

Product Terms & Conditions

These Product Terms & Conditions ("Product Terms") are agreed between the Innomotics entity named on the Order ("Innomotics") and the customer that accepted the Order ("Customer"). These Product Terms together with the applicable Supplemental Terms, if any, form the "Agreement".

The parties declare and confirm that each provision of this Agreement is in proportion to all the other provisions, that the rights and obligations arising from this Agreement balance each other out and that the Customer has had an effective opportunity to negotiate and influence the content of the provisions.

Capitalized terms are defined [at the end of the document](#).

Commercial terms

1. Innomotics' Offerings

1.1. Delivery mode

Innomotics will deliver the Offerings and any invoice as specified in the Order. Innomotics may deliver the Offerings in stages or installments and invoice accordingly.

1.2. Updates for Offerings

Innomotics may issue Updates to its Offerings and Customer is responsible for installing the Updates. Innomotics will use commercially reasonable efforts to notify Customer when Updates are generally available. Information provided on Innomotics' website is sufficient notice.

Innomotics may choose not to support non-current versions of the Offerings or to update them to future versions.

1.3. Cybersecurity

The cybersecurity features of the Offerings are in accordance with the specifications outlined in Innomotics' product catalogue. Innomotics takes reasonably possible measures to avoid cybersecurity threats to the Offerings and to minimize vulnerabilities. There is no guarantee/warranty from Innomotics that the Offerings are completely secure or free from vulnerabilities.

2. Delivery

2.1. Delivery terms

Unless agreed otherwise in the Order, Products will be delivered FCA according to INCOTERMS®2020. If a different shipping term is agreed or required for shipment to a specific site, Customer will pay all additional costs.

Customer may only reject the non-compliant portion of the Order.

2.2. Delivery dates

Any dates in the Order are estimates and non-binding, unless Customer and Innomotics agree to specific delivery dates expressly being subject to liquidated damages ("Binding Dates"), in which case, Section 2.3 will apply.

2.3. Delay

2.3.1. **Liquidated damages.** If Innomotics is solely responsible for delaying Binding Dates and Customer suffered a loss, Innomotics will pay liquidated damages equal to 0.5% of the Price for the delayed portion of the Products for every full week of delay.

Aggregate liquidated damages will not exceed 5% of the Price.

2.3.2. **Termination for delay.** Customer may only terminate the Order for delay if:

- a. the maximum liquidated damages are payable; and
- b. a reasonable additional delivery period has expired.

2.3.3. **Exclusive remedy.** This Section 2.3 sets out Innomotics' entire and exclusive liability for delay and excludes all of Customer's other rights and remedies for delay to the extent permissible by mandatory law.

3. Risk and title

3.1. Transfer of risk

Risk of loss or damage for all Products passes to Customer upon:

- a. Delivery;
- b. attempted Delivery if Customer fails or refuses to take delivery of the Products without cause; or
- c. moving the Products into storage in accordance with Section 4.1.

3.2. Transfer of title

Title to the Products passes to Customer after Innomotics has received payment in full.

If applicable law does not allow Innomotics to retain title after Delivery:

- a. title to Products will pass to Customer upon Delivery; but
- b. Innomotics will retain a security interest in the Products to secure payment of the Products purchase price and Customer agrees to sign any documents Innomotics deems necessary or convenient to file or perfect such security interest.

4. Storage

4.1. Moving Products to storage

Upon Customer's request or if Customer does not take Delivery at the agreed Delivery date, the Products may be moved to storage. On receipt of an invoice Customer will pay for:

- a. shipping; and
- b. storage expenses, including preparation for and placement into storage, handling, freight, inspection, preservation, maintenance, taxes, and insurance.

4.2. Removing Products from storage

Customer will arrange, at its expense, to remove the Products from storage:

- a. when conditions allow; and
- b. after paying to Innomotics all amounts due under this Section 4.

5. Payment, interest, and taxes

5.1. Payment terms

Customer will pay the Price (plus reasonable and verifiable travel and incidental expenses and tax, if applicable) within 30 days of the invoice date, without deduction or set-off. If Customer disputes an invoice, Customer must pay any undisputed portion.

5.2. Interest

Innomotics is entitled to charge interest on overdue payments at the monthly percentage rate of 1.5% compounded or at the highest rate allowed by law (whichever is lower).

5.3. Taxes

All prices and expenses stated in the Order are exclusive of any Tax. Customer will pay or refund Innomotics for any applicable Tax imposed by any government authority for Customer's use or receipt of the Offerings.

If Customer is exempt from value-added or sales tax, then it must provide a valid, timely, and executed exemption certificate, direct pay permit, or other such government-approved documentation.

If Customer is required by law to deduct or withhold Tax, Customer will increase the amount it pays to Innomotics so that Innomotics still receives the net amount originally invoiced. Customer will promptly provide all tax receipts confirming it has paid Tax or has withheld Tax.

6. Changes

6.1. Change requests

When Customer sends Innomotics a change request, or when Innomotics proposes a change, Innomotics may send Customer an offer including:

- a. a price estimate;
- b. a schedule impact; and
- c. any other necessary changes to the Order.

6.2. Change effectiveness

A change becomes effective when Customer and Innomotics accept it in writing.

6.3. Changes in law and standards

6.3.1. **Right to make adjustments.** Innomotics is entitled to make reasonable adjustments to the Order for any additional requirements or costs it incurs due to any:

- a. laws, regulations, court judgments or decisions, or guidance issued by public authorities; or
- b. engineering standards or codes of practice; or
- c. Customer's site rules,

in each case issued or changed after the effective date of the Order.

6.3.2. **Type of adjustments.** Such adjustments, may, for example, include changes to:

- a. the time schedules and scope of Offerings as needed; or
- b. the Price, to reflect any reasonable additional costs.

6.4. Equivalent performance

Innomotics may supply the Offerings using a technically equivalent method to that set out in the Order, if this does not detrimentally alter the agreed functionalities.

7. Customer's obligations

7.1. Providing Contributions

Customer will, at its own expense and in a timely manner:

- a. provide Contributions in accordance with the Order;
- b. be responsible for the performance and interoperability of Contributions;
- c. obtain all required consents and licenses at Customer's cost; and
- d. make sure that Innomotics, its Affiliates, and their subcontractors have the right and access to use any Contributions.

7.2. Reasonable adjustments

If Customer does not:

- a. provide its Contributions in accordance with the respective Order; or
 - b. fulfill its obligations specified in this Section 7, or in the respective Supplemental Terms,
- Innomotics will have the right to adjust the Order, including the time schedule and fees, to make up for any delay or reasonable additional costs Innomotics incurs.

7.3. Use of the Offerings

Customer is solely responsible for any results and conclusions obtained from using the Offerings.

7.4. Security and safety

Customer is responsible for:

- a. the conception, implementation, and maintenance of a holistic, state-of-the-art security concept to protect its enterprise, plants, systems, machines, and networks (including the Products) against Cyberthreats. "Cyberthreat" means any circumstance or event with the potential to adversely impact the Customer's plants, systems, machines, and networks (including the Product/s) via unauthorized access, destruction, disclosure and/or modification of information, denial of service attacks or comparable scenarios;
- b. the protection of its Information Technology (IT) including all information and data contained therein from IT security incidents by means of appropriate and suitable technical and organizational measures;
- c. the use of the latest product versions and an immediate installation of software patches and updates that Innomotics makes available, following Innomotics' installation and further security instructions;
- d. taking appropriate steps to protect and retrieve its data and configurations including by maintaining backup copies; and
- e. the safety of persons onsite.

If a party becomes aware of a possible security incident that may compromise the operational infrastructure of the other party, it will timely and confidentially notify the other party of the acknowledged security incident, provide all necessary content, and keep it updated. It will take appropriate and proportionate measures to avert or at least limit the effects on the impacted infrastructure of the other party.

7.5. No reverse engineering

Customer will not reverse engineer, decompile, or copy Offerings or their parts unless allowed by mandatory law or the Order.

8. Innomotics' use rights

Innomotics and its Affiliates and their subcontractors may:

- a. use for any purpose, in perpetuity, and at its own risk any comment or feedback Customer gives to Innomotics on Innomotics' Offerings, including suggestions for changes or enhancements, support requests, and error corrections;
- b. use data Innomotics collects in connection with the Offerings to provide and improve its products and services; and
- c. identify Customer by name or logo as part of a general customers list on websites and marketing materials unless Customer objects in writing.

9. End of useful life of professional electrical and electronic equipment

Pursuant to Articles R.543-195 et seqq. of the French Environmental Code, relating to the composition of Electrical and Electronic Equipment (EEE) and the elimination of waste from such equipment, Innomotics collects and processes the waste from the professional EEE supplied to the Customer, either directly or through an approved eco-organization. The Customer ensures that the site of use is accessible to allow Innomotics to collect the said equipment, directly or indirectly.

Pursuant to article L. 541-10-13 of the Environmental Code, the French Environment and Energy Management Agency (ADEME) has assigned Innomotics the unique identification number No. FR346836_05BMOH proving its registration in the register of producers of the EEE sector and the completion of its declarations of placing on the market with ecosystem.

Warranties

10. Products warranty

Innomotics warrants that the Products will be free from Defects at the time of transfer of risk.

11. Products warranty period

11.1. Original warranty period

The warranty period for Products is 12 months following transfer of risk.

11.2. Warranty period for replacements and repairs

The warranty period for replaced or repaired parts of the Products is 6 months from the date of replacement or repair if the original warranty period expires earlier.

In any event, the warranty period shall end no later than 24 months from the beginning of the original warranty period.

12. Defects and claims

12.1. Inspection and notification

Customer will inspect the Products and notify Innomotics in writing of any Defects without undue delay upon discovery and always within the applicable warranty period.

12.2. Remedies

Innomotics will remedy all Defects at Innomotics' option by:

- a. repairing (onsite or remote) or replacing the defective Products or its non-conforming portion within a reasonable time; or
- b. refunding all or part of the Price of the Products or any non-conforming portion.

12.3. Duty of cooperation and reimbursement

In case of a warranty claim, Customer will:

- a. at its own expense provide access to operation and maintenance data;
- b. at its own expense and at Innomotics' option:
 - remove and ship the Products or its non-conforming portion to Innomotics; or
 - grant Innomotics reasonable access to the Products and perform any disassembly and re-assembly necessary to allow Innomotics to perform its warranty obligations;
- c. at Innomotics' request, transfer title to the replaced defective parts to Innomotics; and
- d. pay Innomotics for any diagnostic and remedial work unless it is established that a Defect existed; and
- e. be responsible for the customs clearance in the country where the project is located and for the further transport from the places of delivery for all equipment necessary to remedy the Defect.

13. Warranty exclusions

13.1. Time limit

Any warranty claim is excluded after expiration of the applicable warranty period.

13.2. Excluded Defects

Innomotics excludes any warranty for Defects that do not significantly impair the functionality or use of the Products and for Defects resulting from::

- a. normal wear and tear;
- b. faulty or negligent handling, or unusually excessive use;
- c. noncompliance with instructions in the Order, manuals, and similar documents available to Customer;
- d. non-reproducible software errors;
- e. any cause outside of Innomotics' control;
- f. modifications, repair, installation, or commissioning made by anyone other than Innomotics or their authorized representatives; or
- g. not using an Update provided by Innomotics.

13.3. No warranties

Innomotics does not warrant that the Products is compatible or interoperable, or functions in accordance with Customer's operating environment or IT requirements (unless expressly agreed in the Order).

14. Exclusive remedy

Sections 10-14 state Innomotics' entire liability and Customer's exclusive rights and remedy for warranty claims. Innomotics makes no other warranty, express, implied, or statutory, about the Products, including any warranties of merchantability or fitness for a particular purpose.

Intellectual property rights

15. Ownership of Intellectual Property

Each party remains owner of its Intellectual Property.

16. License to use Firmware or documents

Innomotics grants Customer a non-exclusive and non-transferable license to use the Firmware only for its operation. The license may be transferred only with the Products in which the Firmware is incorporated.

The software license and software maintenance services terms set out in the Agreement (if any) will not apply to Firmware.

Customer may use the documents being part of the Offering unmodified and to the extent necessary for operation and routine maintenance of the Products by Customer's own personnel, unless explicitly agreed otherwise in writing by Innomotics.

Additional software terms

17. Code format

Offerings containing software will be delivered in object code. If Third-Party Terms require Innomotics to furnish Third-Party Technology in source code form, Innomotics will provide it upon:

- a. written request; and
- b. payment of any reasonable expenses.

18. Innomotics software terms

Supplemental Terms as specified in the Order may additionally apply for Innomotics' software.

19. Third Party Terms

In the event of a conflict with the terms of the Agreement, the Third-Party Terms prevail with respect to Third-Party Technology. Third-Party Terms for open-source software shall also prevail in relation to the software or parts thereof insofar as the Third-Party Terms for open-source software grant the Customer certain rights of use on the basis of the connection of open-source software components with the software.

Confidentiality and compliance

20. Confidentiality

20.1. Protection and use

The receiving party will:

- a. protect Confidential Information by the same means it uses to protect its own (and always by at least reasonable means); and
- b. use Confidential Information only as required for the purposes of the Order.

20.2. Limited disclosure

The receiving party will:

- a. only disclose Confidential Information:
 - to its employees and to the employees of its Affiliates, agents, advisors, and contractors who need to know it; or
 - with the disclosing party's consent; and
- b. make sure that all recipients are bound by confidentiality obligations as strict as those in the Agreement.

20.3. Return and handling

If the disclosing party requests it, the receiving party will return or destroy all Confidential Information. Copies required under applicable laws or created as part of a routine information technology backup may be kept but must remain confidential.

While performing under the Order, Innomotics' employees may gain general expertise, know-how, ideas, concepts, and techniques that are then retained in their unaided memories. Innomotics may use this residual knowledge without conditions or restrictions.

20.4. Required disclosure

If a governmental agency or law requires it, the receiving party may disclose Confidential Information, provided it:

- a. promptly gives written notice to the disclosing party (if the law allows); and

- b. works with the disclosing party to limit the scope of disclosure.

20.5. Exceptions

The above confidentiality obligations will not apply to any information that:

- c. is or becomes generally available to the public (without the receiving party having breached the Agreement);
- d. becomes available to the receiving party from a source other than the disclosing party (if the receiving party has no reason to believe that the information is confidential);
- a. was already in the receiving party's possession without an obligation of confidentiality; or
- b. is independently developed by the receiving party without the use of Confidential Information.

21. Data protection

Customer and Innomotics will both comply with applicable laws regarding data protection.

22. Export control compliance

22.1. Export Regulations / No Re-Export

- a. Customer will comply with all applicable Export Regulations.
- b. Customer will:
 - Not sell, export or re-export, directly or indirectly (e.g. via Eurasian Economic Union (EAEU) countries), to or for use in Russia or Belarus any Offerings supplied by Innomotics in connection with the Order;
 - undertake its best efforts to ensure that the purpose of this Section 22.1.b is not frustrated by third parties, including authorized solution partners; and
 - establish and maintain an adequate monitoring mechanism to detect conduct by any third parties that would frustrate the purpose of this Section 22.1.b.

22.2. Required information

Customer will promptly provide upon request information about users, the intended use, the location of use, and the final destination of the Offerings..

22.3. Special data handling

If Customer intends to disclose to Innomotics any information that is defense-related or requires controlled or special data handling, Customer will:

- a. notify Innomotics; and
- b. use the disclosure tools and methods Innomotics requires.

22.4. Export checks for Offerings

Before Customer performs any transaction with a third-party concerning the Offerings delivered by Innomotics, Customer will check and certify by appropriate measures (e.g. monitoring) that:

- a. Customer does not violate any Export Regulations with its use, transfer, or distribution of such Offerings, the brokering of contracts, or the provision of other economic resources in connection with Offerings, also considering any prohibitions to get around these (e.g., by undue diversion);
- b. Offerings are not intended for prohibited or unauthorized non-civilian purposes (for example: armaments, nuclear technology or any other defense and military use);
- c. Customer has screened all direct and indirect parties involved in the receipt, use, or distribution of the Offerings against all applicable restricted party lists of the Export Regulations concerning trading with the entities, persons, and organizations listed there.

22.5. Semiconductor development

Customer will not, without Innomotics' prior written consent, use Offerings to develop or produce integrated circuits at any advanced semiconductor fabrication facility located in the

Peoples Republic of China and further restricted locations meeting the criteria specified in the U.S. Export Administration Regulations, 15 C.F.R. 744.23.

22.6. Reservation and suspension

22.6.1. **Reservation.** Innomotics will not have to fulfil any Order, if prevented by:

- a. impediments arising out of national or international foreign trade issues;
- b. impediments arising out of customs requirements; or
- c. any Export Regulations.

22.6.2. **Suspension.** Innomotics may limit or suspend access to the Offerings by Customer or Customer's users if obliged to do so under Export Regulations.

22.7. Breach of Export Regulations

Any violation of this Section 22 is a material breach of the Order entitling Innomotics to e.g.:

- a. suspend or terminate the Order in accordance with Section 23 and 24; and
- d. in case of a breach of Section 22.1.b. to penalties in the amount of 5% of the Price of the Order.

Suspension and termination

23. Suspension

23.1. Suspension right

Innomotics may suspend the performance of its obligations under an Order by giving Customer written notice if:

- a. Customer's payment is more than 15 days late or is in delay in providing any payment security;
- b. Customer does not provide the required Contributions in accordance with the Order after a reasonable grace period; or
- c. Customer materially breaches the Order.

23.2. Payment during suspension

If Innomotics suspends performance, Customer will become immediately liable to pay:

- a. the Price (plus reasonable and verifiable travel and incidental expenses) related to any portion of the Offerings delivered or ordered before the effective date of suspension; plus
- b. any reasonable costs and expenses directly or indirectly incurred as a result of the suspension.

23.3. Schedule adjustment

If Innomotics resumes performance, Innomotics will adjust all affected schedules to reasonably accommodate the suspension. After 15 days' suspension, Innomotics may reassign personnel and already ordered (off the shelf) products.

23.4. Termination for suspension

Innomotics may terminate any Order if the Order has been suspended for more than 60 days.

24. Termination

24.1. Termination right

Either Customer or Innomotics may terminate any Order upon written notice if the other:

- a. becomes bankrupt or insolvent;
- b. goes into liquidation;
- c. has a receiving order against it;

- d. compounds with its creditors;
- e. continues business under a receiver, trustee, or manager for the benefit of its creditors; or
- f. does not remedy a material breach within 30 days of notice.

Innomotics is furthermore entitled to terminate if Customer comes under the direct or indirect control of any competitor of Innomotics.

The right to rescind an Order is excluded.

24.2. Payment if Customer terminates

If an Order is terminated by Customer under Section 24.1, Customer will pay the Price (plus reasonable and verifiable travel and incidental expenses) related to any portion of the Offerings delivered or ordered before the effective date of termination.

24.3. Payment if Innomotics terminates

If an Order is terminated by Innomotics, Customer will pay:

- a. the Price (plus reasonable and verifiable travel and incidental expenses) for the Offering, minus any expenditures avoided by termination; and
- b. all reasonable costs and expenses Innomotics incurred due to such termination.

24.4. Survival

Sections 1.2, 5, 7.4, 7.5, 8, 20, 22, 24.2, 24.3, 25, 26 and 28 will survive termination of the Order.

Claims, liability, and dispute resolution

25. Intellectual Property Infringement

25.1. Claim of Innomotics infringement

In case of an Infringement Claim, Innomotics will:

- a. defend, at Innomotics' cost, the Infringement Claim; and
- b. pay all damages finally awarded against Customer by a court of competent jurisdiction or agreed in settlement with Innomotics' consent.

25.2. Remedies

In case of an Infringement Claim, Innomotics may, at its option and expense, provide these remedies:

- a. obtain the right for Customer to continue the use of the Offerings;
 - b. modify the Offerings to become non-infringing; or
 - c. replace the infringing part of the Offerings,
- in case of **b.** and **c.** without materially affecting the functionality of the Offering.

25.3. Refund

25.3.1. Conditions for refunds. If remedies under Section 25.2 are in the opinion of Innomotics not available at commercially reasonable expense, Innomotics may terminate any Orders including licenses for such Offerings and Customer will receive the refunds for the allegedly infringing portions of the Offerings specified in Section 25.3.2 ("Refunds"), provided that, after receiving Innomotics' notification, Customer:

- a. stops using the allegedly infringing portion of the Offerings; and
- b. returns all related portions of the Offerings in Customer's possession.

25.3.2. Refunds. Refunds will equal:

- a. for Products or perpetual software: the remainder of a 60-month amortization period from their initial delivery;
- b. for subscription services or time-based licenses: the remainder of their term; and
- c. for any other Offering: refund of prepaid fees for the infringing portion of the Offerings.

25.4. No admission

If Customer stops using the allegedly infringing Offerings (or a part of them) or complies in any other way with a third-party demand, Customer will notify the third-party claimant in writing that this is not an admission of infringement.

25.5. Preconditions

Any defense or remedies under this Section 25 are subject to Customer giving Innomotics:

- a. prompt written notice of the Infringement Claim;
- b. all requested information (including information about Customer's use of the Offerings) and reasonable assistance related to the Infringement Claim; and
- c. sole authority to defend or settle the Infringement Claim.

25.6. Customer's prior consent

Innomotics will not admit liability or incur obligations on Customer's behalf without Customer's prior written consent, which Customer will not unreasonably withhold.

25.7. Exclusions

Innomotics will not have any liability or obligations as specified in this Section 25 to the extent that an Infringement Claim arises out of:

- a. not using a replacement, correction, patch, or new version of the Offering provided by Innomotics that performs substantially the same functions as the allegedly infringing Offering;
- b. using the Offering in combination with software, equipment, products, or other items not provided by Innomotics;
- c. using Offerings provided free of charge;
- d. any adjustment, modification, or configuration of the Offering not made by Innomotics;
- e. Customer's instructions, requests, specifications, and Contributions;
- f. using the Offerings for a purpose or in a manner not authorized by Innomotics;
- g. deliverables resulting from services; or
- h. information or data not provided by or on behalf of Innomotics.

25.8. Claim of Customer's infringement

If any allegation is made against Innomotics or its Affiliates based on a claim that the Contributions infringe an intellectual property right, then the obligations of Innomotics under Sections 25.1, 25.2, 25.5 and 25.6 will reciprocally apply to Customer in favor of Innomotics and its Affiliates.

25.9. Exclusive remedies

This Section 25 sets out Innomotics' entire liability and Customer's sole and exclusive rights and remedy for infringement of third-party intellectual property rights.

26. Liability

26.1. Exclusive liability

This Section 26 will exclusively govern Innomotics' liability for all claims, costs, damages, and indemnities, regardless of the form of action, whether based in contract, statute, tort (including negligence) or otherwise and applies in addition to any other limitation or exclusion of Innomotics' liability contained elsewhere in the Agreement and the Order.

26.2. Scope of limitations

The limitations and exclusions below and in the Order:

- a. apply to:
 - Innomotics;
 - Innomotics' Affiliates; and

- Innomotics' respective officers, directors, licensors, subcontractors, other (direct or indirect) auxiliary persons and representatives; and
- b. will not apply to the extent liability cannot be limited or excluded according to applicable law.

26.3. Limitation of liability

- a. **Innomotics' liability per event under the Order is limited to 20 % of the Price paid under the Order for the Offering; and**
- b. **Innomotics' aggregate liability for all claims under the Order is limited to 100 % of the Price paid under the Order for the Offering.**

26.4. Exclusions of liability

- 26.4.1. **Time limitations. Any and all liability of Innomotics under the Order will cease with the expiry of the warranty period of the Offering and any claims by Customer will be excluded in so far permitted in accordance with the statutory period provided by Applicable law.**
- 26.4.2. **Disclaimer. Even if foreseeable, Innomotics will never be liable for:**
 - i. **any indirect, incidental, (direct) consequential, special, exemplary, or punitive damages;**
 - a. **loss of production;**
 - b. **interruption of operations;**
 - c. **loss of use;**
 - d. **loss or corruption of data;**
 - e. **contractual claims of third parties;**
 - f. **loss of revenue, profits, capital and interest, or anticipated savings; or**
 - g. **any damages caused by Offerings provided free of charge.**

27. Force majeure

27.1. No liability

Neither party will be liable for a performance failure or delay in whole or in part (except related to any payment obligations) due to a Force Majeure event.

27.2. Time adaptation

Impacted schedules in the Order will be reasonably adjusted for a Force Majeure event.

27.3. Termination right

If a Force Majeure event continues for more than 180 days, either Customer or Innomotics may terminate the Order. Customer will pay Innomotics the Price for the Offerings provided or ordered up to the date of termination.

28. Applicable law and dispute resolution

28.1. Applicable law

This Agreement and any Order will be governed by the substantive laws, excluding choice-of-law rules, of France

The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement and any Order.

28.2. Arbitration

All disputes arising out of or in connection with this Agreement or any Order will be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("ICC").

28.3. Arbitral tribunal

If the value of the total matter in dispute, including the value of any counterclaims, is or converts to EUR 2 million or above, the expedited procedure provisions of the Rules will not apply, and the arbitral tribunal will consist of 3 arbitrators.

If the tribunal consists of 3 arbitrators, each party will nominate 1 arbitrator for confirmation by the ICC. Both arbitrators will agree on the third arbitrator within 30 days of their appointment. If this does not happen, the ICC will appoint the third arbitrator.

28.4. Seat and document production

The seat of arbitration will be Paris. Any order for the production or disclosure of documents will be limited to the documents on which each party relies in its submissions.

28.5. Language

The language of the proceeding will be French.

28.6. Court proceedings

To the extent permissible under applicable law and to the extent it would not result in the invalidity or inapplicability of this Section 28, the parties agree that Innomotics, at its sole discretion, may bring an action in the courts of the jurisdiction(s) where the Offering is being used or Customer has its place of business, (i) to enforce its intellectual property rights, (ii) to obtain injunctive relief, or (iii) for the payment of fees related to any Offering.

General clauses

29. Written form and notices

In writing includes e-mail, unless otherwise stated. Termination notices must be sent by letter to the address specified in the applicable Order.

30. No restrictions

Subject to confidentiality, nothing in the Order restricts Innomotics from providing products and services to third parties similar or identical to the products and services provided to Customer.

31. Affiliates and subcontractors

Innomotics may use Affiliates and subcontractors to fulfill its obligations under the Order. Innomotics remains responsible for its obligations and those of its Affiliates and subcontractors.

32. Independent relationship

Nothing in the Order creates a partnership or an employment relationship between Innomotics and Customer or any of their respective personnel.

33. Order of precedence

In the event of a conflict between the Order, these Product Terms and any Supplemental Terms, the following order of precedence applies:

- a. Order (excluding any Customer general terms and conditions, even if the document states differently);
- b. applicable Supplemental Terms; and
- c. these Product Terms.

34. Entire Agreement

The Order is the entire agreement with respect to its subject matter and supersedes and extinguishes any previous or contemporaneous agreements, assurances, warranties, or representations.

Each party agrees that it has no remedies in respect of any statement or representation (whether made innocently or negligently, but excluding any made fraudulently) that is not set out in the Order.

If a translation of the Order or the Agreement conflicts with the original, the English language version will prevail.

The terms of any purchase order or other document from Customer are excluded and such terms will not apply to any Order and will not supplement or modify the Order irrespective of any language to the contrary in such document.

35. No assignment

Neither party may assign or otherwise transfer (by operation of law or otherwise) its respective rights or obligations under the Order without the written consent of the other. However, Innomotics may assign to an Affiliate or an acquirer of all or substantially all the business covered by the Order.

36. No waiver

Failure to enforce a provision of the Order will not be considered a waiver.

37. Amendments

The Order and any amendments to it can only be effective if made in writing and signed by both parties (either manually or by an electronic system specified by Innomotics).

38. Validity

If any provision of the Order is invalid, illegal, or unenforceable, the remaining provisions will not be affected. Such provision will be deemed to be restated in accordance with applicable law to reflect the parties' original intent.

Definitions

Affiliate	Any legal entity that, directly or indirectly: <ul style="list-style-type: none">is controlled by a party;controls a party; oris controlled by a legal entity that directly or indirectly controls a party.
Confidential Information	Information that: <ul style="list-style-type: none">is disclosed by one party, its Affiliates, or their subcontractors to the other party or their Affiliates;is marked or declared as confidential (or that any reasonable person can recognize as confidential in its nature); andincludes the terms of the Agreement and any Order, Offerings, Innomotics-owned Intellectual Property, and any information Customer derives from benchmarking any Offering.
Contributions	Everything Customer (or someone on behalf of Customer) must provide or perform in connection with an Order so that Innomotics can perform the Offerings, including all preparatory work, assistance, documents, information, data, and approvals.
Defect	Non-conformance of the Products to the Innomotics specification set out or referred to in the Order.
Delivery	Making the Products available to Customer in accordance with the INCOTERMS®2020 stated herein or in the Order.
Documentation	Instructions for use, learning materials, technical and functional documentation, and API (Application Programming Interface) information made available with the applicable Offering which may be updated by Innomotics from time to time.
Export Regulations	All applicable sanctions, embargoes, and (re-)export control regulations and in any event those of the European Union, the United States of America and any locally applicable jurisdiction.

Firmware	System software incorporated into the Products.
Force Majeure event	Any event which is beyond the reasonable control of a party, its affiliates or its subcontractors, which could not have been prevented by good industry practice including, but not limited to, acts of war, riot, civil commotion, terrorism, natural disaster, epidemic or pandemic, strikes, lock-outs, attacks on Innomotics' systems (such as virus attacks, hacker attacks), non-issuance of licenses, permits or approvals, or any other act or failure to act by any public authority, or embargos or any other trade sanctions.
Information Technology (IT)	All aspects of technology used to develop, transfer and store information and data including but not limited to Products, software, IT systems, networks, Internet-enabled applications, cloud applications used by them and common IT interfaces.
Intellectual Property	Rights in data, software, ideas, know-how, or any other proprietary material or information.
Infringement Claim	Where a third party makes a specific claim, allegation or complaint against Customer that the Offerings directly infringe any: <ul style="list-style-type: none"> patent or trademark issued or registered by the United States, China, Japan, or the European Patent Office or the European Union Intellectual Property Office; copyright; or trade secret.
Offering(s)	The Products, services, solutions, software or documents provided to Customer as exclusively set out in an Order.
Order	A contract consisting of an order form, a statement of work, or any other document that sets forth the Offerings and the Price, incorporates the Agreement, and is agreed upon by both parties by manual or electronic signatures or by an electronic system specified by Innomotics.
Price	The purchase price payable by Customer for the Offerings.
Products	Offerings that are tangible products, equipment, components, parts, and materials which may include Firmware.
Supplemental Terms	Additional terms and conditions that apply to a particular Offering as attached here or referenced in an Order.
Tax	Any taxes, duties, and any other charges.
Third-Party Technology	Any third-party software, technology, and other materials, including open source software components, licensed by third parties under separate terms.
Third-Party Terms	License conditions that may apply for Third-Party Technology and are specified in the Documentation, Supplemental Terms, Third-Party Technology source code (if any), and/or in "read me," header-, notices-, or similar files.
Update(s)	Software updates, security patches, or bug fixes.