

TERMS AND CONDITIONS

SYNEDRA INFORMATION TECHNOLOGIES GMBH

Feldstraße 1/13 | A-6020 Innsbruck („synedra“)

I. Scope

In the absence of any additional written agreement, these Terms and Conditions („GTC“) are the only Terms and Conditions governing transactions between synedra and its partner. These GTC govern transactions as set out below:

- i. provision of supporting and executing services according to an individual contract and/or the GTC. Supporting services include consulting within the field of information technologies (IT), whereas executing services extend to those services where synedra bears responsibility for the planning, governing, and management of the services provided and the results achieved.
- ii. software development and implementation and other works under Austrian Copyright Law (UrhG); granting of licenses according to an individual contract and/or these GTC.
- iii. maintenance and support according to an individual contract and/or these GTC.
- iv. software and hardware distribution

Any alternative terms and conditions proposed by the partner shall not apply unless expressly agreed in writing by synedra and partner. For third party software products, third party General Terms and Conditions shall apply.

II. Conclusion of Contract

The contract is deemed to be concluded when synedra provides written confirmation of the order to the partner after receipt of the order. The order is binding upon the partner. Any contract modifications or amendments are invalid unless confirmed in writing by synedra.

Offers, quotes and/or estimates provided by synedra, in particular with regard to time and material, are non-binding and are subject to alteration. This also applies to information obtained from catalogs, brochures as well as the Internet. All contents remain the exclusive property of synedra.

III. Compliance, Reservation of Title

synedra is entitled to provide partial deliveries and perform partial services at any time. Any delivery dates, unless otherwise expressly confirmed in writing, are not binding and are subject to change. Compliance with (confirmed) delivery dates on the part of synedra requires the partner's timely provision of appropriate information. synedra is willing to exactly fulfill delivery terms. If synedra fails to comply with the delivery dates agreed upon, the partner may withdraw from the contract only if reasonable notice is given to remedy the breach and only if synedra is accused of a willful or grossly negligent breach. Warranty claims are limited according to Provision IV and damages are limited according to Provision VII. Partner will be liable for any delay and cost increase due to incorrect details provided by partner to synedra.

Binding delivery periods can be extended due to unforeseen circumstances, including but not limited to acts of God, strike, war or natural disasters. synedra shall be entitled to extend the

delivery date according to the extent and duration of these force majeure circumstances and their consequences without allowing the partner to terminate the contract or claim for damages.

Goods and services delivered to the partner remain the sole property of synedra until the purchase price has been paid in full and until all payments have been made (including interests and costs involved in their collection) that are due to synedra from the partner for any legal reason either now or in the future.

IV. Warranty

Warranty claims can only be asserted if partner provides written notification and proof of visible defects within seven days of acceptance. If there is no written notification within respective time period, the goods and services shall be deemed accepted. Any warranty claims shall be limited to repairing or replacing the delivered goods and services and shall in any event be limited to the invoice value of the delivered and defective good or service. The burden of proof for the defect of the goods and services agreed to provide lies with the partner. Further claims against synedra, particularly claims for direct, indirect, consequential or punitive damages are excluded.

V. Payment Conditions

Payment of the invoice, unless otherwise agreed, is due immediately upon receipt. All prices quoted are ex-works and exclusive of VAT and any other taxes or duties. In the event of overdue payment, synedra shall be entitled to charge default interest at a rate of 8% above the bank rate pursuant to Section 1333 of the Austrian Civil Code (ABGB). In the event of overdue payment, partner shall pay a surcharge of €5 (excluding postage) per reminder as well as the collection agency costs at the rate according to the current regulation. Partner is not entitled to withhold or offset payments on the grounds of warranty claims, damage claims and other counterclaims.

synedra reserves the right to offset any works against outstanding invoices or according to Provision III. reclaim all goods delivered and exploit them.

VI. Partner's Obligations

Prior to using synedra products, partner must ensure that all applicable national and international obligations with regard to using a medical device are met. Furthermore, partner undertakes to use synedra products in compliance with their intended purpose of use as set out in the current regulations as well as to cooperate with synedra in the event of a product recall. Furthermore, in the event of damage claims, partner shall (i) provide accurate information (ii) grant access to the hard- and software (iii) and support synedra on a best endeavors basis. If damage claims are unjustified, synedra shall be entitled to fair compensation according to the current price list.

VII. Damages

Any claims for damages against synedra are excluded unless the damage results from gross negligence or willful misconduct on the part of synedra. Gross negligence does not include mere ordinary negligence; gross negligence is any act or failure to act which is in reckless disregard of harmful consequences which synedra knew of or should have known could result from such act or failure to act. The liability of synedra shall in any case be limited to direct damage to the delivery with a maximum amount of €500,000 (EURO five hundred thousand). synedra cannot be held liable for damage or injury to persons, for damage to goods that are not part of the contract, for loss of profit and all other consequential damages. synedra shall not be liable for individual and/or standard software provided to the partner in the following events:

- Errors, malfunctions or defects caused by improper operation/use (in particular with regard to the product documentation delivered, unsuitable organization or operating conditions), as well as damage in transit;
- Alterations, modifications and adaptations or the like not carried out or authorized by synedra;
- Claims based on the combination or use of services together with devices, data or third party programs not supplied by synedra and/or made without the explicit written consent of synedra;
- Damage due to program errors caused by accidents, abuse or unauthorized reproduction. synedra has liability for damages caused by any of its employees or agents according to Section 1313a of the Austrian Civil Code (ABGB) only insofar as the damage was caused by reason of any grossly negligent act.

Compensation for data or software destruction shall only be granted insofar as any obligation to provide a proper operating environment has been met by the partner. Any claims for damages must be brought to court within a period of six months from when the partner has become aware of the damage and the damaging party, failing which any claims shall be excluded. Any other remedy, including but not limited to disappearance of the basis of the transaction, are hereby excluded to the fullest extent permitted by law.

synedra expressly excludes any liability and warranty insofar as the service for and/or maintenance of the system provided is not carried out by synedra itself or by a person or company expressly authorized in writing by synedra.

VIII. Confidentiality

“Confidential information” means any information relating to proprietary products and processes, know-how, trade secrets, data and all other information, that is disclosed or made available to partner. Partner shall be obliged to keep such confidential information strictly confidential and agrees not to disclose such confidential information, whether directly nor indirectly, to any third party nor use it. These obligations shall survive any termination or expiration of any contract howsoever occasioned. Partner shall return all confidential information in written or other tangible form, including all copies and work papers thereof, immediately following synedra's request.

IX. Intellectual Property Rights

Partner will be granted a non-exclusive, non-transferable (esp. without the right to sublicense), indefinite license to use synedra products according to Section 40a of the Austrian Copyright Law (UrhG) provided that the license fee has been paid in full and as long as being subject of an individual contract.

Partner may not copy, rent, lease, modify, translate, sublicense, time share, or publish the product in whole or in part to any third party and will support synedra by obtaining a protective order if synedra Intellectual Property Rights are infringed.

X. Termination

synedra and partner have the right to terminate any contract at any time via registered mail to the last known address if synedra or partner fail to comply with the terms and conditions set forth herein, e. g. if partner fails to meet her/ his payment obligations within agreed contract terms, plus a reasonable grace period; if partner fails to observe her/ his obligations as a user of a medical device; if bankruptcy proceedings are taken against synedra or partner.

In the event of termination, goods and services already delivered shall be paid by partner according to contract terms. synedra may also terminate the contract if subject matter of the contract is impossible due to force majeure. Costs involved so far can be charged by synedra.

XI. Miscellaneous

synedra may subcontract any of the services agreed to provide to any third party at its discretion. Rights may not be assigned or transferred without the prior written consent of synedra.

Partner expressly agrees to receive postal and e-mail information from synedra for commercial purposes (in particular information about newly available software improvements or components and new software versions).

These GTC shall be governed and construed in accordance with the laws of the Republic of Austria, excluding the Principles of Conflict of Laws and the Convention on Contracts for the International Sale of Goods (CISG). Any litigation arising directly or indirectly out of delivery of goods and/or services provided by synedra shall be exclusively pursued by the court competent for subject matter in Innsbruck, Austria. However, synedra reserves the right to apply to any competent court.

All messages, notifications, reminders, deadlines, notices of defects and other legal declarations between synedra and the partner must be in writing. This also applies to any waiver of that provision.

If individual provisions of the GTC become invalid, the remaining provisions stay in force. In that case synedra and partner agree that the invalid provision shall be replaced by a provision whose commercial purpose approaches that of the invalid provision as closely as possible.

Any translation of these GTC into a language other than German is solely for the purpose of explaining the terms and conditions of use. Partner agrees that (i) the German language version is the version that governs any transaction under these GTC; and (ii) a version in any other language cannot be used to explain or construe any terms, should there be any dispute between partner and synedra.