

GENERAL TERMS AND CONDITIONS OF SALE OF INNERGO SYSTEMS SP. Z O.O. FOR DELIVERY AND INSTALLATION OF THE EQUIPMENT

[General terms and conditions of sale]

ARTICLE 1 DEFINITIONS

INNERGO

shall be understood as Innergo Systems Sp. z o.o. with its registered office in Warsaw, at ul. Odrowąza 15 03- 310, entered into the National Court Register kept by the District Court for the Capital City of Warsaw, XII Commercial Division of the National Court Register under number 0000329441;

CLIENT

shall be understood as the entity to which Innergo Systems delivers the equipment specified in the Agreement/Order, together with its installation under the terms and conditions specified in the Agreement/Order and in accordance with these General Terms and Conditions of Sale;

AGREEMENT

shall be understood as the contract concluded between Innergo Systems and the Client for the delivery of equipment and/or installation, on the terms and conditions set forth therein and in accordance with the General Terms and Conditions of Sale;

ORDER

shall be understood as the Customer's demand for delivery and/or installation of the equipment under the terms and conditions specified in the Order and in accordance with the General Terms and Conditions of Sale,

WORKING DAYS

shall be understood as any day of the week from 9.00 a.m. to 5.00 p.m. excluding Saturdays, Sundays and other bank holidays, in accordance with the Act of 18 January 1951 on Non-Working Days (Journal of Laws No. 4, item 28, as amended);

DELIVERY OF EQUIPMENT

shall be understood as the delivery of equipment by Innergo Systems to a place of destination indicated by the Client;

SCHEDULE

shall be understood as the schedule of execution of the Agreement/Order as specified in the Agreement/Order;

EQUIPMENT INSTALLATION

shall be understood as all the work done by Innergo Systems aiming at preparing the equipment for commissioning and use at the place of destination;

PLACE OF DESTINATION

shall be understood as the place(s) designated and prepared by the Client where the equipment shall be delivered and installed;

EQUIPMENT

shall be understood as the devices delivered by Innergo Systems under the Agreement/Order, the detailed technical and price specification of which is set out in the Appendix to the Agreement/Order. Any references hereinafter in these General Terms and Conditions of Sale to the equipment, such provision shall also apply to the software understood as defined below, unless otherwise expressly provided herein.

SOFTWARE

shall be understood as the manufacturer's software dedicated to the equipment delivered by Innergo Systems under the Agreement/Order, that is an inseparable element of this equipment;

DELIVERY ACCEPTANCE PROTOCOL

shall be understood as the written confirmation by the Parties of the receipt of equipment delivered under the Agreement/Order by Innergo Systems to a place of destination, the template of which constitutes an Appendix to the Agreement/Order;

FINAL ACCEPTANCE PROTOCOL

shall be understood as the written confirmation by the Parties of the receipt of the installed equipment that is ready for commissioning and use, the template of which constitutes an Appendix to the Agreement/ Order;

DOCUMENTATION

shall be understood as the set of drawings, texts and other documents provided by Innergo Systems in accordance with the scope of the Agreement/ Order;

AFTER-SALE WARRANTY SERVICE

shall be understood as the provision of warranty service under the terms and conditions specified in the General Warranty Conditions of Innergo Systems Sp. z o.o. for the equipment along with its installation. General Warranty Conditions of Innergo Systems Sp. z o.o. are available at www.innergo.pl

FORCE MAJEURE

shall be understood as the event that is beyond the control of either Party and which makes the performance of obligations and responsibilities impossible or the execution of the Agreement/ Order becomes impossible under such circumstances. These events include, among others, earthquakes, fire, explosion, hurricane, flood, war, riots, strikes, social disorder, confiscation or other acts of state authorities and third parties beyond the control of the Parties;

ARTICLE 2 GENERAL TERMS AND CONDITIONS OF SALE

1) These General Terms and Conditions of Sale shall apply to all agreements and orders for the delivery of equipment and its installation placed by the Client at Innergo Systems. When placing an order or entering into an agreement, the Client accepts these General Terms and Conditions of Sale.

2) Any derogation from these General Terms and Conditions of Sale shall be permitted only by written agreement with Innergo Systems by specifying them in the Agreement/ Order. In the event that derogation from these General Terms and Conditions of Sale are not specified in the Agreement/Order and there are discrepancies between them and the Agreement/Order with respect to the conditions of execution of the Agreement/Order, the provisions of these General Terms and Conditions of Sale shall have priority.

3) Innergo Systems reserves the right to change these General Terms and Conditions of Sale. However, if a change to these General Terms and Conditions of Sale is to be made during the term of the Agreement/Order between Innergo Systems and the Client, such change shall require the Client's written consent, otherwise null and void.

4) Under the General Terms and Conditions of Sale, the Parties mutually exclude any liability of Innergo Systems under the warranty for physical or legal defects of the equipment. This provision shall be without prejudice to any warranty rights granted to the Client by Innergo Systems or the manufacturer.

ARTICLE 3 DELIVERY OF EQUIPMENT

- 1) The delivery of equipment and its installation at the place of destination shall be carried out in accordance with the terms and conditions detailed in the Agreement/Order and in accordance with the provisions of these General Terms and Conditions of Sale.
- 2) The delivery of equipment and its installation at the place of destination shall be carried out by Innergo Systems within the period specified each time in the relevant Agreement/ Order.
- 3) In the event of any change made by the Client and resulting in a change in the specification of the equipment specified in the Appendix to the Agreement/ Order, such modification shall be treated by Innergo Systems as a new Agreement/ Order.
- 4) The Parties give consent to partial delivery confirmed by an appropriate delivery acceptance protocol.
- 5) Upon the delivery of the equipment, an authorised Client's representative shall confirm the delivery of the equipment in terms of quantity on the shipping document or sign a delivery acceptance protocol.

If the following is found:

- a. incomplete order or
- b. defective equipment or
- c. delivery of equipment other than that specified in the technical and price specification constituting an Appendix to the Agreement/Order,

The Client is obliged to draw up a delivery acceptance protocol and include there relevant provisions concerning the circumstances referred to in points (a) to (c), and to hand it over within 3 working days to Innergo Systems and Innergo Systems undertakes to supplement the missing elements of the equipment not later than within 7 working days from the date of receipt of a delivery acceptance protocol signed by both Parties. Innergo shall defer the issuance of an invoice for the equipment referred to in points (a) to (c) until the time of supplementary delivery.

Prior to collecting the consignment from the courier, the Client should check its condition, and in the case of external damage (even minor damage of the consignment), the Client should request for a report to be written concerning the state of the consignment in the presence of the courier. The courier draws up a report describing the state of the consignment, the Client (recipient) shall have the right to add own comments. The report must be drawn up in two copies and signed by both Parties, the Client (recipient) and the courier who acts as a witness. One copy of the report should be sent to Innergo Systems within 3 working days. In the event that damaged consignment (with visible damage) is accepted by the Client (recipient) without any reservations, all claims of the Client against Innergo Systems for loss or damage (Article 76 of the Transport Law) of the delivered equipment shall expire.

If the consignment has no visible damage and its content has been damaged, the Client, apart from drawing up and sending to Innergo Systems an appropriate delivery acceptance protocol, is obliged to report this fact within 3 working days to the courier company and request to verify the state of the consignment. Upon such notification, a representative of the courier company shall be sent to check the damage and draw up a report. The lack of this report may constitute a basis for Innergo Systems not to bear liability for the equipment damaged during delivery.

6) The Client shall be obliged to immediately collect the equipment having no significant deficiencies and delivered as a whole according to the specification contained in the Appendix to the Agreement/Order and confirm receipt on the delivery acceptance protocol, considering the provisions indicated in point (4), if any.

The Client shall sign a delivery acceptance protocol in accordance with the template form contained in the Appendix to the Agreement/Order. The acceptance of the delivery of the equipment by the Customer or a person authorised by the Customer and signing the shipping document while not making any comments or objections to the condition of the consignment in accordance with the provisions of paragraph 5 within 3 days from the date of delivery shall be tantamount to signing the delivery acceptance protocol by the Client and full acceptance of the condition of the consignment.

7) The risk of accidental loss, mechanical damage or destruction of the equipment shall pass to the Client upon signing the shipping document or delivery acceptance protocol in accordance with the procedure set forth in Article 3 of these General Terms and Conditions of Sale.

ARTICLE 4 EQUIPMENT INSTALLATION

1) In order to install the equipment at the place of destination, Innergo Systems shall carry out, among others, the following works:

- installation of the equipment with the additional instruments;
- configuration and programming of the equipment and software according to Client's requirements;
- attaching the cabling provided by the Customer as an integral part of the equipment;
- equipment commissioning;
- testing the functioning of the equipment;
- instructing the Client's representatives at its request.

2) The scope of detailed works constituting the equipment installation shall be specified each time in the Agreement/ Order.

The Client is responsible for the pre-installation conditions, in particular for:

- identifying and providing access to rooms for the delivery and installation of the equipment in accordance with Innergo Systems' recommendations set forth in the Agreement/ Order and ensuring appropriate environmental conditions (as specified by the manufacturer of the equipment) for the duration of the equipment's operation;
 - providing all information necessary to execute the Agreement/ Order requested by Innergo Systems, in particular concerning the configuration of the equipment and software;
- the external lines must be operational at the time of the commencement of the installation.

3) Conditions of signing the final acceptance protocol:

a) Upon the installation of the equipment, the Client's authorised representatives shall immediately, with the participation of Innergo Systems representatives, conduct acceptance tests of the installed equipment. The acceptance tests shall be carried out in accordance with the procedure prepared by Innergo Systems and agreed with the Client and accepted within 7 (seven) working days from the date of signing the Agreement/Order.

b) Within 5 (five) working days from the date of successful completion of acceptance tests of all or part of the equipment, the Client shall sign a final acceptance protocol.

c) In the event that acceptance tests of all or part of the equipment are failed, Innergo Systems is obliged to immediately remove the malfunction and present the installed equipment for acceptance again. In such a case, a take-back procedure in accordance with the provisions of Article 4(3) shall be carried out.

d) In the case of successful acceptance tests results and lack of any other reason resulting from the Agreement/ Order for refusing to sign the final acceptance protocol, the Client fails to sign the final acceptance protocol within 5 (five) working days from the date of their successful completion, despite failure to submit a report indicating the reasons for non-acceptance, Innergo Systems shall sign the final acceptance protocol unilaterally and provide it to the Client for acceptance. If the Client fails to submit justified objections to this protocol within 3 (three) working days from the date of its receipt, such report shall have full effectiveness of the final acceptance protocol.

e) If, despite notifying the Client in accordance with this Article, the Client's authorised representatives do not participate in acceptance tests within the time limit specified in this notification, Innergo Systems shall set the Client a further time limit of not less than 3 (three) working days for acceptance tests. If, despite this, the Client's authorised representatives do not participate in the acceptance tests within a specified period, including notification of the further deadline, Innergo Systems may conduct the tests without the participation of the Client's authorised representatives. In the case of positive test results, Innergo Systems shall sign the final acceptance protocol unilaterally and provide it to the Client for approval. If the Client fails to submit objections to this protocol within 3 (three) working days from the date of its receipt, such report shall have full effectiveness of the final acceptance protocol.

f) In the event that the Agreement/Order provides for several equipment installations to be carried out at various places of destination, the Parties shall make partial acceptance for particular equipment installation.

ARTICLE 5 PAYMENT TERMS

1) For delivery and installation of the equipment, the Client shall pay Innergo the remuneration specified in each Agreement/Order.

2) A VAT invoice for the delivery and/or installation of equipment at the place of destination shall be issued by Innergo Systems within 7 (seven) days from the date of signing a delivery acceptance protocol or a final acceptance protocol by the Parties.

3) Issued VAT invoices shall be sent by Innergo Systems in electronic form to the e-mail address indicated by the Client.

4) In the event that the Client fails to meet the payment deadlines referred to in this Article, the Client shall pay Innergo Systems statutory interest for late payment.

5) The payment date shall be the date of crediting the bank account of Innergo Systems.

6) Upon payment of 100% (one hundred percent) of the price for the subject matter of the Agreement/Order, the Client acquires ownership of the delivered equipment and/or full rights to the software referred to in Article 6.

7) Innergo Systems reserves the right, in the case of performing the Agreement/Order in stages, to suspend the delivery of equipment and/or its installation until payment, for the relevant stage of completion of the subject matter of the Agreement/ Order is made.

8) The risk of loss or damage to the equipment shall pass to the Client upon signing a delivery acceptance protocol.

ARTICLE 6 INTELLECTUAL PROPERTY RIGHTS

Upon signing the final acceptance protocol by both Parties, Innergo Systems grants the Client a non-exclusive, non-transferable, valid for an indefinite period of time and limited to the territory of the Republic of Poland right to use the software (sub-license) on the terms and conditions set forth by the licensor (the producer of the Software). The licensing terms and conditions (the so-called software license for the end user) are available from the software manufacturers or employees of Innergo Systems and shall be included in the Agreement/Order at the Client's written request.

ARTICLE 7 CONTRACTUAL PENALTIES

1) If Innergo Systems fails to meet the deadline for the delivery of the equipment and its installation at the place of destination, the Client shall be entitled to charge a contractual penalty not exceeding 0.1% (one tenth of a percent) of the value of the equipment or installation for each day of delay.

2) Due to non-execution or improper execution of the Agreement/ Order, the Client shall have the right to claim compensation on general principles exceeding the amount of contractual penalty referred to in point (1), excluding lost profits.

3) Total liability for damages of Innergo Systems due to non-execution or improper execution of the Agreement/Order is limited to 10% of the Agreement/Order.

ARTICLE 8 FORCE MAJEURE

1) Either Party shall immediately notify the other Party of the occurrence of an event of force majeure. In such a case, the deadlines resulting from the Agreement/ Order shall be extended by an appropriate period of time, if the fulfilment of obligations by either Party is delayed due to force majeure. If an event of force majeure occurs and lasts for a period of not less than one month, the Parties shall:

- a) agree, in good faith, on further proceedings that would be satisfactory for both Parties, or
- b) agree to suspend the execution of the Agreement/Order for a period during which an event of force majeure may end.

If the Parties fail to reach agreement within 15 (fifteen) days of the expiry of the period of one month, either Party shall have the right to terminate the Agreement.

2) Force majeure does not include;

- a) events caused by the negligence or intentional action of contractors, agents or employees of one of the Parties
- b) events that could have been foreseen and avoided by one of the Parties during the execution of the Agreement/Order.

3) The concept of force majeure does not include cases of lack (insufficiency) of financial resources or negligence to make payments.

ARTICLE 9 CONFIDENTIAL INFORMATION

1) Either Party undertakes to secure against third party's access and not to disclose or transfer, without the prior written consent of the other Party, the content of the Agreement/Order and information related to it, as well as information obtained while executing the Agreement/Order, regardless of the form of obtaining a data storage device and the source of such information (confidential information).

2) Either Party undertakes to use confidential information and personal data covered by the GDPR regulation only for the purpose of proper execution of the Agreement/Order. Within the organisational structures of the Parties, access to confidential information shall be granted only to employees or other persons whose access to confidential information is justified due to their participation in the execution of the Agreement/Order. The party receiving the confidential information is obliged to ensure that the persons with access to the confidential information follow the rules of confidentiality and bears responsibility for the actions of such persons that are contrary to the Agreement/Order. However, the Parties shall be entitled to provide confidential information at the lawful request of public authorities or courts within the scope covered by such request.

3) Either Party shall exercise at least the same due diligence in protecting the other Party's confidential information as this Party exercises in protecting its own confidential information.

4) The Parties agree that confidential information shall not include: information which is generally known to the public;

- information that is generally known to the public;
- information that has been made public by the Party,
- information disclosed by the Party upon prior written consent of the other Party,
- information obtained from third parties who had a right to possess and disclose it and information resulting from the processing of such information, provided, however, that it has not become known due to any breach by either Party of its obligations under this Agreement,
- information required to be disclosed in connection with seeking claims in court under this Agreement.

5) The obligations set forth in this Article shall bind each Party for the duration of the Agreement/Order and for a period of 5 (five) years after its termination.

ARTICLE 10 TERMINATION OF CO-OPERATION

Either Party may terminate the Agreement/Order by giving notice in writing to the other Party (defaulting Party) with immediate effect in the case if the defaulting Party fails to fulfil or violates material provision of the Agreement/Order, provided, however, that such violation is not remedied by the defaulting Party despite the fact that defaulting Party is requested to execute the Agreement/Order within days starting from the date of receipt of the written request.

Termination of the Agreement/Order referred to above by the Client shall not release the Client from the obligation to pay remuneration due to Innergo for works and activities carried out by Innergo under the Agreement/Order until the day of its termination.

ARTICLE 11 SUBCONTRACTING

1) Innergo Systems may entrust a third party with the performance of some or all of the work under the Agreement/ Order, however, it shall bear liability for the works subcontracted to a third party as for its own work.

2) Innergo Systems may, without the Client's written consent, transfer part or all of the receivables resulting from the execution of the Agreement/Order with the Client to a financial institution or an entity engaged in professional debt collection.

3) The Customer may transfer all or part of the rights and obligations resulting from the Agreement/Order to a third party only upon obtaining prior written consent from Innergo Systems.

ARTICLE 12 DISPUTE SETTLEMENT

In the case of any dispute between the Parties as to the execution of the Agreement/Order, the Parties shall seek an amicable settlement. If the Parties fail to reach an amicable settlement within 30 (thirty) days from the date of the Parties' attempt to seek amicable settlement, the dispute shall be resolved by a common court having jurisdiction over the seat of the Krakow branch office of Innergo Systems.