

# General Terms & Conditions of Purchase (GTP) of Söring GmbH

## 1. Scope

These GTP apply to all single and blanket orders that we (Söring GmbH) place with suppliers or service providers (hereinafter uniformly "Supplier").

General terms and conditions of business of the Supplier the content of which differs from or conflicts with our GTP do not apply.

## 2. Offers, purchase orders, acceptance of goods, Supplier's duty of disclosure when entering a contract

Offers and cost estimates by a Supplier are made at no charge to us. If a Supplier does not itself manufacture a good to be supplied but makes use of a third company for that purpose, or if it merely trades in the good, then the Supplier must so inform us in its offer or, at the latest, when entering into contract. If no such information is given and other circumstances do not suggest, when the contract is made, that the Supplier is not the manufacturer, then for our purposes the Supplier is deemed to be the manufacturer.

If the Supplier delivers a product that has been delivered before, it must notify us—in the offer or, at the latest, when entering into contract—of any changes that have since occurred in the product, as well as of changes in production steps or production plants, unless such changes are clearly of no relevance to us.

Our purchase orders and changes or additions to such purchase orders must be in writing.

A Supplier must confirm in writing every purchase order it receives from us. We have the right to cancel a purchase order at no charge if it is not confirmed within ten business days.

If a Supplier confirms (accepts) our single or blanket order, it is obligated to make delivery.

## 3. Price and delivery terms

Unless otherwise expressly agreed, the agreed prices are fixed prices. The products will be shipped to the destination specified in the purchase order, C.I.P. (Incoterms), including packing and all incidental costs.

Partial deliveries and partial performance are permitted only with our consent, and notice thereof must be given before delivery.

## 4. Delivery dates, default

Agreed dates for delivery or performance are binding. If delays are to be expected or have occurred, the Supplier is obligated to notify us immediately and to commit to a later date.

If the Supplier defaults, we are entitled without restriction to exercise our rights under the law, including, as the case may be, the right of rescission and the right to damages.

Failure to meet a deadline for reasons attributable to instances of force majeure beyond the control of the Supplier (in particular, a general shortage of energy or raw materials, traffic disruptions, insofar as such events were not foreseeable, and strikes, lock-outs, or governmental orders) absolve the Supplier from default of delivery for the duration of the disruption and to the extent of its effects. If the agreed delivery date is delayed thereby by more than one month, then we are entitled to withdraw from the contract in respect of the quantity affected by the delivery disruption.

## 5. Provision of material

Material provided by us remains our property. It must be stored separately by the Supplier, with the care of a prudent businessman and at no charge, and labelled as "Property of Söring GmbH". This material may be used only to complete our purchase order. The Supplier must compensate us for loss of and/or damage to the provided material.

If this material is processed or transformed, such activity is performed for us. We become the direct owner of the new good that is created thereby. If the provided material constitutes only a part of the new good, we are entitled to joint ownership of the new good in proportion to the provided material contained therein.

## 6. Production, delivery, acceptance of goods, notification of defects

Unless otherwise agreed, the Supplier is obligated to manufacture the supplied goods itself (see also item 2).

Shipping is carriage paid to the delivery address specified by us in the purchase order.

The Supplier must ensure that the delivered good or other service is free of material defects and accords with the specifications, and with the scope or quantity specified, for the order item concerned. Every delivery must be accompanied by a delivery note listing all particulars of our order. If further documents are needed according to the purchase order, these also must be delivered, in full and without prompting, along with the order. We do not regard as complete any delivery in which the accompanying documents are missing or incomplete.

In the case of shipments to or services performed at a location other than our headquarters in Quickborn, a dispatch note signed by the carrier must be provided to us for invoice clearing purposes.

Goods and services are accepted subject to correctness, completeness, and fitness. We inspect incoming goods for obvious defects. We give notice of hidden defects as soon as they are detected in the course of our regular business operations. A notice of defects is deemed timely if it is given within three business days (Mondays through Fridays, with the exception of legal holidays) after we become aware of such defects.

Payment of the purchase price does not imply acknowledgement of a flawless delivery.

## 7. Place of performance

The place of performance is the delivery address stated in the purchase order.

If none has been agreed, the place of performance is in Quickborn.

## 8. Transfer of risk, acquisition of ownership

Under contracts of sale, the risk passes to us only upon delivery of the good to us; under contracts for work and services, only upon our acceptance.

We acquire ownership of the items listed in the issued invoice (physical and intangible goods) no later than when the invoice is paid.

## 9. Warranty

Unless otherwise agreed, we are entitled without limitation to the warranty rights provided by law. In urgent cases in which, owing to special circumstances, we cannot reasonably be expected, even when reasonable consideration is given to the Supplier's interests, to set even a brief time limit for rectification (particularly if operational safety is in peril or unusually severe consequential damage must be averted), we are authorized to cure defects, procure replacements, or make repairs at the Supplier's expense. During the period in which the item of delivery or performance is not in our custody pending re-performance, the Supplier bears the risk of loss. In the event of loss, the Supplier must supply a replacement at no cost to us.

If a Supplier must deliver or perform drawings or other requirements according to our specifications, a divergence in the delivery or performance from such requirements is tantamount to defectiveness.

# General Terms & Conditions of Purchase (GTP) of Söring GmbH

## 10. Proprietary rights, product liability

The Supplier must ensure that the goods it delivers or services it performs do not infringe any rights of third parties. The Supplier indemnifies us from and holds us harmless against all direct and indirect third-party product or producer liability claims that are attributable to a defect in the delivery item if the source thereof was located within its organization, or it is liable for the defect for other reasons (as, for instance, a quasi-producer or importer according to § 4 of the German Product Liability Act), or it is to be regarded in relation to us as the producer (owing, in particular, to breach of the duty provided in § 2(1) of these GTP). The Supplier is obligated to take out adequate business and product liability insurance. A copy of the valid insurance policy must be provided to us at no charge if we request it.

## 11. Invoicing / Terms of payment

The Supplier must send us the invoice, which must include all particulars of the purchase order, after the good is shipped or performance is accepted. Partial invoices are acceptable only if partial deliveries have been agreed to. Unless otherwise agreed, payment is due after 14 days, less a cash discount of 3%, or in full if made after 30 days. The period allowed for payment begins upon receipt of invoice, but no earlier than our acceptance of the delivery or performance. Should corrections to invoices or invoice amounts become necessary in the course of business, they may be made only by issuing credits or, as the case may be, a new invoice. The Supplier is barred from offsetting obligations or withholding delivery unless its underlying counterclaims are not in dispute, are final and absolute, or are reciprocal to the claims asserted by us (§ 320 BGB; GERMAN CIVIL CODE). Rights of retention are further excluded whenever they are not based on the same contractual relationship.

## 12. Liability

Claims for damages of any kind against us or against our legal representatives or attorneys-in-fact are barred unless willful misconduct, gross negligence, or breach of a material contractual duty is present. A "material contractual duty" in this sense is defined as any duty the fulfilment of which makes proper performance of the contract possible in the first place and on observance of which the Supplier is normally entitled to rely. Except in the case of willful misconduct, however, liability is limited to compensation for the foreseeable damage typically associated with the contract. The foregoing liability limitations and exclusions do not apply to liability under the German Product Liability Act or in the case of injuries to life, limb or health. If the Supplier asserts a claim for reimbursement of expenses (§ 284 BGB; GERMAN CIVIL CODE) rather than a claim for damages, all provisions of this section (item 12) apply *mutatis mutandis*.

## 13. Technical documents, production aids

Technical documents, tools, production aids, etc. remain our property; all trademark rights, copyrights and other proprietary rights are retained by us. All such items or documents, including all duplicates that have been made, must be returned to us should we ask for their return. The Supplier is not authorized to assert a right of retention. These items and documents may be used only to complete the purchase order and may not be placed in the possession of, or otherwise made accessible to, third parties. Duplicating the aforementioned items is permitted only insofar as necessary to complete the order. Until such items or documents are returned us, the Supplier bears the duty of their care and protection.

## 14. Non-disclosure

The Supplier is obligated to treat confidentially, and to refrain from disclosing to third parties, all non-obvious commercial and technical details that become known in the course of the business relationship. Published references to the purchase orders or services and references to this purchase order in communication with third parties are subject to our prior written approval. References in promotional or other published materials to existing business relationships with us are likewise subject to our prior written approval. This includes the use of Söring lettering, Söring logos, Söring products, and images of Söring products or data.

## 15. Import and export provisions, customs

When deliveries are made or services performed from an EU member country other than Germany, the EU value-added tax identification number must be stated. The Supplier must provide us at no charge with a (long-term) supplier's declaration for goods with preferential origin status. The Supplier agrees to comply in each case with the provisions of foreign trade law (particularly import and export control regulations and customs regulations). If the goods or services are imported by us, then the Supplier is obligated to issue requested declarations and disclosures at its expense, to permit inspections by the customs authorities, and to furnish any required official certificates. The Supplier is obligated in addition to inform us of any existing licensing requirements for (re)exports under applicable export or customs regulations. The Supplier must also advise us, in detail and in writing, of export and customs regulations of the country from which the goods or services originate (stating the customs clearance number, country of origin, and exact description of the goods).

## 16. Safety, environmental protection

We make it a condition that the Supplier make all deliveries and perform all services in compliance with the provisions of law, particularly safety and environmental regulations, including the German Regulation on Hazardous Substances [*Verordnung über gefährliche Stoffe*] and the safety recommendations of the competent German professional bodies or associations. Pertinent certificates, inspection reports, and documentation must be delivered to us according to our requirements at no charge. The first delivery of a hazardous substance for any order must be accompanied by the current safety data sheet according to 91/155/EEC. The products, as well as the deliveries and services associated with them, accord with the prevailing state of the art in respect of energy efficiency.

## 17. Governing law; dispute resolution

The laws of the Federal Republic of Germany apply to the exclusion of the UN Convention on the International Sale of Goods. The language of proceedings is German. In the event of a dispute, the parties are called upon to resolve the dispute by amicable agreement. The exclusive venue for litigation is our principal place of business if the Supplier is a businessman, a legal entity under public law, or a special fund under public law, or if the Supplier has no general venue in Germany. If the Supplier has its principal place of business abroad, the complainant is entitled, alternatively, to bring an action instead before the arbitration tribunal of the Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS). If it does so, the arbitral tribunal has sole jurisdiction. The venue for arbitration is Hamburg. The language of proceedings is German.