

General terms and conditions of sale of S. Franzen Söhne GmbH, Mühlenweg 42, 40764 Langenfeld (hereinafter: SFS) for customers not resident in Germany; As of May 2024

1. Scope of application

- 1.1. These International Conditions of Sale apply to all customers of SFS if the relevant place of business of the customer is not in Germany. In each case, the relevant place of business is the one which concludes the contract in its own name.
- 1.2. These International Conditions of Sale apply to all contracts whose preponderant object is the supply of goods to the customer.
- 1.3. Conflicting or differing terms of business of the customer do not bind SFS, even if SFS does not object to them or even if SFS unconditionally renders performance or accepts the customer's performance. The provisions of this paragraph equally apply insofar as the terms of business of the customer, irrespective of the contents of these International Conditions of Sale, deviate from statutory provisions.
- 1.4. These International Conditions of Sale do not apply, if the customer buys the goods for personal, family or household use and if SFS knew or should have known that at the conclusion of the contract.

2. Formation of the contract

- 2.1. The customer is under an obligation to give written notice to SFS prior to the formation of a contract if the goods to be delivered are to be fit not only for normal use or if there is a risk of atypical damages or unusual amounts of loss of which the customer is or ought to have been aware.
- 2.2. Orders of the customer are to be put in writing. If the customer's order deviates from the proposal or the tender submitted by SFS, the customer will emphasize the differences as such.
- 2.3. All orders, in particular also those received by employees of SFS, will take effect exclusively if followed by a written acknowledgement of the order by SFS. The actual delivery of the goods ordered, any other conduct of SFS or silence on the part of SFS does not allow the customer to assume the formation of the contract. SFS can dispatch such written acknowledgement of the order up to and including fourteen (14) calendar days after the customer's order has been received by SFS. Until this time, the customer's order is irrevocable.
- 2.4. The written acknowledgement of the order by SFS shall be received in time, if it is received by the customer within fourteen (14) calendar days after its date of issue. The customer will inform SFS without delay, if the written acknowledgement of the order is received with some delay.
- 2.5. The written acknowledgement of the order by SFS sets out all the terms of the contract and brings the contract into effect even if -except for the price for the goods and the quantity to be delivered - the written acknowledgement is not consistent with the declarations of the customer in every respect, especially with reference to the exclusive application of these International Conditions of Sale. Particular wishes of the customer, namely warranties or guarantees with reference to the goods or the performance of the contract therefore require express written confirmation by SFS in every case. The contract will only fail to come into existence if the customer objects in writing that the acknowledgement of the order by SFS is not completely consistent with the declarations of the customer, the customer specifies the deviations in writing and if the objection is received by SFS within a short time, at the latest seven (7) calendar days, after receipt of the written acknowledgement of the order by the customer.
- 2.6. SFS's employees, commercial agents or other sales intermediaries are not authorized to dispense with the

requirement of a written acknowledgement of the order by SFS or to make promises which differ from its content or guarantees. If and to what extent such persons are authorized to make or receive declarations with effect for or against SFS, is to be determined according to German law.

- 2.7. Amendments to the concluded contract always require written confirmation by SFS.

3. Obligations of SFS

- 3.1. Subject to an exemption according to section 7.1. SFS must deliver the goods specified in the written acknowledgement of the order and transfer the property in the goods. SFS is not obliged to perform obligations not stated in the written acknowledgement of the order by SFS or in these International Conditions of Sale, in particular SFS is under no obligation to advise the customer.
- 3.2. SFS's obligations under the contract made with the customer are owed only to the customer. Third parties not involved in the conclusion of the contract, in particular the customer's clients, are not entitled to request delivery to be made to them or to assert any other claim arising from the customer's contract with SFS.
- 3.3. Taking account of the tolerances customary in trade SFS undertakes to deliver to the customer goods of the agreed kind and quantity which meet the common standards applicable in Germany. SFS is entitled to make part deliveries and to invoice them separately and ensures that at the time of delivery the goods are free from rights or claims of third parties which could prevent its use within the European Union.
- 3.4. If further specification is required in relation to the goods to be delivered, SFS will carry this out having regard to his own interest and to the identifiable and legitimate interests of the customer. A request to the customer to specify the goods, or to participate in the specification, is not required. SFS does not undertake to inform the customer of the specification he has made or to give the customer the option of a differing specification.
- 3.5. SFS is obliged to deliver the goods at the agreed delivery time EXW pursuant to Incoterms 2010 to the delivery address specified on SFS's order confirmation, unless different terms of delivery have been explicitly agreed. If no delivery address is specified on SFS's order confirmation, delivery shall be made EXW pursuant to Incoterms 2010 to the SFS branch at Mühlenweg 42, 40764 Langenfeld. Besides that, the provisions laid down in these International Conditions of Sale remain applicable.
- 3.6. The organization of the transport and the insurance of the goods beyond the place of delivery decisive according to section 3.5. is none of SFS's obligations, but is incumbent to the customer.
- 3.7. Agreed delivery time periods or delivery dates are subject to the customer's procuring any required documents, releases, permits, approvals, licences or any other authorizations or consents in sufficient time, opening letters of credit and/or making down-payments as agreed and performing all other obligations incumbent upon him properly and in good time and subject to no delay caused by pre-shipment inspections mandated by authorities. Moreover, agreed delivery time-periods begin on the date of the written acknowledgement of the order by SFS. SFS is entitled to deliver earlier than at the agreed delivery time or to select the date of delivery within the agreed period for delivery.
- 3.8. Without prejudice to his continuing legal rights, SFS is entitled to fulfil his obligations after the delivery time agreed upon, if the customer is informed that SFS will exceed the delivery time limit and of the time period for late performance. SFS will reimburse necessary additional expenditure, proven and incurred by the customer as a result of exceeding the delivery time to the extent that SFS is liable for this under the provisions laid down in section 7.
- 3.9. Risks as to price and performance even in relation to goods

which are not clearly identifiable to the contract and without it being necessary for SFS to give notice, pass to the customer with delivery pursuant to section 3.5., albeit irrespective of delivery as soon as the title to the goods has passed to the customer. Besides that, the provisions laid down in these International Conditions of Sale remain applicable.

- 3.10. SFS is not obliged to clear the goods for export. However, SFS will apply for necessary export licences and customs formalities necessary for the export after the customer has furnished SFS with the data essential for the export in a written notice attending to this purpose exclusively. If the goods are not cleared for export without any fault on the part of SFS, SFS is entitled to avoid the contract of sale in whole or in part without compensation. Besides that, the provisions laid down in these International Conditions of Sale remain applicable.
- 3.11. SFS is not obliged to procure documents or certificates not expressly agreed, to obtain any licences, authorizations or other documents necessary for the export, transit or import, or to provide security or customs clearance. Besides that, the provisions laid down in these International Conditions of Sale remain applicable.
- 3.12. SFS is in no case liable to perform duties associated with the making available of the goods on the market outside Germany, to bear levies, duties and charges accruing outside Germany, to comply with weight and measuring systems, packaging, labelling or marking requirements or registration or certification obligations applicable outside Germany or to comply with any other legal provisions applicable to the goods outside Germany.
- 3.13. Without prejudice to his continuing legal rights and without a previous notice to the customer being necessary, SFS is entitled to suspend the performance of his obligations so long as, in the opinion of SFS, there are grounds for concern that the customer will wholly or partly fail to fulfil his obligations in accordance with the contract.
- 3.14. Except as provided in section 3.8., SFS is only obliged to inform the customer of possible disruption in performance, once the commencement of the disruption is definitely certain for SFS.

4. Obligations of the customer

- 4.1. The customer undertakes to pay the agreed price for the goods in the currency specified in the written acknowledgement of the order transferring it without deduction and free of expenses and costs to one of the financial institutions designated by SFS. To the extent that a price for the goods has not been agreed, the price which is at the agreed time of delivery SFS's usual price for the goods will apply. SFS's employees, commercial agents or other sales intermediaries are not authorized to accept payments.
- 4.2. The payment to be made by the customer is in any event due for payment at the time specified in the written acknowledgement of the order or - if a time for payment is not indicated - on receipt of the invoice. The due time for payment arises without any further pre-condition and, in particular, does not depend on whether the customer has already taken delivery of the goods and/or the documents and/or has had an opportunity to examine the goods.
- 4.3. The customer warrants that all legal requirements and documentations for the handling regarding customs laws and value added tax of the delivery and/or any service will be fulfilled.
- 4.4. Regardless of the currency and of the jurisdiction of any court, SFS is entitled at his own discretion to set off incoming payments against claims existing against the customer by virtue of his own or assigned rights at the time of payment.
- 4.5. Any statutory rights of the customer to set-off against claims of SFS, to withhold payment or taking delivery of the goods, to suspend the performance of his obligations or to raise defences or counterclaims are excluded, except where the corresponding claim of the customer against SFS is in the

same currency, is founded in the customer's own right and is either due and undisputed or has been finally adjudicated or where despite written warning by the customer SFS has committed a fundamental breach of his obligations due and arising out of the same contractual relationship, and has not offered any adequate assurance.

- 4.6. The customer undertakes to furnish SFS with the data to apply for the customs formalities according to section 3.10. reasonable time ahead, to take delivery of the goods either by himself or by a person appointed by him to SFS at the delivery time without taking any additional period of time and at the place of delivery resulting from section 3.5. and shall fulfil all the duties imposed by the contract, by these International Conditions of Sale, by the rules of the ICC for the use of Incoterms® 2010 and by statutory provisions. The customer is only entitled to refuse to take delivery of the goods if he avoids the contract in accordance with the rules in section 6.1.

5. Delivery of non-conforming goods or goods with defective title

- 5.1. Without prejudice to any exclusion or reduction of liability of the seller provided by law, goods do not conform with the contract if the customer proves that, taking into account the terms in section 3., at the time the risk passes the packaging, quantity, quality or the description of the goods is significantly different to the specifications laid down in the written acknowledgement of the order, or in the absence of agreed specifications, the goods are not fit for the purpose which is usual in Germany. Regardless of the stipulation established in sentence 1, the goods shall be deemed to conform with the contract to the extent that the legal regulations applicable at the place of business of the customer do not prevent the usual use of the goods.
- 5.2. To the extent that the written acknowledgement of the order by SFS does not contain an explicit statement to the contrary, SFS is in particular not liable for the goods being fit for a purpose which is not usual in Germany or for complying with further reaching expectations of the customer or for possessing the qualities of a sample or a model or for their compliance with the legal regulations existing outside of Germany, for instance in the customer's country. SFS shall also not be liable for any non-conformity with the contract which occurs as a consequence of the use of the goods beyond the applications released by SFS or under conditions of use other than those set by SFS or which did not exist at the time the risk has passed.
- 5.3. The customer is obliged vis-à-vis SFS to examine or to have examined every single delivery comprehensively for any discoverable or typical lack of conformity with the contract and moreover as required by law.
- 5.4. Without prejudice to any exclusion or reduction of liability of the seller provided by law, goods have a deficiency in title if the customer proves that the goods are not free from enforceable rights or claims of third parties at the time risk passes. Without prejudice to further legal requirements, third parties rights or claims founded on industrial or other intellectual property constitute a deficiency in title only to the extent that the rights are registered, made public and in legal force in Germany and prevent the usual use of the goods in Germany. Regardless of the stipulation established in sentence 1, title to the goods shall be deemed not to be defective to the extent that the legal regulations applicable at the place of business of the customer do not prevent the usual use of the goods.
- 5.5. The notice of any lack of conformity with the contract or any deficiency in title has to be made in writing and directly to SFS and to be formulated in such a precise manner as to enable SFS to effect remedy measures without need for further inquiries at the customer and to secure claims against SFS's suppliers and moreover as required by law, in particular regarding the time-wise requirements.
- 5.6. Following due notice according to section 5.5., the customer can rely on the remedies provided by these International

Conditions of Sale. The customer has no other rights or claims whatsoever and no claims of a non-contractual nature. In the event of notice not having been properly given, the customer may only rely on remedies if SFS has fraudulently concealed the lack of conformity with the contract or the deficiency in title. Statements by SFS as to the lack of conformity with the contract or as to the deficiency in title are for the purpose of explaining the factual position only, but do not entail any waiver by SFS of the requirement of proper notice.

- 5.7. To the extent that the customer in accordance with the terms of these International Conditions of Sale is entitled to remedies because of delivery of non-conforming goods or goods with defective title, he is entitled to demand in accordance with the terms of the UN Sales Convention delivery of substitute goods or repair or to reduce the price for the goods. The delivery of substitute goods or repair does not lead to a recommencement of the limitation period. Irrespective of the customer's remedies, SFS is always entitled in accordance with the provision in section 3.8. to repair goods which do not conform with the contract or to supply substitute goods or to avert the customer's remedies by giving him a credit note of an appropriate amount.
- 5.8. The limitation period for any remedy based on delivery of non-conforming goods or goods with a deficiency in title is one (1) year and starts to run according to the applicable statutory law.

6. Avoidance of the contract

- 6.1. The customer is entitled to declare the contract avoided, if the respective applicable legal requirements are complied with, after he has threatened SFS with avoidance of the contract in writing and an additional period of time of reasonable length for performance fixed in writing has expired to no avail. In any event, the customer must give notice of avoidance of the contract within reasonable time in writing and to SFS directly.
- 6.2. Without prejudice to his continuing legal rights, SFS is entitled to avoid the contract in whole or in part if the customer objects to the application of these International Conditions of Sale, if on grounds for which SFS is not responsible the written acknowledgement of the order by SFS is received by the customer more than fourteen (14) calendar days after its date of issue, if insolvency proceedings relating to the assets of the customer are applied for, if SFS through no fault of his own does not receive supplies properly or on time, or if for other reasons SFS cannot be expected to fulfil his obligations by means which - taking into consideration his own interests and that of the customer as far as ascertainable and legitimate at the time of formation of the contract - are unreasonable, in particular in relation to the agreed counter-performance. Likewise SFS is entitled to avoid the contract after prior warning if the customer does not furnish SFS with the data necessary to apply for customs formalities in due time, if the customer without providing a justifiable reason does not meet fundamental obligations due towards SFS or towards third parties, if the customer has provided inaccurate information regarding his creditworthiness or to the extent that the cover given by a credit insurer is reduced on grounds for which SFS is not responsible.

7. Damages

- 7.1. Without waiving the legal requirements SFS is only obliged to pay damages due to the violation of obligations resulting from the contract with the customer, the contractual negotiations carried on with the customer or the business relation with the customer in accordance with the following provisions:
- The customer is required in the first instance to rely on other remedies and can only claim damages in the event of a continuing deficiency. The customer cannot claim damages as an alternative to other remedies.
 - SFS is not liable for the conduct of suppliers, subcontractors, carriers or freight-forwarders or for

damages to which the customer has contributed. Neither is SFS liable for impediments which occur, as a consequence of natural or political events, acts of state, industrial disputes, sabotage, accidents, terrorism, biological, physical or chemical processes or comparable circumstances and which cannot be controlled by SFS with reasonable means. Moreover, SFS is only liable to the extent that the customer proves that the executive bodies or members of staff of SFS have deliberately or negligently breached contractual obligations owed to the customer.

- In the event of liability SFS will compensate within the limits of lit. d. the losses of the customer to the extent that the customer proves that he has suffered an unavoidable loss caused by the breach of obligations owed to the customer by SFS and foreseeable to SFS, at the time of the formation of the contract in respect of the occurrence of the loss and its amount. Moreover, the customer is required to mitigate his loss as soon as a breach of contract is or ought to be known.
 - SFS is not liable for loss of profit or damage to reputation. Moreover, the amount of damages for late or non-existent delivery is limited to 0,5 per cent for each full week of delay, up to a maximum of 5 per cent, and in case of remedies because of delivery of non-conforming goods and/or goods with a deficiency in title is limited to an amount of 200 per cent of the value of the non-conforming part of the contract. However, this subparagraph does not apply to injury of life, body or health, to fraudulent concealment of the non-conformity or deficiency in title of the goods and to other breaches of contractual obligations due to intentional harm or gross negligence.
- 7.2. Irrespective of continuing legal or contractual claims the customer is obliged to pay damages to SFS as follows:
- In the event of delay in payment the customer will pay the costs of judicial and extra-judicial means and proceedings, usual and accruing within the country and abroad, as well as (without evidence being necessary) interest at the rate applicable in 40764 Langenfeld/Germany for unsecured short-term loans in the agreed currency, at least however interest at 9 per cent points over the base rate of the German Federal Bank (Deutsche Bundesbank).
 - In the case of a failure to take delivery of the goods by the customer or of seriously late taking delivery of the goods by the customer, SFS is entitled to claim damages without evidence being necessary up to 15 per cent of the value of the goods to be delivered.
- 7.3. Within the bounds of what is legally possible as well as within what is usual in the trade, the customer is in his commercial relationships with his clients obliged to limit his liability both in principle and in amount.

8. Other provisions

- 8.1. Title of the goods that have been delivered remains with SFS until settlement of all claims existing against the customer. The allocation of risk as to price and performance in section 3.9. is not affected by the reservation of title.
- 8.2. In relation to pictures, drawings, calculations and other documents as well as computer-software, which have been made available by SFS in a material or electronic form, the latter reserves all proprietary rights, copyrights, other industrial property rights as well as know-how rights.
- 8.3. All communications, declarations, notices etc. are to be drawn up exclusively in German or English. Communications by means of fax or e-mail fulfil the requirement of being in writing.

9. General basis of contracts

- 9.1. The place of delivery results from section 3.5. of these International Conditions of Sale and applies likewise to the

delivery of substitute goods or the repair of delivered goods. The place of payment and performance for all the rest of obligations arising from the legal relationship between SFS and the customer is 40764 Langenfeld/Germany. These provisions also apply if SFS assumes the costs of money remittance, renders performance for the customer somewhere else or payment is to be made in exchange of documents or goods or in the case of restitution of performances already rendered. Besides that, the provisions laid down in these International Conditions of Sale remain applicable.

- 9.2. The United Nations Convention of 11 April 1980 on Contracts for the International Sale of Goods (UN Sales Convention / CISG) in the English version governs the legal relationship with the customer. The UN Sales Convention applies, above and beyond its own area of application, and regardless of reservations adopted by other states, to all contracts to which these International Conditions of Sale are to be applied according to the provisions of section 1. Where standard terms of business are used, in case of doubt the Incoterms® 2010 of the International Chamber of Commerce apply taking into account the provisions stipulated in these International Conditions of Sale.
- 9.3. The formation of contract, including agreements as to the jurisdiction of courts and arbitrators, and the rights and obligations of the parties, also including the liability for death or personal injury caused by the goods to any person and breach of pre-contractual and collateral obligations, as well as the interpretation are exclusively governed by the UN Sales Convention together with these International Conditions of Sale. Subject to differing provisions in these International Conditions of Sale, the rest of the legal relationship between the parties is governed by the Swiss Code of Obligations.
- 9.4. All contractual and extra-contractual disputes as well as disputes under insolvency law, arising out of or in connection with contracts to which these International Conditions of Sale apply, including their validity, invalidity, violation or cancellation as well as other disputes arising out of the business relationship with the customer shall be finally resolved, without recourse to the ordinary courts of law, by arbitration according to the Swiss Rules of International Arbitration (Swiss Rules) in force on the date when the Notice of Arbitration is received in accordance with these Rules. The tribunal shall consist of three arbitrators, one (1) of them shall be nominated by the claimant, one (1) of them by the respondent and the chairman of the tribunal shall be designated by the two arbitrators so nominated, or if the amount in dispute is inferior to € 100.000, there shall be one (1) arbitrator appointed according to the Swiss Rules of International Arbitration. The place of the arbitration shall be Zurich/Switzerland, the languages used in the arbitral proceedings shall be German and/or English. The competence of the Arbitral Tribunal excludes especially every statutory competence, which is provided by reason of a personal or substantive relation. If this arbitration clause is ineffective or ceases to be effective, the exclusive local and international jurisdiction of the courts which have jurisdiction for 40764 Langenfeld/Germany is agreed for all disputes instead. Instead of bringing an action before the arbitral tribunal and irrespective of any ineffectiveness of the arbitration clause, SFS is also entitled to bring an action before the State Court which has jurisdiction for 40764 Langenfeld/Germany or the State Court of the customer's place of business, or any national court with jurisdiction according to domestic or foreign law.
- 9.5. If provisions of these International Conditions of Sale should be or become partly or wholly ineffective, the remaining arrangements will continue to apply. The parties are bound to replace the ineffective provision with a legally valid provision, as close as possible to the commercial meaning and purpose of the ineffective provision.