

**Last Updated: February 10th, 2021**

## **Terms & Conditions of Sale of Goods (Ts & Cs)**

### **1. Applicable Terms and Conditions**

1.1 These Terms and Conditions (hereinafter referred to as "Ts & Cs") govern the customer's purchase of the goods from SORACOM, INC. and/or its affiliates: SORACOM CORPORATION, LTD. and Soracom Global, Inc. (hereinafter collectively referred to as "SORACOM") through the website operated by SORACOM (hereinafter referred to as the "Website"). Which company of SORACOM is the contracting entity depends on which product the customer purchases. Notwithstanding the foregoing, for customers located in Japan, the other terms shown [here](#) shall apply instead of these Ts & Cs.

1.2 BY ACCEPTING THESE TS & CS, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE THAT REFERENCES THESE TS & CS, YOU AGREE TO THESE TS & CS. IF YOU ARE ENTERING INTO AN AGREEMENT UNDER THESE TS & CS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TS & CS.

1.2 With respect to the products listed on the Website for which the seller is a third party other than SORACOM, the terms and conditions separately offered on the checkout page will apply.

1.3 In addition, these Ts & Cs do not apply to the IoT SIM for Japan Coverage because it will be rented from SORACOM to the subscriber of the service using the SIM and not sold.

### **2. Amendment of Ts & Cs**

SORACOM may change and/or update these Ts & Cs. SORACOM will notify customers of such changes where the changes are material and also update the Website. Customers are bound by these changes and updates upon placing orders after the notice above.

### **3. Order Placement Method**

Processing of purchase order: Unless otherwise instructed by SORACOM in writing, purchase orders are processed through the Website after agreeing to these Ts & Cs and other conditions stated on the webpages for respective goods (hereinafter referred to as the "Individual Conditions").

### **4. Acceptance**

4.1 Acceptance of purchase order: Upon the acceptance of a purchase order, SORACOM may ask customers further information in order to assess their creditworthiness.

4.2 SORACOM will process purchase orders unless they fall under any of the circumstances below.

- i. The customer is likely not to perform their obligations under these Ts & Cs.
- ii. The acquisition of the goods by the customer is likely to tarnish the reputation and/or negatively affect the interests of SORACOM or third parties.
- iii. The acquisition of the goods by the customer is likely to infringe on the intellectual property rights, proprietary rights, or other rights of SORACOM or third parties.
- iv. When the customer has committed an act that seriously impairs the relationship of trust with SORACOM, or when the customer or its officers fall into the category of "Anti-Social Forces".
- v. When SORACOM has previously had cancelled a purchase order from the customer.

vi. Upon misrepresentation by the customer to SORACOM.

vii. When the credit or debit card used in the purchase order is not processed by the financial institution.

4.3 Notwithstanding the provisions of the previous paragraphs, SORACOM may delay the acceptance of a purchase order.

## **5. Entry into Force of the Ts & Cs**

These Ts & Cs shall take effect between the customer and SORACOM on the date of the acceptance of the purchase order.

## **6. Notification of Change of Name**

6.1 If the customer changes their name, residence address, e-mail address, invoicing address, credit card details, or any other information designated by us (or, in the case of a corporation, the name, location of its principal office, and the name of its representative), the customer must immediately notify us of the change.

6.2 Upon receipt of the notification set forth in the previous paragraph, SORACOM may request the customer to present a document certifying the change of information.

6.3 In the event that the customer does not notify SORACOM of the changes set forth in 6.1, notices sent to the recorded address will be deemed valid.

## **7. Prohibited Acts**

In addition to what is provided for in other provisions of these Ts & Cs, customers shall not engage in any of the acts listed in the following items:

- i. Violation of laws, or contempt of court decisions, orders, or legally binding administrative measures.
- ii. Interference with public order or reasonably accepted morals.
- iii. The transfer of criminal proceeds and its facilitating, aiding, or related activities.
- iv. Transmission of misinformation impersonating a third party.
- v. Placement of a purchase order without intention to acquire the goods.
- vi. Refusal to receive without rightful grounds.
- vii. Return of goods without rightful grounds.
- viii. Engagement in economically empty transactions (round-tripping) such as self-dealings, internal dealings within related parties, or fictitious dealings.
- ix. Infringement of SORACOM's rights or the rights of third parties.
- x. Acts of unauthorized access to SORACOM Websites or system and/or acts to encourage it.
- xi. Inducing a malfunction on the Website.
- xii. The use, creation, or distribution of external tools that give rise to or normally have an unintended effect on the Website.

- xiii. Placing an excessive burden on SORACOM's servers, computers, etc.
- xiv. Transmission or dissemination of harmful programs such as computer viruses to SORACOM and/or third parties.
- xv. Interfering with the operation of the Website.
- xvi. Use of the Website for fraudulent purposes.
- xvii. Breaching of these Ts & Cs or Individual Conditions or using the Website contrary to the purpose of the Website.
- xviii. Use of the Website for inappropriate purposes.
- xix. Other matters that SORACOM deems inappropriate.

## **8. Delivery of Goods**

8.1 Unless otherwise explicitly communicated by SORACOM, all deliveries are ex-works (EXW) SORACOM's designated facility, per Incoterms 2010.

8.2 If customers place orders for multiple products on the Website at the same time, SORACOM may, at its discretion, dispatch such goods after they all have become ready.

8.3 SORACOM will notify the customer of the date of shipment or arrival of the goods, but these dates are to be considered approximate and are not legally binding.

8.4 The customer must promptly check for any errors or defects in the product name, quantity, appearance, and function after the delivery of the goods, and must promptly report any such occurrences to SORACOM.

## **9. Allocation of Risk**

The risks pass to the customer at time of shipment of the goods from SORACOM's designated facility. If the shipment is delayed or made impossible by reasons beyond the control of SORACOM, the goods are stored at customer's cost and risk.

## **10. Transfer of Ownership**

Unless otherwise set forth in Individual Conditions, the ownership of the goods is transferred from SORACOM to the customer upon delivery.

## **11. Price**

11.1 SORACOM does its best to display accurate product information, but in the event that information relating to the price is incorrectly displayed on the Website, the price will be adjusted in the following manner:

- i. If the correct price of the goods is lower than the price shown on the Website, SORACOM will charge the lower price.
- ii. If the correct price of the goods is higher than the price shown on the Website, SORACOM reserves the right either to notify customers about the price difference and ask for shipping instructions, or cancel the purchase order and notify the customer of such cancellation.

11.2 Unless otherwise explicitly communicated by SORACOM, all prices are ex-works (EXW) SORACOM's designated facility, per Incoterms 2010, and freight and insurance are at the customer's charge and, to the extent relevant, will be charged separately by SORACOM.

11.3 Shipping cost, VAT, sales and other similar taxes are not included in the prices displayed on the Website. When ordering goods from SORACOM for delivery overseas, the customer may be subject to import duty and taxes which are levied once the goods reach the overseas destination. Any additional charges for such duties and taxes, whether for customs clearance or otherwise, must be borne by the customer. The customer should check with the local customs office before placing the order.

## **12. Payment**

12.1 The customer shall pay the price of the goods in accordance with the payment schedule set by SORACOM.

12.2 In the event that the customer fails to pay the price of the goods or any other payment obligation under these Ts & Cs after the due date, the customer will pay interest on the amount in arrears calculated at the rate of 14.6% per annum for the number of days from the day following the due date until the day preceding the payment date.

## **13. Intellectual Property**

No intellectual property rights are transferred to the customer upon the purchase of the goods.

## **14. Defective Goods**

14.1 SORACOM will, at its own discretion, replace the goods, refund the price of the goods, or repair the goods if the customer discovers and notifies SORACOM of any defect within **14 days** from the date of delivery of the goods.

14.2 Notwithstanding any other provision of these Ts & Cs, the only liabilities that SORACOM are liable for regarding non-compliance with these Ts & Cs are those set forth in this section. However, this does not apply if otherwise stated in Individual Conditions.

14.3 The customer shall promptly notify SORACOM and provide the necessary information if a claim for damages is received or a lawsuit is filed against the customer by a user of the goods or a third party based on a defect in the goods.

## **15. Product description**

The information about the goods on the Website is for reference only and is also subject to changes and updates. SORACOM does not guarantee its suitability to customers' needs and therefore SORACOM strongly advises customers to inquire about the goods before placing a purchase order.

## **16. Software**

If the goods incorporate software, the version of the software is subject to change or update without notice to the customer.

## **17. Compensation**

In the event that the other party is damaged due to a breach of these Ts & Cs or Individual Conditions, SORACOM or the customer will be liable for damages incurred by the other party due to the breach of such obligations, unless otherwise set forth in these Ts & Cs.

## **18. Limitation of Liability**

18.1 Whether the parties, or their affiliates, were or should have been aware of the possibility of damages, in no event will SORACOM aggregate liability under these Ts & Cs, in contract, tort (including negligence), statutory duty or otherwise howsoever for any claim, damage, loss or costs in respect of (whether direct or indirect) the goods shall not exceed the price allocable to the goods,

which gives rise to the claim. This amount includes all legal and other professional fees, costs and expenses incurred by the customer in establishing and presenting any claim against the SORACOM.

18.2 SORACOM will not, under any circumstances, be liable to the customer for any incidental, consequential, indirect, punitive, special, or reliance damages related to an engagement under these Ts & Cs. Consequential damages include, but are not limited to:

- i. Loss of revenue
- ii. Loss of goodwill
- iii. Loss of business
- iv. Loss of opportunities and contracts
- v. Loss or corruption of software and data (personal data exclusive)

18.3 The parties agree that these Ts & Cs are fair and reasonable therefore, save as provided by local legislation and/or in these Ts & Cs, all warranties, conditions and other terms implied by statute or Common Law, or Civil Law rules or through trade custom or course of dealing are, to the fullest extent permitted by law, excluded from the Contract.

18.4 Where SORACOM supplies the goods to the customer for incorporation with, or use ancillary to, any composite or other products to be produced, manufactured, processed or supplied by the customer or a third party then the customer shall indemnify and keep indemnified SORACOM against all and any actions, claims, demands, costs and expenses (including legal expenses and disbursements) incurred by or made against SORACOM relating to the composite or other products in circumstances in which the goods supplied by SORACOM are either:

- i. not the defective part of the composite or other product; or
- ii. only rendered the defective part or became a defective product by reason of acts or omissions of the customer or a third party; or
- iii. only rendered the defective part or became a defective product by reason of instructions or warnings given by the customer or third-parties' following instructions from the customer.

## **19. Assignment of Rights and Obligations**

19.1 The customer may not assign, succeed or offer as security all or part of the rights and obligations arising from an agreement under these Ts & Cs to a third party without the prior written consent of the other party.

19.2 SORACOM may assign and transfer rights and obligations arising from any agreements under these Ts & Cs without the customer's consent (i) in connection with a merger, acquisition or sale of all or part of SORACOM's assets, or (ii) to any affiliate or as part of a corporate reorganization; and effective upon such assignment or transfer, the assignee/transferee is deemed substituted for SORACOM as a party to the agreement under these Ts & Cs and SORACOM is fully released from all of its obligations and duties to perform the agreement under these Ts & Cs. Subject to the foregoing, any agreement under these Ts & Cs will be binding upon, and inure to the benefit of the parties and their respective permitted successors and assigns.

## **20. Export Control**

20.1 When exporting the goods to foreign countries or entering into transactions on the premise of exporting or providing technology to non-residents, the customer shall observe any applicable laws and regulations regarding export control ("Export Control Rules").

20.2 In the case of exporting goods or technologies that are subject to Export Control Rules, the customer shall obtain the necessary export licenses or service licenses before exporting such goods or technologies.

20.3 With the exception of SIM (Subscriber Identity Module), SORACOM does not provide parameter sheets or any other export-related documents. In addition, the SORACOM does not guarantee the

accuracy, completeness and reliability of the content of such documents, even if the SORACOM has provided them to the customer.

20.4 If necessary, in order to comply with laws and regulations including without limitation Export Control Rules, SORACOM may request information, including but not limited to, about the resales of the goods.

## **21. Termination**

21.1 SORACOM may terminate any agreement under these Ts & Cs in whole or in part immediately without any notice if you fall under any of the following items.

- i. If the customer is in breach of these Ts & Cs and fail to remedy the breach within a reasonable period of time despite being notified by SORACOM;
- ii. If it is unlikely that the customer will perform his/her obligations under the agreement within the period of time without a justifiable reason;
- iii. In the event that the performance of obligations under these Ts & Cs become unattainable due to a natural disaster or force majeure;
- iv. When a petition for seizure, provisional seizure, provisional disposition or auction is filed, or when a tax delinquency is imposed, or when a petition for bankruptcy, civil rehabilitation proceedings or corporate reorganization proceedings is filed, or when a similar threat arises against the customer;
- v. When the customer receives a disposition of cancellation or suspension of trade activities from the regulatory authorities
- vi. In the event of having caused serious harm or damage to SORACOM or a third party.
- vii. When there are other reasonable grounds for not being able to comply with these Ts & Cs.

21.2 The customer will immediately notify SORACOM of any significant change or threat of a significant change in their business condition, such as those falling under any of Items (iii) through (v) of the preceding paragraph.

21.3 When the customer falls under any of the items in paragraph 21.1 (except Item iii), the customer will automatically lose the benefit of time and immediately pay a lump sum related to their remaining obligations to SORACOM for any and all obligations incurred under these Ts & Cs.

## **22. Set-Off**

In the event that SORACOM has a pending credit against the customer, whether or not it is based on these Ts & Cs, SORACOM reserves the right to set off such a credit against SORACOM's debts in the equivalent amount, regardless of the due date.

## **23. Ts & Cs Publicity**

SORACOM will post the latest versions of these Ts & Cs on the Website.

## **24. Privacy Policy**

SORACOM will set a policy for the handling of the customer's personal, identifiable information and publish it on SORACOM Website.

## **25. Anti-Social Activities**

25.1 SORACOM and the customer represent and guarantee that they do not fall under any of the following categories of Anti-Social Forces, which are stipulated in the Guidelines for Preventing Damage from Anti-Social Forces (agreed upon at the Japanese Cabinet Ministerial Meeting Concerning Measures against Crime on June 19, 2007) to be groups or individuals who seek economic benefits by making full use of violence, force, or fraudulent means, or those who fall under any of the following categories (hereinafter collectively referred to as "Anti-Social forces"), and SORACOM and the customers declare that the parties neither fall under any of the following categories of Anti-Social Forces, nor under the following categories, either at present or in the future:

- i. Officers (*meaning officers, managers, representatives of business offices, and those who have the same or greater authority or control as officers, irrespective of their titles*) who are likely to commit illegal violent acts as prescribed in Article 2, Item (vi) of the Japanese Act on Prevention of Unjust Acts by Organized Crime Group Members (*Act No. 77 of 1991, including subsequent revisions*), or those who are likely to commit illegal violent acts as prescribed in Item (i) of the same Article against the background of the authority of such organizations.
- ii. Organized crime groups, members of organized crime groups, or persons related to organized crime groups (hereinafter collectively referred to as "Organized Crime Groups") involved in management.
- iii. Receiving benefits of funds and/or investment, regardless of their denomination, originating from Organized Crime Groups.
- iv. Providing funds and/or other benefits, irrespective of their denomination, to Organized Crime Groups.
- v. Holding activities with Anti-Social Forces which are socially inappropriate, such as use, cooperation, and client entertainment.

25.2 In the event that SORACOM or the customer suspects that the other party is in conflict with the provisions of 25.1, one party may request the other party to make a report on such matters, and the party requested to make such a report shall submit the report by the designated date.

25.3 In the event that the other party falls under any of the following categories, SORACOM or the customer may immediately terminate the agreement under these Ts & Cs and demand damages arising from the termination from the other party.

- i. When there are reasonable grounds to suspect that the representation, guarantee, or declaration is contrary to paragraph 25.1.
- ii. In the event that the party fails to submit a written report or submits a written report with a false description of the violation in accordance with the provision of paragraph 25.2.

## **26. Severability**

If any provision of these Ts & Cs is held invalid or unenforceable for any reason, the other provisions of these Ts & Cs will not be invalid or unenforceable, and in such an event, such provision will be construed to the extent necessary to become valid and enforceable.

## **27. Non-partnership**

Nothing in the engagement is intended to, or shall operate to, create a partnership or corporate relationship between the parties, or to authorize either party to act as the agent of the other, and neither party shall have the authority to act in the name of or otherwise to bind the other in any way.

## **28. Force Majeure**

SORACOM reserves the right to defer the date of delivery under or to cancel any purchase order (without liability to the Customer) and shall not be liable for any failure to meet its obligations under any purchase order if it is prevented from or delayed in the carrying out of its obligations under these Ts & Cs due to circumstances beyond the reasonable control of the SORACOM including, but not limited to, acts of God, governmental actions, war or national emergency, acts of terrorism, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, computer malfunction, fire, explosion, flood, storm, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), failure of a utility service or transport network, or restraints or delays affecting carriers or inability or delay in obtaining supplies or adequate or suitable materials, or other similar event.

### **29. Anti-Corruption**

The parties agree to comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption legislation.

### **30. Jurisdiction**

The Tokyo District Court shall be the exclusive court of first instance for all disputes arising out of or related to these Ts & Cs.

### **31. Governing Law**

The formation, validity, interpretation, and performance of these Ts & Cs will be governed by the laws of Japan. The United Nations Convention on Contracts for the International Sale of Goods does not apply.

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