

## **TERMS AND CONDITIONS OF SALE FOR MAXIM PRODUCT**

**(Valid until 31<sup>st</sup> of September 2017)**

These terms and conditions of sale ("Terms of Sale") apply to any purchase order ("PO") of Maxim products ("Products") (i) placed by a corporation (such corporation, "Buyer"), (ii) with Invenios France SAS, a French corporation registered under n° 824 417 661 RCS Lyon, having its registered address at Bâtiment Tony Garnier 24, Rue Jean Baldassini, 69007 Lyon (France) ("Invenios"), and (iii) accepted by Invenios.

Any PO issued by Buyer implies the acceptance, without reserves, of the present Terms of Sale and the waiver by Buyer of its own general terms and conditions of purchase, unless otherwise agreed upon in writing between Invenios and the Buyer. In the event of a conflict between the present Terms of Sale and any specific terms agreed upon between Invenios and the Buyer, such specific terms and conditions shall prevail.

Products are sold as components or sub-assembly for Buyer finished or semi-finished products only, and resale of the Products "as is" is strictly prohibited, except as spare parts.

Invenios and Buyer are referred to herein individually as "Party" and collectively as "Parties".

### **1. PURCHASE ORDER**

1.1 Upon Buyer's request, Invenios shall issue a quotation, defining type of Products, quantity, prices, delivery lead-time. Quotation is valid during 30 (thirty) calendar days from date of issuance, except otherwise agreed with Invenios.

1.2 Any PO shall be issued in writing by Buyer and sent to Invenios by email or fax and shall mention the quotation reference number, the part number of Product, the description of Product, quantity according to the minimum order quantity ("MOQ") (minimum order quantity) if applicable, unit price per Products with applicable currency, destination address and requested delivery date.

1.3 Invenios shall acknowledge receipt of a PO within 2 (two) working days and confirm the acceptance of the PO within 5 (five) working days from the acknowledgement of receipt of the PO. In case of non-acknowledgement of receipt by Invenios, the PO shall be deemed not received and shall be resent by the Buyer. PO is only binding upon Invenios' written confirmation. Absence of answer shall be deemed as refusal of the PO by Invenios.

1.4 Invenios reserves the right to refuse any PO or suspend further deliveries in the event Buyer fails to pay any due invoice.

1.5 PO are not modifiable or cancellable except otherwise agreed in writing.

### **2. PRICE AND PAYMENT TERMS**

2.1 Prices are based on the price list in effect on the date of quotation issued by Invenios. Prices include standard packaging but are exclusive of any taxes, duties, freight, insurance or other similar handling costs, except otherwise agreed in writing.

2.2 All applicable duties, sales, use or excise taxes or other charges assessed or levied are added to the purchase price.

2.3 In case of significant market change or exchange rate fluctuation, prices may be adjusted. Any pricing change shall be notified in advance through a new quotation.

2.4 Prices are quoted on Ex Works Invenios facilities basis (ICC INCOTERMS® 2010), except otherwise agreed.

2.5 Invoices are issued upon shipment of Products and payable 30 (thirty) days net from the date of Invenios' invoice unless otherwise agreed. Payment shall be made on Invenios designated bank account by bank wire only. No discount for anticipated payment shall be granted.

2.6 Invenios reserves the right to request advance payment for any new Buyer, or in case of payment incident, or if Invenios cannot obtain a satisfactory credit insurance coverage for Buyer.

2.7 In case of late payment, Invenios reserves the right without prior notice to charge i) a legal lump sum of 40 € for collection fees and, ii) a penalty equal to the refinancing rate of the ECB (European Central Bank) increased by 10 points, from the date the invoice is due. Such indemnities are cumulative.

### **3. TRANSFER OF TITLE**

Transfer of title on the Products shall pass to the Buyer once full payment is received on Invenios bank account.

### **4. DELIVERY AND RECEPTION**

4.1 Delivery dates are estimate only and depend on Product procurement availability.

4.2 Shipments are made Ex-Work Invenios facilities. Any damage in transit shall be under the responsibility of the Buyer or its appointed carrier.

4.3 Products shall be collected by Buyer within 5 (five) working days of confirmed delivery date. Invenios reserves the right to invoice Products not collected or to charge extra costs incurred such as but not limited to storage, unpacking.

4.4 Rescheduling request shall be subject to Invenios prior approval and agreed on a case by case basis.

4.5 INVENIOS SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR PENALTY FOR DELAY IN SHIPMENT, DELIVERY, OR FOR FAILURE TO GIVE NOTICE OF ANY DELAY.

4.6 Buyer shall have 7 (seven) working days from the date of delivery to inspect the Product for any apparent defect and to report any non-conformity to the PO to Invenios in writing.

4.7 In case of non-conformity of the delivery to the confirmed PO, the Buyer shall issue a written report detailing the non-conformity. If the non-conformity is confirmed by Invenios, Buyer shall be provided with a return materials authorization form ("RMA") and return the non-compliant units at its costs according to Invenios RMA process. Invenios shall at its sole option replace at its costs or reimburse the returned Products.

4.8 Any non- conformity not reported within the 7-day period will be handled through the warranty process.

### **5. INVENIOS WARRANTY**

5.1 Invenios warrants that the Products are standard products and will conform with their specifications and be free from defect caused by defective materials and faulty workmanship for a period of ten (10) months from the date of shipment ("Warranty Period"). The warranty does not apply to engineering samples, parts of demonstration purpose or evaluation and development kits.

5.2 In case of defective Product during the Warranty Period, Buyer shall send a written report to Invenios detailing the defect and/or failure with appropriate pictures, if applicable. Invenios shall send the applicable RMA forms and process for Product returns. Any Product returned without a RMA form shall be rejected.

5.3 Invenios' sole and maximum liability for breach of its warranties herein is limited to the obligation, at Invenios' sole discretion to directly or indirectly rescreen, reprocess or provide replacement Products, or issue a credit note to Buyer, any Products delivered hereunder which either become defective or fail to meet the applicable specification during the Warranty Period and which are found by Invenios to be defective under the terms of this warranty, provided that (i) Invenios is notified in writing by Buyer within thirty (30) days after discovery of defects or failure to meet the specification; (ii) the defective Products are returned to Invenios at Buyer's expenses ; (iii) the defective Products are received by Invenios for adjustment no later than four (4) weeks following the last day of the warranty period; and (iv) Invenios' examination of such Products shall disclose that such defects or failures have not been caused by misuse, abuse, neglect, improper installation or application, repair, alteration, damage by rain, fire or casualty or by accident or negligence in use, storage, transportation or handling. In addition, Invenios shall have no liability to Buyer to the extent such failure is caused by incompatibility with other components used by Buyer. If Invenios analysis leads to the conclusion that the Product's defect or failure is due to the Buyer, Invenios will reject the warranty claim and Invenios reserves the right to charge Buyer with the analysis costs.

5.4 In the event that any one or more of the foregoing conditions is not satisfied, Invenios shall have no liability under this warranty whatsoever.

5.5 Buyer has an obligation to mitigate any damages related to integration of defective or non-conforming parts. If Buyer has knowledge that such Products are defective or non-conforming or Invenios has advised Buyer that Products are defective or non-conforming and in either event Buyer integrates such defective Products, Invenios shall have no liability to Buyer for any damages incurred by Buyer as a result.

5.6 In the event that the foregoing exclusive remedy under this warranty is determined upon judicial review to have failed in its essential purpose through no fault of Buyer, the alternate exclusive remedy shall be the refund of the purchase price of the non-conforming or defective Products.

5.7 Any repairs to or alterations on the Products made by Buyer or its subcontractors void the warranty.

5.8 Products may be prohibited for shipment to certain countries, entities or individuals under applicable export regulations. Invenios is not liable to Buyer for any delays or failure to obtain the necessary export license.

5.9 INVENIOS' OBLIGATION TO HONOR THESE WARRANTIES IS CONTINGENT UPON INVENIOS' RECEIPT OF PAYMENT IN FULL FOR THE PRODUCTS ENTITLED TO THIS WARRANTY.

5.10 TO THE EXTENT PERMITTED BY APPLICABLE LAW, INVENIOS DISCLAIMS ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. INVENIOS HAS NOT AUTHORIZED ANYONE TO MAKE ANY REPRESENTATION OR WARRANTY OTHER THAN AS PROVIDED ABOVE.

5.11 THE FOREGOING STATES THE ENTIRE WARRANTY LIABILITY OF INVENIOS.

## **6. BUYER WARRANTY**

Acceptance of Products is a warranty by Buyer that Buyer is solvent as of the date of shipment. With respect to Products delivered hereunder, Buyer agrees to accept responsibility for (i) their selection to achieve Buyer's intended results, (ii) their use, (iii) the results obtained therefrom and (iv) the selection of, use of and results obtained from any equipment, programs or services not provided by Invenios and used in connection with Products delivered hereunder.

## **7. INDEMNIFICATION**

7.1 Invenios shall defend (or entrust the defense to a third party pursuant to an indemnification clause under which Invenios is an indemnified party) any suit or proceeding brought against Buyer insofar as such suit or proceeding is based on a claim that any such Products furnished hereunder infringe any patents, copyrights or trademarks, or for misappropriation or use of any trade secrets, or for unfair competition, if Invenios is notified promptly in writing of such suit or proceeding and is given full and complete authority, information and assistance by Buyer for such defense.

7.2 Invenios shall pay all damages and costs finally awarded against Buyer in any such suit or proceeding, but Invenios shall not be responsible for any compromise thereof made by Buyer without the written consent of Invenios.

7.3 If infringement is alleged prior to the completion of delivery of the Products, Invenios may decline to make further shipments without being in breach of the Terms of Sale. In the event that such Products are held in such suit or proceeding to be infringing and their use is enjoined, or if in the opinion of Invenios such Products are likely to become the subject of a claim of infringement, Invenios at its sole discretion and at its own expense, may either (i) procure for Buyer the right to continue using such Products; (ii) modify such Products so that they become non-infringing; (iii) replace such Products with non-infringing Products; or (iv) accept the return of such Products, granting Buyer a refund or credit equal to the depreciated value.

7.4 Invenios' obligations hereunder shall not apply to any alleged infringement occurring after Buyer has received notice of such alleged infringement unless Invenios thereafter gives to Buyer written consent for such continuing alleged infringement.

7.5 Any provision herein to the contrary notwithstanding, Invenios shall have no obligation to Buyer (to defend or make any payment to or for Buyer) for any infringement, misappropriation or misuse claimed by any third parties if any such claim arises, in whole or in part, (a) as a result of a modification of the Products ; or (b) as a result of the interconnection or use of the Products in combination with goods or other devices or with a manufacturing or other process; or (c) the use of the Products in other than an application recommended by Invenios or (d) compliance with Buyer's design, specifications and/or instructions. If Buyer alleges intellectual property infringement against a third party pursuant to Buyer's intellectual property portfolio and as a result the alleged infringer crossclaims against Buyer alleging among other things infringement by goods manufactured by Invenios, Invenios' liability for the resulting attorney fees and costs will be proportional to the extent to which Products, as opposed to third party goods, are found to have infringed third party intellectual property rights.

7.6 THE FOREGOING STATES THE SOLE AND EXCLUSIVE LIABILITY OF THE PARTIES HERETO FOR INFRINGEMENT AND IS IN LIEU OF ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY WITH RESPECT THERETO.

## **8. NO LICENSE**

8.1 Products sold hereunder may be protected by intellectual property rights of the Manufacturer (as defined below), but not limited to, rights under issued and pending patents, mask work rights, copyright rights, trademark rights and trade secret rights. Manufacturer means the entity engaged in designing and producing the Products.

8.2 Neither the sale of Products hereunder nor the provision by Invenios of any supporting or related documentation, technical information or advice shall confer on Buyer any license, express or implied, under any intellectual property rights covering or related to (i) apparatus or circuits in which the Products or parts thereof may be used; (ii) a process, machine, use or application in connection with which the Products or parts thereof may be used; (iii) the process of their Manufacturer; or (iv) a combination in which the Products or part thereof may be used.

## **9. USE OF PRODUCTS IN LIFE SUPPORT, NUCLEAR AND CERTAIN OTHER APPLICATIONS**

9.1 Products sold by Invenios are not designed, intended or authorized for use in life support, life sustaining, nuclear, or other applications in which the failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property or environmental damage.

9.2 If Buyer uses or sells the Products for use in any such applications: (i) Buyer acknowledges that such use or sale is at Buyer's sole risk; (ii) Buyer agrees that Invenios and the Manufacturer are not liable, in whole or in part, for any claim or damage arising from such use; and (iii) Buyer agrees to indemnify, defend and hold Invenios and the Manufacturer harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.

## **10. LIMITATION OF LIABILITY**

10.1 THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT INVENIOS' LIABILITY HEREUNDER.

10.2 EXCEPT FOR BODILY INJURY OR DEATH OF A PERSON AND A BREACH OF A PARTY'S CONFIDENTIAL INFORMATION UNDER THIS TERMS OF SALE, UNDER NO CIRCUMSTANCES WILL INVENIOS, ITS EMPLOYEES, OFFICERS OR DIRECTORS, AGENTS, SUCCESSORS OR ASSIGNS BE LIABLE TO ANYONE UNDER ANY PRODUCT ORDER, SCHEDULE OR TERMS OF SALE, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, WHETHER OR NOT FORESEEABLE OR FORESEEN, FOR: (A) BUSINESS INTERRUPTION COSTS, COST OF REWORK, RETESTING, PROCUREMENT OF SUBSTITUTE PRODUCTS, REMOVAL AND REINSTALLATION OF PRODUCTS; OR (B) ANY SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LITIGATION COSTS, LOSS OF DATA, PRODUCTION OR PROFIT, GOODWILL, LOSS OF REVENUE, OR LOSS OF UNITS; REGARDLESS OF WHETHER INVENIOS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, THERE IS A TOTAL AND FUNDAMENTAL BREACH OF THIS TERMS OF SALE OR WHETHER ANY REMEDY PROVIDED HEREIN FAILS OF ITS ESSENTIAL PURPOSE.

10.3 TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE LIMIT OF LIABILITY FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS TERMS OF SALE OR PRODUCT SHALL NOT EXCEED THE AMOUNT PAID ON ACCOUNT BY BUYER TO INVENIOS UNDER THIS TERM OF SALE DURING THE LAST TWELVE MONTHS FOR THE PRODUCTS GIVING RISE TO SUCH CLAIMS. BUYER SHALL BE DEEMED TO ASSUME ALL LIABILITY FOR ANY AND ALL DAMAGES ARISING FROM OR IN CONNECTION WITH THE USE OR MISUSE OF THE PRODUCTS BY BUYER, ITS EMPLOYEES, CUSTOMERS AND OTHERS.

10.4 INVENIOS SHALL NOT BE LIABLE FOR AND BUYER AGREES TO INDEMNIFY, DEFEND AND HOLD INVENIOS HARMLESS FROM ANY CLAIMS BASED ON INVENIOS' COMPLIANCE WITH BUYER'S DESIGNS, SPECIFICATIONS OR INSTRUCTIONS, OR MODIFICATION OF ANY PRODUCTS BY PARTIES OTHER THAN INVENIOS, OR USE IN COMBINATION WITH OTHER PRODUCTS.

## **11. PACKING**

11.1 Packaging for standard shipment is included in the quoted price. When special or export packaging is specified and agreed involving a greater expense than the cost of standard shipment included in the quoted price, a charge will be made to cover such extra expense.

11.2 Reasonable care is exercised in packaging goods for shipment and no responsibility is assumed by Invenios for delay, breakage, or damage after having made delivery to the carrier.

11.3 All claims for breakage or damage shall be made to the carrier; however, Invenios will render reasonable assistance in securing satisfactory adjustment of such claims.

## **12. CHANGES TO SPECIFICATIONS**

12.1 Invenios or the Manufacturer reserves the right to change the Product's specifications of any Products (including all statements and data appearing in particular in Invenios' catalogs or Manufacturer's catalog, data sheets and advertisements) without notice.

12.2 If such changes to the Product's specifications are made, Invenios assumes no obligation to provide the change on Products previously purchased or to continue to supply discounted Products. Invenios may substitute goods manufactured to such modified specifications for those specified herein provided such Products substantially conform to the Order or contract.

## **13. FORCE MAJEURE**

Invenios shall not be liable for delay in performance or failure to perform in whole or in part the terms of the Terms of Sale due to causes beyond the reasonable control of Invenios, including without limitation, strike, labor disputes, shortages of material, war, riot or civil commotion, acts of the public enemy, insurrection, sabotage, or fire, flood or other acts of God. The period of performance for the Party affected by such a cause shall be extended by the duration of the condition, provided, however, if any such delay shall continue for more than thirty (30) days from the start of the cause of delay, the quantities undelivered during such period of delay or to be delivered, may be cancelled at Invenios' election without liability of Invenios to Buyer by written notice to Buyer at any time.

## **14. CONFIDENTIALITY**

14.1 "Confidential Information" means all information, processes, know-how, ideas, specifications, and documentation which either Party may have imparted to the other relating to the Products or to Invenios' business or Buyer's business and which relates to the subject matter of these Terms of Sale and includes among others, the price, specifications, and the design of the Products, information relating to the personnel, policies, clientele or business strategies of either Party; and any information relating to the terms upon which the Products are to be distributed under these Terms of Sale and the Order.

14.2 Any Confidential Information provided by Invenios to the Buyer shall be maintained in confidence by the Buyer, and shall not be disclosed to any third party without the prior written consent of Invenios and shall be protected with the same degree of care as the Buyer normally uses in the protection of its own confidential and proprietary information, but in no case with any less degree than reasonable care.

14.3 The Buyer further agrees to use the confidential information of Invenios for the sole purpose of performing these Terms of Sale. Buyer may disclose Confidential Information to its employees and employees of its affiliated companies provided that it ensures that they are aware of the confidential nature of the information being disclosed and bound to respect the confidentiality obligation and restrictions of use contained herein.

14.4 Upon Invenios' written request, Buyer will either destroy or return to the disclosing party all information of confidential nature of Invenios which is in tangible form, including any copies thereof, and Buyer will destroy all abstracts and summaries thereof and destroy or delete all references thereto in its documents, and certify to Invenios that it has done so.

14.5 The obligation of confidentiality shall remain applicable indefinitely with respects to trade secrets, and 5 (five) years with respect to all other Confidential Information after expiration of commercial relationship between Buyer and Invenios.

14.6 Non-disclosure obligation shall not apply to information for which Buyer can prove that it: a) was already in the knowledge of Buyer at the time of disclosure; b) has been obtained from a third party having the right to disclose it; c) was in the public domain at the time of disclosure by Invenios; d) has been independently developed by Buyer without use or knowledge of the Confidential Information of Invenios.

## **15. COMPLIANCE WITH LAWS**

15.1 Buyer warrants that it will comply fully with all applicable laws and regulations pertaining to its performance of its obligations under the Order, including without limitations, tax, EU and US export control and environmental laws relating in any way to the production, manufacture, sale, use and delivery of the Products. . Buyer agrees to accept all responsibility with that respect. Buyer's failure to comply with the terms of this Section shall constitute a material breach.

15.2 Buyer agrees to perform its obligation hereunder with the highest ethical standards. Invenios does not intend to do business with any entity or person engaging in unethical practices. Buyer represents, warrants, and agrees that it will: (i) comply fully, with the spirit and letter of all applicable local, state and national laws, rules, decrees, orders, regulations, and codes pertaining to its performance of its obligations under this Terms of Sale, including, without limitation any applicable employment, workers compensation insurance, tax and environmental Laws; (ii) not engage in corrupt practices, including public or private bribery or kickbacks, or take any action that is in violation of the U.S. Foreign Corrupt Practices Act ("FCPA"), and similar laws prohibiting corrupt practices and bribes; (iii) complete FCPA, regulatory, and other compliance related forms, questionnaires, certifications and other documents as reasonably requested by Invenios; (iv) not engage in any activity that results or may result in a conflict of interest or harm Invenios' or Manufacturer's reputation and goodwill; (v) maintain transparency and accuracy in its corporate record keeping; (vi) act lawfully and with integrity in handling competitive data, proprietary information and other intellectual property; (vii) allow reasonable audits by Invenios to confirm compliance with these provisions and Buyer's obligations under this Terms of Sale; and, (viii) communicate to its employees, agents the requirements of this Section and use reasonable diligence to ensure such parties fully comply with the requirements.

## **16. GOVERNING LAW**

These Terms of Sale shall be construed and interpreted in accordance with the laws of Ireland, without regards to its conflicts of law. These Terms of Sale will not be governed by the U.N. Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded by the Parties and does not apply to the interpretation or enforcement of an order.

## **17. ARBITRATION**

17.1 All disputes arising out of or in connection with these Terms of Sale shall be submitted to the International Court of Arbitration of the International Chamber of Commerce and shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("Rules") by three arbitrators appointed in accordance with the Rules. The Rules are deemed to be incorporated by reference into this Section. The seat of arbitration shall be Dublin (Ireland). The language of the arbitration shall be English.

17.2 Notwithstanding the foregoing, in case of an undisputed claim consisting in Buyer's payment default under these Terms of Sale, the arbitration clause stated in Section 13.1 will not apply and Invenios will be entitled to file a claim with any court of competent jurisdiction in order to obtain payment of the amount due by Buyer.

## **18. MISCELLANEOUS**

18.1 These Terms of Sale embody the entire understanding between the parties and supersede all previous agreements, understandings or representations whether in writing or orally regarding its subject matter. All agreed addition or modifications to these Terms of Sale shall be made in writing and signed by duly authorized representatives of both parties, failing which such modifications and amendments shall be deemed null and void. Any terms or conditions contained in any other document, which are in addition to or inconsistent with these Terms of Sale shall be of no force and effect.

18.2 Notwithstanding the foregoing, these Terms of Sale may be amended by Invenios from time to time.

18.3 No addition to or modification of any of the provisions herein or upon the face or reverse of any Order shall be binding upon Invenios unless made in writing and signed by a duly authorized representative of Invenios.

18.4 In the event any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and these Terms of Sale shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

18.5 The failure of a Party to enforce a provision, exercise a right or pursue a default of these Terms of Sale shall not be considered a waiver. The express waiver of a provision is to be effective only in the specific instance, and as to the specific purpose, for which it was given.