

1. Scope of application

1.1 By entering into a Sale and/or Stock agreement with Inabata Europe NV, the Client waives the applicability of any other conditions used by the Client, howsoever denominated, so that all Sale and Stock agreements between Inabata Europe NV and the Client shall exclusively be governed by the present general conditions.

Other agreements and conditions are binding only to the extent that they have explicitly and in writing been agreed upon by Inabata Europe NV. In such case, yet without prejudice to the specific provisions of such other agreements and conditions, the present general conditions remain unchanged and applicable.

1.2 The Client shall be considered to expressly agree to the present general conditions by accepting the order confirmation of Inabata Europe NV.

1.3 Inabata Europe NV reserves the right to unilaterally change the present general conditions. Such changes shall also apply to existing Sale and Stock agreements and shall take effect 30 calendar days after a written announcement to the Client.

If the Client does not agree to such changes to the present general conditions, the Client has the right to terminate the Sale and Stock agreements by registered mail until the date the changes take effect.

As of the date on which the changes take effect, the Client shall be assumed to explicitly agree to these changes.

2. Offers, specifications, samples and purchase orders

2.1 All offers made by Inabata Europe NV are for information purposes only and are therefore not binding.

2.2 The agreement between Inabata Europe NV and the Client shall only come into effect if the Client accepts the order confirmation.

2.3 Descriptions, drawings, pictures, colors, measures and specifications of products delivered by Inabata Europe NV are approximate only.

The Client cannot use occurring differences, which do not differ substantially from technical or esthetical specifications, against Inabata Europe NV, unless expressly agreed otherwise in writing.

2.4 The Client always has the possibility to ask for a sample of the products delivered by Inabata Europe NV. The properties of such sample are binding only insofar as they have been explicitly agreed to define the exact quality of the goods.

2.5 If the Client does not exercise his right to ask for a sample of the relevant product, before ordering such product, the Client loses the right to contest the properties of products, which would be known to him if he had asked such a sample.

3. Price and payment

3.1 Orders are billed at price ratings and conditions valid at the time of acceptance of the order confirmation.

3.2 All invoices are payable within the period stated on the order confirmation.

3.3 All invoices are payable at the registered address of Inabata Europe NV Louizalaan 326, 1050 Elsene or at the financial institutions mentioned on the invoices.

4. Delay in payment and default of payment

4.1 In the event of late payment of an invoice, the Client shall be in default without any notice of default being required.

Without prejudice to its other obligations, the Client shall pay interests as from the due date of the invoice, until the date of payment in full on an annual basis equal to the applicable interest rate according to the Belgian Act of August 2nd 2002 (Act regarding the defrayment of overdue debts with respect to commercial transactions), increased by 2%.

4.2 In the event of non-payment or late payment of an invoice, Inabata Europe NV has the right to raise the amount of the invoice with 15% as compensation / indemnity / damages, and this without serving notice, and without prejudice to Inabata Europe NV's right to demand a higher amount of compensation / indemnity / damages if Inabata Europe NV proves that the effective loss of damages suffered is actually higher than 15% of the invoice.

4.3 In the event of non-payment or late payment of an invoice, all judicial procedural and execution costs, as well as the administrative expenses and extrajudicial collection costs shall be borne by the Client.

4.4 In the event of non-payment or late payment of an invoice, Inabata Europe NV has the right to suspend all further deliveries without any notice. In addition, Inabata Europe NV has the right to immediately and unilaterally terminate the agreement with the Client, without serving notice and without judicial intervention.

4.5 In the event of non-payment or late payment of an invoice, Inabata Europe NV has the right to set off the invoice amount due by the Client against Inabata Europe NV's debt to the Client.

4.6 In the event of non-payment or late payment of an invoice, all non matured claims shall become immediately due and payable.

4.7 Received payments shall be used as payment for the oldest outstanding claims.

4.8 In the event that the solvency of the Client appears to be compromised, e.g. in the event of non-payment or late payment of an invoice, Inabata Europe NV is entitled to ask the Client for a retainer with respect to any stocks held for the Client and with respect to any further deliveries.

In the event that the Client does not agree with any such retainer asked by Inabata Europe NV, the latter has the right to immediately and unilaterally terminate the agreement with the Client, without serving notice and without judicial intervention.

5. Delivery and risk

5.1 Delivery

5.1.1 The terms of delivery agreed to or suggested by Inabata Europe NV are only indicative and not binding. Inabata Europe NV commits itself to endeavor to its best efforts to comply with the suggested time of delivery. The time of delivery starts at the time the contract is concluded, unless agreed otherwise.

5.1.2 If Inabata Europe NV cannot comply with the suggested time of delivery, this does not give the Client the right to cancel or suspend the order and does not give the Client any rights on compensation / indemnity / damages.

5.1.3 The present terms of delivery shall be interpreted in accordance with the INCOTERMS specified in the order confirmation.

5.1.4 Inabata Europe NV reserves the right to, before delivering the goods of the present order confirmation, demand that the Client pays all debt-claims resulting directly or indirectly out of previously delivered orders or resulting out of the order.

If Inabata Europe NV does not timely receive the demanded payments, Inabata Europe NV has the right to suspend the delivery, without any further notice to the Client.

If Inabata Europe NV does not timely receive the demanded payments, Inabata Europe NV has the right to cancel the delivery of the remaining goods by simply notifying the Client of its decision.

5.2 Risk

5.2.1 The Client assumes the risk involved with the delivery or sending of the goods in accordance with the INCOTERMS specified in the order confirmation.

5.2.2 From the day of delivery forth, the Client shall assume all risks with respect to the goods, including force-majeure and destruction of the goods.

6. Compliance with legal requirements

6.1 Unless specifically agreed otherwise, the Client is responsible for compliance with all laws and regulations regarding import, transport, storage and use of the goods.

7. Client's rights regarding non-conformity of goods and liability

7.1 Immediately upon delivery, the Client shall examine the quality and quantity of the goods.

The Client must notify Inabata Europe NV by registered mail of any externally visible non-conformity regarding quality and quantity of the goods within eight days after receipt of the goods. After this eight day period, the Client loses his right to appeal to the non-conformity of the goods.

Complaints after this eight day period are only admissible if the Client proves that he, acting carefully and in good faith, could not discover the non-conformity within the eight day period. In any case, Client's claims regarding non-conform and defective goods are subject to a period of limitation of one year from receipt of the goods, unless expressly and in writing otherwise agreed.

7.2 Complaints never give the Client the right to suspend the payment of the purchase price or any supplementary cost. Furthermore, any appeal to settlement of debts is expressly forbidden.

7.3 The object of the purchase is exclusively warranted by the fabrication warranties given by the manufacturer to Inabata Europe NV.

Additional warranties concerning the quality, quantity, suitability, etc. of the goods are only applicable if prior, expressly and in writing agreed upon by Inabata Europe NV.

7.4 Inabata Europe NV is only liable for flaws in the design, materials or manufacturing of the goods which are the object of the contract.

Inabata Europe NV is not liable for defects resulting out of actions or negligence of the Client or a third person, including: unfit or illegal use, improper assembly or operation, natural wear and tear, improper treatment and maintenance, use of the product in combination with improper gear, etc.

7.5 If the Client makes a timely and justified complaint about a non-conformity or defect, Inabata Europe NV can at its own discretion either replace the non-conform or defected good or choose another remedy.

If Inabata Europe NV chooses to repair the defected good, Inabata Europe NV has the right to instruct a third party to conduct the repair.

Any delay caused by this third party does not give the Client the right to call upon the remedies specified in 7.6.

The Client does not have the right to terminate the contract if Inabata Europe NV notifies the Client within a reasonable time about when and how Inabata Europe NV shall replace or repair the defected good.

7.6 Only if there is a substantial non-conformity or defect, and Inabata Europe NV fails to replace or to repair the non-conform or defected good, the Client can terminate the agreement and can demand that Inabata Europe NV reimburses the purchase price.

If there is a non-substantial non-conformity or defect, the Client only can demand a proportional discount.

In any case the Client's claim for compensation / indemnity / damages cannot exceed the initial purchase price, not even if there is a substantial non-conformity or defect.

7.7 If the Client complains about an alleged non-conformity or defect, which turns out to be non-existing or to be a non-conformity or defect for which Inabata Europe NV is not liable, Inabata Europe NV has the right to demand compensation / indemnity / damages for the costs it encountered due to the unjustified complaint.

7.8 Inabata Europe NV is not liable for the Client's or a third person's operational loss, loss of time, loss of profit or any other direct or indirect loss caused by a defect in the goods.

8. Retention of title

8.1 Inabata Europe NV remains the owner of the goods it delivers to the Client until the Client has fully paid the purchase price and all other costs and interests.

8.2 Delivered goods of which Inabata Europe NV remains the owner, may only be resold by the Client if the reselling of such goods is part of Client's normal business.

8.3 If the Client resells the goods, the claim of the Client vis-a-vis the (third party) buyer, shall automatically be assigned to Inabata Europe NV.

8.4 If the Client does not fulfill his financial obligations or Inabata Europe NV has a legitimate fear the Client cannot fulfill his obligations, Inabata Europe NV has the right to retake or reclaim the unpaid goods at all times and without notice. The Client is obliged to confer his full cooperation to Inabata Europe NV if the latter executes the aforementioned right, in order to facilitate such retake or reclaim.

8.5 The Client shall notify Inabata Europe NV immediately and in writing of any seizure of goods delivered by Inabata Europe NV if there is a possibility that Inabata Europe NV retains the title / is still the owner of those goods.

9. Force majeure and hardship

9.1 In case of force majeure, Inabata Europe NV has the right to suspend its obligations or to terminate the contract without judicial intervention. This shall not give the Client the right to any compensation / indemnity / damages. Inabata Europe NV shall inform the Client of the circumstances and of its decision.

9.2 Circumstances which are seen as force majeure are: war, riots or other disturbances of public order, fire, cracking of materials, exceptional traffic disruption, exceptional climatic circumstances, strikes, lock-outs, disruptive energy supply, partial or total default of third persons who have to deliver the necessary materials or services. This list is illustrative and not exhaustive.

9.3 Equal to force majeure are those circumstances, with regard to persons and materials which are used by Inabata Europe NV in executing the contract, which make the execution of the agreement impossible, unreasonable heavy or make the execution of the agreement unreasonably long, in such way that execution of the agreement cannot reasonably be demanded anymore.

10. Validity

10.1 If and to the extent that pursuant to the law any provision of the present general conditions is nullified, the nullified provision shall be superseded by a provision which is not unreasonably onerous but promotes Inabata Europe NV's interests to the extent possible.

The nullification of one or more provisions does neither imply the nullity of the other provisions, nor does this imply the nullity of the entire agreement.

11. Applicable law and jurisdiction

11.1 All agreements entered into with Inabata Europe NV shall be governed by the laws of Belgium. The applicability of the Vienna Sales Convention is excluded.

11.2 All disputes with respect to the Sales and Stock agreement(s) between Inabata Europe NV and the Client shall be submitted to the courts of Brussels, Belgium which have exclusive jurisdiction.