

General Terms and Conditions of Sale and Delivery

Scope

1. All deliveries and services provided within the framework of cooperation between Söring GmbH and its business partners are exclusively subject to the following General Terms and Conditions of Sale and Delivery (GTCs).
2. When the business partner accepts an offer, it hereby expresses its consent not only for the present, but also all future business relations with Söring GmbH.
3. Other terms and conditions shall not constitute a business purpose, even if Söring GmbH does not object to them explicitly. The GTCs of Söring GmbH shall also be applicable, when Söring GmbH acknowledges the contradictory or divergent terms and conditions of the business partner regarding deliveries/services, without reservations. Neither failure to object, nor payment for or acceptance of the goods shall constitute an approval of third-party terms and conditions of business.

II. Offers and Offer Documents

1. All orders which are not based on a written offer of Söring GmbH, shall become binding for Söring GmbH, only when a written order confirmation is explicitly given.
2. In the interest of further technical and medical development, Söring GmbH reserves the right to change any design and implementation, also after accepting an order, as long as the interests of the business partners are not affected in an unacceptable manner and the change complies with good commercial practice.
3. No originals or copies of offer documents may be temporarily or permanently provided to the rivals/competitors of either Söring GmbH or its co-operators, without the consent of Söring GmbH. They must be handled in a confidential manner.

III. Prices

1. The prices are to be understood as strictly net ex works delivery (place of performance), plus packaging, taxes (VAT), customs, fees and charges in the applicable statutory amount.
2. Transport and insurance costs, as well as freight surcharges for fast freight, express, postal and special dispatches shall be borne by the business partner.

IV. Delivery Time and Partial Deliveries

1. The agreed time of delivery shall be observed, on condition that the business partner timely fulfils the contractual obligations it has undertaken, in particular, it effects the agreed payment and, if applicable, delivers the agreed securities.
2. Söring GmbH has the right to provide partial deliveries, as long as they are reasonable for the business partner.

V. Installation and Start-up

1. Upon request, Söring GmbH shall undertake to perform an installation and start-up of the facilities and instruments it has delivered. The installation and start-up shall be performed by its competent staff, against the reimbursement of travel costs and according to applicable valid hourly rates. Travel and waiting time shall be calculated as working hours. The business partner shall bear the costs of providing the required assistants to the employees of Söring GmbH.
2. The permits from relevant authorities, which are required for the development and operation of the items delivered by Söring GmbH, should be provided by the business partner.

VI. General Liability

1. Any type of compensation claims against Söring GmbH and its legal representatives and vicarious agents shall be excluded, unless the damages result from an intentional action, gross negligence or breach of major contractual obligations.
2. A major contractual obligation in the above-mentioned sense shall mean every obligation whose fulfilment is a prerequisite for a proper performance of the contract, and for which compliance may normally be relied upon by the business partner.
3. The liability for gross negligence of vicarious agents, as long as they are not managing executives, is limited only to the compensation of typically foreseeable damages. The limitation of liability shall not apply to the breach of a major contractual obligation, this term being understood according to its description in the previous item.
4. The above-mentioned limitations and exclusions of liability shall not apply to the liability resulting from the Product Liability Act, or in the case of death, bodily injury or health impairment.
5. Claims for compensation of expenses incurred by the business partners, according to § 284 of the Civil Code, are waived insofar, as the entitlement to compensation in lieu of performance is excluded according to the above-mentioned regulations.

VII. Guarantee and Liability for Defects

1. Upon receipt of goods and works, the business partner, if it is an enterprise, must immediately inspect them and claim any discovered defects. Failure to perform this obligation shall result in the acceptance of goods and works. The regulations concerning a commercial obligation to notify about defects shall respectively apply to the contracts for works. If a defect emerges later, the notification must be made immediately after its discovery, otherwise, the goods shall be deemed accepted, also, in consideration of this defect.
2. In case a defect is discovered and it is notified according to the time and formal requirements, the business partner is entitled to repair or replacement, at the discretion of Söring GmbH. If the costs of shipment become higher, because the goods are transferred overseas by the business partner or its clients, the difference shall be borne by the business partner. The incurred costs of disassembly and reassembly, as applicable, shall be borne by the business partner, if it is not the case of a delivery recourse according to §§ 478, 478 of the Civil Code.

3. The guarantee period shall be 1 year from delivery. The limitation period in the case of a delivery recourse according to §§ 478, 479 of the Civil Code shall not be affected by this regulation. Compensation claims related to defects shall not be limited only to gross negligence, intentional action or breach of a major contractual obligation (see also: regulation of VI. General Liability). The compensation claims resulting from death, bodily injury and health impairment, or resulting from the Product Liability Act shall also remain unaffected.
4. The business partner may not refuse the receipt and acceptance of deliveries, due to a minor defect.
5. If, in the opinion of Söring GmbH, a repair is to be performed at its production sites, the business partner shall send the goods there, according to the instructions and at the expense of Söring GmbH.

VII. Conditions of Payment and Set-off

1. Payments shall be effected within 14 days from the invoice date, less 2% discount, or within 30 days, in the net amount. Repair, assembly and maintenance services shall be paid in the net amount, within 30 days. If the above-mentioned payment periods are exceeded, 8 percentage points over the applicable base rate of the German Federal Bank (Deutsche Bundesbank) shall be charged on the invoice amount.
2. Bills of exchange shall be accepted as payment, after a prior arrangement, and provided that the business partner shall take over the discount costs. Payments shall be made to a representative of Söring GmbH, only if Söring GmbH has provided the authorisation for their collection.
3. Set-off against a counter claim which is disputable or not determined as binding shall be excluded for the business partner.

IX. Force Majeure and Reservation of Self-supply

1. Government measures, riots, strikes, lock-outs, fire, machine breakdowns, shortages of material and energy supplies, obstacles to transport and other reasons which fall outside the control of Söring GmbH and prevent a normal production or shipment, shall be considered "force majeure" and shall give Söring GmbH the right to a relevant prolongation of delivery period. When Söring GmbH learns about such circumstances, it must immediately notify the business partner about them. If a delayed performance of service resulting from the above-mentioned events is unacceptable for a Party, it is entitled to withdraw from the contract.
2. The reservation of right and timely self-supplies shall remain unaffected.

X. Retention of Title

1. Söring GmbH retains a title to the delivered products until the full payment of all liabilities resulting from a business relationship with the business partner is made.
2. Processing or transformation of the retained goods is carried out on behalf of Söring GmbH, with no obligations arising for Söring GmbH as a result of the above-mentioned activities. The title to new items in their processed or transformed condition belongs to Söring GmbH. If the retained goods are processed, transformed, compounded, mixed or combined with other products which do not belong to Söring GmbH, a joint-title to the new items shall pertain to Söring GmbH, in proportion of the invoice price for the retained goods to the invoice price for other products.

3. In the ordinary course of business, the business partner can dispose of the retained goods which are subject to Söring GmbH's sole or joint-title. The business partner is not allowed to pledge such goods, transfer or assign them as security. The business partner shall assign all existing and future receivables to Söring GmbH, having been obtained by the business partner due to further disposal of the retained goods or due to the Products developed through their processing, transformation, compounding, mixing or combining. This shall also apply, when the Products are disposed of together with other Products which do not belong to Söring GmbH, against a combined price. If, due to legal provisions, a third party acquired the right to a sole or joint-title to the Products, as a result of processing, transformation, compounding, mixing or combining, the business partner shall also assign the existing and future third party claims arising against it, to Söring GmbH. According to the content of this item, assignments shall only take place up to the amount of invoice prices for the retained goods. The business partner is authorised to withdraw the assigned receivables until revocation, which is permitted at any time.
4. Söring GmbH accepts the business partner assignments provided according to this section.
5. Söring GmbH undertakes to release, at its own discretion, the securities it owns according to the above-mentioned provision, upon request of the business partner, in so far as their value exceeds the secured receivables by more than 10%.
6. If the business partner needs to provide assistance in order to ensure that the retention of title becomes effective, and such assistance involves a registration which is required according to the law binding in the country of the business partner, the latter should undertake such actions.
7. If the business partner delays payment, Söring GmbH can limit the availability of the retained goods for the business partner, in full or in part, at the discretion of Söring GmbH, e.g. only as regards their disposal or further processing.
8. If there are any objective prerequisites for the business partner's obligation to file an insolvency application, the business partner shall forfeit every right for disposal of the retained goods whatsoever, while no relevant request is necessary for this to come into effect. The business partner must immediately notify Söring GmbH about the inventory of retained goods. In such a case, Söring GmbH is further entitled to withdraw from the contract and request the retained goods to be surrendered. If the retained goods were processed, transformed, compounded, mixed or combined with other Products, Söring GmbH is entitled to demand that they be surrendered to a trustee. The business partner must provide information about all co-owners of the retained goods, including their company name, address and share in the title. The same shall apply to the receivables which are assigned to Söring GmbH according to the above-mentioned items, moreover, the business partner must, without any request, provide Söring GmbH with the names of all debtors and the documents which evidence the receivables.
9. Söring GmbH shall retain an unlimited ownership right and copyright regarding the exploitation of cost estimates, invoices, plans, designs and other documents (hereinafter "the Documents"). Access to the Documents may be provided to third parties only upon prior consent of Söring GmbH, and if the order is not placed with Söring GmbH, they should be immediately returned upon request. Sentences 1 and 2 shall respectively apply to the documents of the business partner, third parties may be provided with access to them in an anonymous form, if Söring GmbH has assigned its deliveries to them, as permitted by the contract.

XI. German Construction and Safety Regulations

The products of Söring GmbH comply with German construction and safety regulations, however, Söring GmbH cannot guarantee that they are compliant with foreign regulations. If the transport of goods is carried out abroad, the business partner must obtain the information accordingly.

XII. Place of Performance, Place of Jurisdiction and Applicable Law

1. The place of performance with respect to all obligations, including warranty claims, is Pinneberg.
2. Exclusive place of jurisdiction is the registered office of Söring GmbH, irrespective of whether the business partner is an entrepreneur, legal entity under public law, special fund under public law or has no general place of jurisdiction in Germany. The plaintiff is entitled to alternatively bring an action before the arbitration tribunal of the German Institute for Arbitration [Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS)] instead. If this takes place, the arbitration tribunal shall have exclusive jurisdiction. The place of arbitration shall be Hamburg. The language of proceedings shall be German.
3. All concluded contracts are exclusively subject to the laws of the Federal Republic of Germany, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XIII. Severability Clause

If any provision of these General Terms and Conditions of Sale and Delivery is or becomes invalid, this does not affect the validity of other provisions hereof.

Status as of: November 2011

