment is only valid to the amount of the sum that corresponds to the price of the delivery item, which is billed by INENSUS. The part of the balance assigned to INENSUS is to be satisfied prior-ranking.
- (4) If the client connects the delivery item or the factory-new goods with real estate or movable goods, he also assigns the claims he is entitled to as remuneration for the connection, including all accessory rights, to INENSUS by assignment for security. INENSUS is entitled to compensation in relation of the value of the delivery item and the factory-new goods respectively to the other connected goods in time of the connection, without the requirement of any further declarations.
- (5) Up to revocation; the client is entitled to collect the receivables assigned by this Art. 8 (retention of title). The client will immediately forward those payments to INENSUS up to the amount of the secured receivables. At existence of an important reason, especially default of payment, cessation of payments, disclosure of insolvency proceeding, protest of a bill or legitimated indications for an over – indebtedness or a threatening insolvency INENSUS is entitled to revoke the client's direct debit authorization. Moreover, after advanced warning and within an appropriate time limit, INENSUS is entitled to reveal the assignment for security, to utilize the assigned receivables as well as to demand, that the client reveals the assignment for security to his own clients.
- (6) At preliminary proof of an entitled interest the client has to give INENSUS necessary information and he has to hand out the necessary documents for assertion of INENSUS' rights against himself.
- (7) During the existence of a retention right; hypothecation or transfer of ownership by assignment for security by INENSUS is forbidden. Re-selling of goods is only admitted to re-sellers during the ordinary course of business and under the condition, that the payment of the delivery item's counter value is transferred to the client. Furthermore the client has to agree with the purchaser, that the purchaser maintains property only after such payment. At hypothecation, confiscation, other disposals or interferences of third parties the client has to inform INENSUS immediately.
- (8) If the realizable value of all security interests that INENSUS is entitled to exceeds the amount of all secured claims for more than ten per cent (10 %), INENSUS will approve a respective part of the securing rights on request of the client. (It is presumed, that the premises of the sentence mentioned before are fulfilled, when the estimated value of the goods subject to transfer of ownership by assignment of security and the assigned goods achieves or exceeds 150 % of the value of the secured claims.) INENSUS has the right to choose the secured rights to release.

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- (9) At breaches of duty of the client, especially at default of payment, INENSUS is entitled, also without setting a time limit, to demand surrender of the delivery item and the factory-new goods respectively and/or to withdraw from the contract; the client is obliged to delivery. The demand for surrender of the delivery item / factory–new goods does not include a declaration of withdrawal of INENSUS, unless this is declared expressively.

### **§ 9. Copyrights and Beneficial Interests**

- (1) INENSUS is obligated to deliver the goods and services free of possible protection rights of third parties and to respectively inform the client about possible protection rights of third parties and to sign the goods accordingly.
- (2) The client receives a simple non-exclusive right to use the goods and know-how delivered by INENSUS. Without the expressive consent of INENSUS it is not allowed to modify any delivered materials, neither the genuine nor any duplicate. Any use of the materials for further commercial purposes other than the intended internal usage is forbidden.
- (3) The client is not allowed to disclose the materials of INENSUS to the general public or to single competitors of INENSUS. In all other cases, where these materials are disclosed to third parties, it has to be signed with the name or copyrighted of INENSUS.
- (4) For the transmission of the right stated in para. 2 to third parties a written permission of INENSUS is required. The client receives this right only after payment of the entire sum.

### **§ 10. Software Licenses**

When software is delivered, the client receives a simple non-exclusive user-license of the respective software. The delivery of the source code is expressively not a component of such a license. To the client it is strictly forbidden to duplicate the software.

### **§ 11. Nondisclosure Clause**

INENSUS will treat all information, received by the client in scope of the contract with INENSUS highly confidential and only disclose it to third parties if it is necessary for the performance of the contract. Such third parties have to be bound into a nondisclosure agreement as well.

### **§ 12. Data Protection**

- (1) The client approves to storage, processing and usage of the individual-related data transferred to INENSUS in the scope of the order and for the performance of the contract. INENSUS ensures to only store those data of the customer that are necessary for handling the business.
- (2) The client expressively agrees hereby to the provision of Art. 12 para. 1. All data will be kept confidentially and not disclosed to third parties without the client's consent.

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### **§ 13. Warranty/Liability**

- (1) INENSUS is unlimited liable for damages that result of intentional behavior from employees or agents of INENSUS or vicarious agents.
- (2) Towards entrepreneurs, the liability for gross negligence is reduced to the damage, which was foreseeable and typical for this type of contract.
- (3) Furthermore, INENSUS is only liable for those damages, which effect of culpable infringement of essential contractual commitments (cardinal duties). This liability is limited to typically arising damages that are to be expectable by each party in relation to the knowledge of circumstances at time of conclusion of the contract. In such cases INENSUS is liable for all damages that do not exceed the amount of the double value of the order sum, resulting from this contract and being compensated because of this provision. It is advised that individual contractual provisions regarding further restrictions of liability take priority over this provision.

- (4) For software licenses and software purchases the following is valid:

The parties agree, that at present stand of technology it is not possible to develop programs in a way, that they are faultless at all conditions of application. For each program offered by INENSUS technical specification will be available that is in each case up-to date and explains the usage according to regulations and conditions of the program. The development of the software is to be implemented in accordance with the status quo of the technology.

- (5) The limitation of liability of para. (1) to (4) also analogously applies for the benefit of employees and commissioners of INENSUS.
- (6) The preceding provisions do not apply to cases of liability arising by the Product Liability act, for damages from injury of life, body or health remains. This applies to a possible liability of INENSUS itself and as well to a lawful representative or vicarious agent.
- (7) In case of a sales contract with an entrepreneur; INENSUS is entitled to choose the kind of supplementary performance. If the second trial of supplementary performance fails, the client receives the right to choose the kind of supplementary performance on his own. The application of Art. 478 para. 1 of the German Civil Code (right of recourse of the entrepreneur) as well as the right to demand compensation for damage under the measure of the lawful regulations remains unaffected hereof.
- (8) It is not allowed to use the products of INENSUS for fields of aviation or of medical science without our advanced written consent.

### **§ 14. Time Limitation for Claims**

- (1) The time limit for all claims in variation of the legal provisions of the German Civil Code is one year. This does not apply to the following cases:
  - a. damages from injury of life, body or health and claims arising from the Product Liability Act;

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- b. damages resulting from intentional behavior or gross negligence of INENSUS, one of its lawful representative or vicarious agents;
  - c. contracts that were concluded with consumers in the sense of Art. 13 of the German Civil Code.
- (2) A change of burden of proof, that is disadvantageous for the customer, is not connected with the preceding provisions.

#### **§ 15. Summation**

The client is only entitled to summation and assertion of a right of retention, if his counter claims are either undisputed or assigned by a courts' judgement.

#### **§ 16. Miscellaneous**

- (1) Should a provision of this agreement be invalid or become invalid or should this agreement contain an omission, then the legal effect of the other provisions shall not thereby be affected. Instead of the invalid provision a valid provision is deemed to have been agreed upon which comes closest to what the parties intended commercially; the same applies in the case of an omission.
- (2) The contract with INENSUS is subject to German Law under exclusion of CISG - United Nations Convention on Contracts for the International Sale of Goods. Place of Jurisdiction for disputes with commercial clients shall be Brunswick, Germany. However; INENSUS is entitled to sue as well at the place of the registered office of the client.