

STARCO General Terms of Sale

Revision: 1 August 2017

1. Introduction

- 1.1 These General Terms of Sale (the “General Terms”) apply to all sales of products by STARCO (also sometimes referred to as “We” or “Us”) to the buyer (“You”).
- 1.2 In the General Terms, STARCO means such member of the STARCO group of companies as is identified as the seller in the Sales Agreement (as defined in Article 2.1).

2. Sales Agreement

- 2.1 The sale of a product by Us to You is governed exclusively by (i) the relevant written quotation (if any) or order acceptance, (ii) any relevant separate written supplier agreement(s) between us, and (iii) the General Terms (the “Sales Agreement”).
- 2.2 If there is a conflict or inconsistency between the documents in sub-clauses (i) through (iii) in Article 2.1, the document(s) in an earlier sub-clause shall prevail over the document(s) in a later sub-clause to the extent of the conflict or inconsistency.
- 2.3 The Sales Agreement is the entire agreement between us and supersedes any and all prior agreements, understandings, arrangements, and statements (oral or written, express or implied) relating to the sale of the product.
- 2.4 We both agree that in entering the Sales Agreement we do not rely on, and shall have no rights or remedies in respect of, any representation, warranty or other statement (oral or written, express or implied) that is not set out in the Sales Agreement, it being understood that nothing shall limit or exclude Our liability for fraud or fraudulent misrepresentation.
- 2.5 Any terms and conditions that You may purport to apply under an order or other document and that are not agreed to by Us in writing will not be binding on Us.
- 2.6 Any addition to or modification of the Sales Agreement must be agreed to by both of us in writing to be binding.

3. Documentation

- 3.1 We retain all ownership and intellectual property rights in any quotations, illustrations, drawings, specifications and other documentation that We provide to You.
- 3.2 You agree not to use any such documentation for any unauthorized purpose without Our prior written permission in each case.
- 3.3 You agree not to disclose any such documentation that is not publicly available to any third party without Our prior written permission in each case.
- 3.4 You agree not to copy any such documentation without Our prior written permission in each case and to return it and any copies of it to Us immediately upon Our request.

4. Compliance

- 4.1 We guarantee that Our products comply with the requirements of the relevant European Union legislation in force on the Target Delivery Date (as defined in Article 9.3).

- 4.2 Except as provided in Article 4.1 or otherwise stated in the Sales Agreement, We make no guarantee (express or implied) and are not responsible for ensuring that Our products comply with any legislative or other requirements.

5. Quotations, Orders, and Order Acceptances

- 5.1 Quotations for products are valid for acceptance by You for 10 business days from the date of issue unless a different period is stated, after which they will lapse.
- 5.2 Except for orders for products accepting written quotations issued by Us without any addition or modification, orders are binding on Us only if and when accepted by Us in writing.
- 5.3 If We have not accepted an order for products in writing within 10 business days of receipt You may revoke the order by written notice to Us, after which it will lapse.

6. Prices and Invoices

- 6.1 Product prices are stated in the Sales Agreement and are in Euros, unless a different currency is stated.
- 6.2 Product prices are exclusive of VAT and any other tax, which, if applicable, will be paid by You at the then prevailing rate.
- 6.3 Product prices cover only the products themselves and are exclusive of all costs of any nature or kind, including, without limitation, all costs of packaging and delivery.
- 6.4 You must notify Us of any invoice queries or disputes within 10 business days of receipt of an invoice, failing which You will be deemed to have accepted the invoice.

7. Price Increases

- 7.1 We may increase product prices at any time after conclusion of a Sales Agreement and up to 20 business days before the Target Delivery Date by written notice to You.
- 7.2 We may increase product prices under Article 7.1 to reflect any increase in Our cost of performing the Sales Agreement due to factors outside Our control.
- 7.3 “Factors outside Our control” in Article 7.2 mean exchange rate fluctuations and increases in taxes, duties, raw materials, freight or other delivery costs, e.g. as documented by the relevant IHS Markit or Platts SBB indexes.
- 7.4 If We increase product prices by more than 20 %, You may cancel the Sales Agreement by written notice to Us within 5 business days of receipt of Our written notice in Article 7.1, failing which You will be deemed to have accepted the price increase.

8. Payment

- 8.1 You must pay all correctly issued invoices within 30 calendar days of the date of the invoice, unless different payment terms are stated in the Sales Agreement.
- 8.2 If You fail to pay any amount owing to Us by the due date for any reason not attributable to Us or a Force Majeure Event (as defined in Article 13.2) We may exercise the rights and remedies in Articles 8.3 through 8.6 without prejudice to any other rights and remedies available to Us.
- 8.3 We may suspend performance of the relevant Sales Agreement and any or all other Sales Agreement(s) until You have paid the overdue amount in full.

8.4 We may demand payment in advance for any or all other Sales Agreement(s) even if different payment terms were agreed until You have paid the overdue amount in full.

8.5 We may charge interest on the overdue amount until paid at the rate of 8 % p.a. above the base rate of the European Central Bank from time to time, however, not less than 8 % p.a.

8.6 If We take action to recover the overdue amount We may charge You for all related reasonable costs and expenses incurred by Us, including, without limitation, debt collection agencies', lawyers', and court fees and charges.

9. Delivery

9.1 We deliver all orders for products to You ex works Our factory or warehouse identified in the Sales Agreement (Incoterms® 2010), unless different delivery terms are stated.

9.2 We may make, and invoice for, partial delivery of an order if this does not cause undue inconvenience to You and if We pay any resulting additional delivery expenses.

9.3 The date on or by which We expect to deliver an order to You (the "Target Delivery Date") is stated in the Sales Agreement.

9.4 We aim to meet the Target Delivery Date, but factors such as a lack of raw materials, possible late deliveries by Our suppliers, and possible transportation problems may cause delays, and we therefore cannot and do not guarantee delivery on or by a specific date.

9.5 If We fail to deliver an order, or any portion of an order, to You within 5 business days after the Target Delivery Date for any reason not attributable to You or a Force Majeure Event You may terminate the order in respect of any or all undelivered products under Article 9.6, claim a refund of the price You may have paid for such products, and claim damages under Article 9.7.

9.6 Termination of an order in respect of any or all undelivered products must be notified to Us in writing within 10 business days after the grace period for delivery in Article 9.5 has expired, but before any notification of delivery from Us, failing which You will be deemed to have waived Your right to terminate.

9.7 Our liability for failure to timely deliver an order, or any portion of an order, to You shall be limited to the costs and expenses incurred by You in obtaining replacement products of similar description and quality in the cheapest market available, less the price of the order, or relevant portion of the order. If You have not bought replacement products within 20 business days after having effected termination under Article 9.6, You will be deemed to have waived Your right to claim damages.

10. Taking Delivery

10.1 Your obligation to take delivery of an order consists in doing all the acts which could reasonably be expected of You to enable Us to make delivery and in taking over the products.

10.2 If You fail to take delivery of an order within 10 business days of notification of delivery from Us for any reason not attributable to Us or a Force Majeure Event We may exercise the rights and remedies in Articles 10.3 and/or 10.4 without prejudice to any other rights and remedies available to Us.

10.3 We may require You to take delivery of the order, store the products that are the subject of the order at Your risk until You take

delivery, and charge You for all related reasonable storage costs and expenses incurred by Us.

10.4 We may resell the products that are the subject of the order at the best price readily obtainable and charge You for any shortfall below the price agreed between us for the products.

11. Incoming Inspection

11.1 You must inspect all shipments of products for visible shortage or damage before the carrier departs.

11.2 If You discover any shortage or damage during incoming inspection under Article 11.1 You must note it in detail on the delivery receipt and get the carrier to sign it, keep a copy of the signed delivery receipt, and take photos of the truck and shipment.

11.3 You must unpack all shipments of products and inspect them for hidden or concealed shortage or damage before or immediately after the carrier has departed.

11.4 If You discover any shortage or damage during incoming inspection under Article 11.3, You must hold the carrier liable in writing within 3 calendar days of receipt of the products.

11.5 If You discover any shortage or damage during incoming inspection under Article 11.1 or 11.3 You must notify Us in writing within 3 calendar days of receipt of the products, enclosing all relevant documentation.

11.6 If We are liable for any shortage discovered during incoming inspection We will, at Our option, (i) deliver the undelivered product(s) to You and pay any resulting additional delivery expenses, or (ii) cancel the relevant order in respect of the undelivered product(s) and refund the price You may have paid Us for the product(s), within a reasonable time.

11.7 If We are liable for any damage discovered during incoming inspection We will remedy the damage in accordance with and subject to Articles 12.4 through 12.10.

11.8 Articles 11.6 and 11.7 sets out Your sole and exclusive rights and remedies, and Our sole and exclusive liability, for any shortage or damage discovered or discoverable during incoming inspection.

11.9 If You fail to comply with the requirements of Articles 11.1 through 11.5 You will be deemed to have waived all claims that You would otherwise have for any shortage or damage discovered or discoverable during incoming inspection.

12. Warranty

12.1 We warrant that all products delivered to You will conform to their specifications in all material respects and will be free from material defects in design, materials and workmanship during the applicable warranty periods.

12.2 The warranty periods for products are those applicable on the date We issue Our quotation or accept Your order as set out in Our Warranty Policy.

12.3 Warranty claims must be notified to Us in writing within 20 business days of discovery of the non-conformity or defect and, in any event, before expiry of the warranty period.

12.4 Notifications of warranty claims must be accompanied by a detailed description and photos of the non-conformity or defect and a copy of the relevant invoice(s) and delivery receipt(s).

- 12.5 Upon Our request, You must return the relevant product or part to Us or send Us additional information to enable Us to determine the validity of a warranty claim.
- 12.6 If We find, in our reasonable opinion, that a warranty claim is not valid, You must reimburse Us for all reasonable costs and expenses incurred by Us as a result of the claim.
- 12.7 If We find that a warranty claim is valid We will, at Our option and expense, (i) repair or replace the relevant product or part, or (ii) refund the price You paid Us for it less a reasonable allowance for use and obsolescence, within a reasonable time.
- 12.8 When a product or part has been replaced or refunded, it becomes Our property. Upon Our request, You must return it to Us, at Our expense.
- 12.9 Warranty repairs and replacements are warranted for the remainder of the original warranty period of the relevant product or part or 90 calendar days from the time of delivery of the repair or replacement to You, whichever is longer.
- 12.10 The warranty in Article 12 does not cover non-conformities or defects caused by: (i) incorrect storage, mounting, repair, maintenance or use, (ii) alteration or modification of original condition, (iii) incorrect tyre size or pressure, (iv) tyre or wheel imbalance, (v) wheel misalignment, (vi) overloading, (vii) fair wear and tear, or (viii) any other cause beyond the range of normal use or beyond Our control as may be further specified in Our Warranty Policy.
- 12.11 Article 12 sets out Your sole and exclusive rights and remedies, and Our sole and exclusive liability, for non-conformities or defects in delivered products (except title).
- 12.12 If You fail to comply with the requirements of Articles 12.3 through 12.5, You will be deemed to have waived all claims that You would otherwise have for any non-conformities or defects in delivered products (except title).
- 13. Force Majeure**
- 13.1 Neither of us will be liable to the other for failure or delay in the performance of our obligations to the extent that such failure or delay is caused by a Force Majeure Event.
- 13.2 A "Force Majeure Event" in Article 13.1 means an event or circumstance which is due to causes beyond our control, including, without limitation, acts of God, earthquake, fire, flood, embargo, sabotage, utility or transmission failure, governmental prohibitions or regulations, national emergencies, insurrection, terrorism, riots or wars, computer viruses, strikes, work stoppages or other labour difficulties, delays in transportation or default of suppliers due to a Force Majeure Event.
- 13.3 The time for performance of our obligations will be extended for a period equal to the duration of the Force Majeure Event.
- 13.4 If a Force Majeure Event lasts for 30 business days or more, either of us may terminate any or all of the affected Sales Agreement(s) upon 10 business days' written notice to the other.
- 14. Limitation of Liability, Disclaimer, and Severance**
- 14.1 Nothing in the Sales Agreement limits or excludes Our liability for death or personal injury resulting from Our negligence, or fraud or fraudulent misrepresentation.
- 14.2 **Subject to Article 14.1:**
- 14.2.1 We shall not in any circumstances whatsoever be liable for loss of profits, loss of income or revenue or loss of anticipated savings;
- 14.2.2 We shall not in any circumstances whatsoever be liable for any special, indirect, incidental or consequential losses, costs, damages, charges or expenses or exemplary or punitive loss or damage of any nature, including, without limitation, loss of business, loss of contracts, loss of use or loss of goodwill; and
- 14.2.3 Our total liability for all other losses, costs, damages, charges or expenses arising under or in connection with a Sales Agreement, whether in contract, tort (including negligence), breach of statutory duty, misrepresentation or otherwise, shall not in any circumstances whatsoever exceed 50 % of the price You have paid Us for the products that are the subject of the claim.
- 14.3 We shall not in any circumstances whatsoever be liable for any losses, costs, damages, charges or expenses arising from Our compliance with Your designs, specifications or instructions. You must indemnify Us and hold Us harmless from and against all claims, liability, losses, costs, damages, charges or expenses arising from Our compliance with Your designs, specifications or instructions.
- 14.4 We make no representations or warranties of any kind whatsoever (express or implied), including, without limitation, any warranty of merchantability, fitness for a specific purpose, or non-infringement and shall have no liability therefor, unless otherwise stated in the Sales Agreement. If the laws of England and Wales govern a Sales Agreement, the terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded.
- 14.5 If any provision or part provision of a Sales Agreement is considered by any court or administrative body of competent jurisdiction to be void, invalid or unenforceable it shall be deemed modified to the minimum extent necessary to make it valid and enforceable. If such modification is not possible, the relevant provision or part provision shall be deleted. Any modification or deletion of a provision or part provision shall not affect the validity and enforceability of the other provisions of the Sales Agreement.
- 15. Termination**
- 15.1 Either of us may terminate any or all Sales Agreement(s) by written notice immediately, if (i) the other ceases business, is declared bankrupt, is placed in liquidation or becomes subject to any other insolvency procedure, or (ii) if the other breaches a Sales Agreement and has not remedied the breach within 20 business days of having received written notice thereof and demand to cure.
- 16. Governing Law and Dispute Resolution**
- 16.1 All Sales Agreements and any disputes or claims arising under or in connection with a Sales Agreement shall be governed by and construed in accordance with the laws of the country where STARCO as defined in Article 1.2 is registered.
- 16.2 We both agree to attempt to settle any dispute or claim arising under or in connection with a Sales Agreement amicably by negotiation. Settlement negotiations shall be initiated by either You or Us sending a written notice to the other setting out grounds for the dispute or claim. We both agree to commence negotiations promptly and to allow a minimum period of 20 business days from the date of such notice before starting any legal proceedings.