

# GENERAL TERMS AND CONDITIONS OF PURCHASE

## 1. SCOPE

- a. All deliveries of Goods and/or the provision of Services to Starlim North America Corporation (hereinafter called "starlim", "we" or "us") shall be made exclusively on the basis of these General Terms and Conditions of Purchase (hereinafter called „Terms“). These Terms shall form part of all agreements entered into between starlim and its contractual partners (hereinafter called "Partner") with regard to deliveries of Goods to starlim.
- b. If the Partner uses conflicting, deviating or supplementary conditions, their applicability to Starlim is excluded, even if Starlim does not expressly contradict to them. Execution of a contract, however, shall not be classified as acceptance of conflicting, deviating or supplementary Terms.
- c. These Terms shall also apply to future deliveries or services offered to the Partner, even if not being referred to explicitly and if agreed upon in previous deliveries.
- d. The contractual relationship between Starlim and the Partner is governed by these Terms and any other agreements. Amendments, side-agreements, reservations and supplements must be in writing to be legally effective, unless expressly agreed otherwise in these Terms. This also applies to the agreement to deviate from the written form.

## 2. OFFERS AND CONCLUSION OF CONTRACT

- a. Any offers made by the Partner shall be free of charge, unconditional and binding. The Partner shall be bound to his offer for 6 months from receipt by starlim.
- b. In his offer the Partner shall adhere strictly to starlim's request for quotation in terms of quantity, quality and execution of the Goods.
- c. A contract shall enter into force only, by starlim providing an order confirmation in writing, whereby email or telefax shall be deemed as writing. Any special agreements, even with starlim's sales representatives shall enter into force only by starlim's confirmation in writing.
- d. If the Partner dissents in any way from starlim's request for quotation, he shall explicitly refer to this fact in his offer in writing and request a confirmation by starlim in writing. starlim reserves the right to withdraw its order, shall an agreement not be found within 14 days.
- e. Any documents of quotation or project, drawings, samples, software, execution documents, etc. have to be treated as strictly confidential and may not be copied or made available to third parties without prior approval by starlim. Starlim reserves all rights thereto. They may be claimed back at any time and have to be remitted to starlim, if the contract is not awarded.
- f. All documents, order confirmations, delivery instructions, delivery notes and invoices provided to starlim shall carry starlim's order number, order date, part number and all data, starlim uses to identify the order. The same shall apply for call-off orders, where the Partner shall note the call-off dates, too.
- g. Subsequent changes or amendments of contract must be in writing signed by starlim's authorized representative.

## 3. PRICES

- a. The prices in the Partner's quotation are fixed. Any modifications of delivery times are excluded. Price adjustment clauses shall not be accepted.
- b. Any raw material price increases, tariff increases or similar until the delivery date shall not entitle the Partner to increase the price for the Goods accordingly.
- c. Unless explicitly agreed otherwise in writing, the prices shall be in EUR DDP (acc. to Incoterms 2010) starlim's premises, inclusive of packaging and loading, excluding VAT. Custom duties, taxes, charges, and similar levies shall be paid by Partner.

## 4. DELIVERY

- a. Unless explicitly agreed otherwise in the order confirmation or contract, all delivery periods shall be binding and commence with the date of the purchase order.
- b. Unless otherwise explicitly agreed in writing, the delivery shall be made free inclusive packing, transport, duties and other costs to the nominated place of destination. starlim shall not be bound to accept deliveries freight forward.
- c. The date of arrival at starlim's premises or at the nominated place of destination shall be material to the delivery date. The Partner is bound to inform starlim without delay in writing of any circumstances leading to a delayed delivery.
- d. starlim shall be entitled to accept partial and advanced delivery, but shall not be bound to accept these.
- e. If delivery is delayed, starlim shall be entitled to request fulfillment and claim for a penalty regardless of Partner's fault. This penalty shall amount to 1 percent of the total order amount per week or part thereof to a maximum of 10 percent of the total order amount. Any claims for damages in excess thereof shall be unaffected. Beyond that, the statutory provisions shall apply.
- f. The Partner shall pack and load the Goods safely to avoid loss, damages to the Goods or personal injuries. The Partner shall be liable for any damages caused by inadequate packing. Goods damaged during transport shall be return to Partner at his costs. The Partner shall be responsible for handling of any damage with the carrier or agent. Shall the Partner request return of package, starlim shall do so at Partner's cost.
- g. If delivery is delayed due to force majeure, the Partner shall not be entitled to request payment or claim damages. The same shall apply in case of strikes, lock-outs, political unrest and unforeseen circumstances such as interruptions of operations, which prevent starlim from meeting its duties.

## 5. BEARING THE RISK AND PLACE OF FULFILLMENT

- a. The risk shall pass over to starlim when the Goods are received at starlim's premises or the nominated place of destination. If assembly is agreed, the risk shall pass with acceptance of the Goods by starlim in writing. Delivery, loading and unloading shall always be at Partner's cost and risk. This shall also apply in case of partial deliveries and if the transport is done or organized by starlim.



- b. Place of fulfillment shall be – at its sole discretion – starlim’s premises at 325 Tartan Drive, London, ON, Canada, N5V 5J6, or at the nominated place of destination.

#### **6. PAYMENT**

- a. Unless agreed otherwise in writing, payment shall be effected at starlim’s discretion within 30 days at 3% discount or 90 days net after receipt of Goods or receipt of invoice.
- b. Any invoice shall be accepted only with VAT – if applicable – extra.
- c. If the Partner does not effect delivery within the agreed period, starlim shall be entitled to hold back payments until fulfillment by the Partner. A withdrawal from the contract shall only exist, if explicitly declared by starlim in writing.
- d. starlim shall be entitled to offset it’s receivables or claims against the Partner’s when asserted in writing.
- e. The Partner shall be entitled to offset undisputed receivables or claims. The same shall apply for the Partner’s retention right.
- f. starlim shall be entitled to retain a security interest and hold back payments until all open balances have been settled.
- g. starlim shall be entitled to withhold payments until complete fulfillment of Partner’s obligations or provision of security, even if the payments are not due, if the Partner’s performance or delivery is at risk or insolvency proceedings over the Partner’s assets are opened or filed. The same shall apply in case of rejection of a respective application due to lack of funds, if the Partner suspends his payments or if he tries to achieve an extrajudicial compensation with its creditors.

#### **7. WARRANTY**

- a. If starlim has accepted the Goods unconditionally, following agreements shall come into place at starlim’s sole discretion:
- b. The Goods shall have the warranted or by starlim requested quality or nature, shall provide the agreed performance and be of the latest state of the art. The Goods shall not have defects, which abolish or reduce the value or usability of the agreed or implied utilization of the Goods.
- c. Quality, dimensions and weight of the Goods are determined by valid standards. All deliveries and performances shall comply to regulations for the prevention of accidents and other safety regulations (CE-conformity).
- d. If nonconforming or defective Goods are delivered, if accident prevention or other safety regulations are not observed, starlim shall be entitled to request at its sole discretion:
- Remediation of the defect; or
  - Substitution of the defect Goods; or
  - A reasonable price reduction; or
  - Withdrawal from the contract without further notice.

Any other of starlim’s claims for damages, consequential damages, economic losses, liquidated damages or any other statutory rights or equities remain unaffected.

- e. If the Partner rejects his remedial duties or does not remedy in due time, starlim shall be entitled to remedy the defect itself, engage third parties to remedy the defect or to find alternative compensation. In any of these cases, the Partner shall bear all costs arising. In urgent cases (e.g. imminent production stops), starlim shall be entitled to remedy the defects without prior notice to Partner.
- f. If defects cannot be remedied on-site, all transport costs shall be borne by the Partner.
- g. starlim shall be entitled to claim defects within 4 weeks from unconditional acceptance of the Goods, in case of hidden defects within 2 weeks of detection. Defects detected during conversion, procession, assembly or mounting, shall be considered as hidden defects.
- h. These warranty clauses shall apply also, if the Partner assembles or mounts the Goods on behalf of starlim. In these cases the warranty period shall commence with unconditional acceptance in writing of the completely assembled Goods by starlim or its customers.
- i. Non-warranties, exclusion or limitation of liabilities shall not be stipulated unless otherwise agreed in writing.
- j. The warranty period shall commence at the date of unconditional acceptance and amounts to 24 months, unless longer periods are given by statutory provisions. The Partner warrants for defects existing at the time of delivery. This shall be presumed subject to evidence of the contrary when the defect is detected during the warranty period.

#### **8. WITHDRAWAL FROM CONTRACT**

- a. Notwithstanding its other rights, starlim shall be entitled to withdraw from the contract, if
- The delivery of the Goods is delayed or impossible for reasons beyond starlim’s control; or
  - The Partner refuses the performance or he is not able to perform within due time; or
  - starlim becomes aware of circumstances which may impair the Partner’s creditworthiness and he – on starlim’s request – did not provide a suitable security.

In these cases, starlim shall be entitled to claim all damages economic losses, liquidated damages or any other statutory rights or equities caused by this withdrawal.

- b. In these cases, starlim shall also be entitled to withdraw from an open part of the delivery.
- c. If an application for opening of insolvency proceedings is filed over the Partner’s assets, the contract shall be rescinded with immediate effect.

#### **9. SUPPLY OF TOOLS AND MODELS**

- a. If the order includes costs for tools or models, the Partner agrees to assign title to starlim upon complete payment for the tools or models supplied by the Partner. If Goods are partly paid by starlim, it shall acquire co-ownership in proportion to the value of the co-owned Goods. All tools, models, software, drawings, samples etc. provided by starlim shall remain starlim’s property.
- b. The Partner shall utilize all tools, models paid for or provide by starlim, all software, drawings, samples etc. for the manufacturing of Goods ordered by starlim exclusively, not to provide it to third parties and to return it to starlim upon first request.

- c. The Partner shall take out an adequate insurance covering damages from fire, water, vandalism, theft etc. for tools and models provided by starlim at his own costs and shall provide evidence by starlim's request. The Partner shall assign any and all further rights and claims arising out of this insurance to starlim and starlim accepts this assignment.
- d. The Partner shall treat the tools and models with care and keep them operational. Maintenance, service and repair shall be executed by Borrower's own and competent staff.

#### **10. RETENTION OF TITLE**

- a. Any extended, expanded or other retention of title is expressly disclaimed.

#### **11. LIABILITY, INDEMNIFICATION, INSURANCE**

- a. Unless otherwise agreed in writing, starlim shall be entitled to compensation of all costs, whether direct or indirect, caused by his nonperformance, or otherwise Partner's action contrary to contract, including but not limited to damage prevention or other preventative actions, recall actions etc. starlim shall inform the Partner of any action and give the opportunity to make representations, if possible and reasonable. If the Partner does not reply without delay, the recall shall be deemed appropriate and caused by the damage unless the Partner can prove the contrary. Any other of starlim's claims for damages, consequential damages, economic losses, liquidated damages or any other statutory rights or equities remain unaffected.
- b. If the Partner is liable for damages, he shall indemnify and hold harmless starlim against any third party claims, demands or expenses (including but not limited to attorney's or other professional fees).
- c. On starlim's request, the Partner shall enter into any legal action with a third party at its own costs. The Partner shall support starlim actively and unconditionally in all legal action in connection with its supplies and performance, as well as any public orders and provide any evidence, documentation etc. necessary.
- d. The Partner shall take out an international general liability insurance with a cover of not less than EUR 10 Mio for personal and material damage.
- e. The Partner shall take out an international product recall (including an extended recall) insurance with a cover of not less than EUR 10 Mio.
- f. Upon first request, the Partner shall provide evidence of this insurance.

#### **12. INTELLECTUAL PROPERTY RIGHTS**

- a. All and any intellectual property rights, such as in particular copyrights, industrial property rights, know-how, software, processes, execution documents, such as plans, sketches, other technical documents, instructions, samples, prototypes, catalogues, brochures, illustrations, and the like are and remain the exclusive property of Starlim or Starlim's licensors and are subject to the relevant legal provisions regarding reproduction, imitation, competition, etc.
- b. The Partner shall warrant that the delivered Goods are free of third-party rights.
- c. The Partner shall indemnify and defend starlim against claims, liabilities, damages etc. arising out of the actual

or alleged infringement by the Goods of a third-party Intellectual Property Right, if the Goods are delivered to starlim, including any costs, attorney's or other professional fees unless the infringement is not caused by the Partner.

#### **13. PRIVACY**

- a. The Partner shall comply with all applicable data protection laws and shall indemnify and hold starlim harmless in this respect.
- b. Both parties agree to absolute confidentiality in connection with the scope of the cooperation and shall not disclose any confidential information to third parties.

#### **14. COMPLIANCE**

- a. The Partner commits to act responsibly in accordance with the highest ethical standards and to adhere to at least equivalent principles as set forth in the Code of Conduct of the starlim-sterner Group (available at [www.starlim-sterner.com/compliance](http://www.starlim-sterner.com/compliance)). In particular, the Partner itself undertakes to implement regulations and measures that meet the standard of this Code of Conduct.
- b. Starlim reserves the right to audit the Partner with regard to its compliance with at least equivalent principles and guidelines as set forth in the Code of Conduct (in particular with regard to the human rights and environmental protection-related provisions contained therein) upon reasonable notice. The Partner shall grant starlim or its representatives the right to conduct on-site audits at the Partner's locations. The audits shall be carried out in close coordination and cooperation with the Partner and in due observance of any business secrets and in compliance with the applicable data protection laws. The Partner must ensure a satisfactory follow-up of the findings made during this audit and take the agreed corrective measures.
- c. The Partner shall make every effort to ensure that its suppliers and service providers also comply with these principles and that they introduce appropriate regulations or measures.
- d. A failure to comply with these provisions and/or the Code of Conduct or a failure to implement specified measures constitutes a breach of a material contractual obligation of the Partner. Without prejudice to further rights, starlim therefore reserves the right, in case of suspicion or determination of non-compliance, to request information about the facts and, if necessary, to request appropriate remedial measures, granting a reasonable period of time. If such requested information and/or remedial measures are not provided or if the violation is serious, starlim reserves the right, without prejudice to further rights, to terminate any or all contractual relationships with the Partner without notice.

#### **15. FINAL PROVISIONS**

- a. If any provision of the contract of these Terms is held invalid, void, unenforceable for any reason, all other provisions shall remain valid to the extent permissible under statutory provisions. Any invalid provision shall be substituted by a valid one, which comes close to the intended purpose.
- b. If these Terms do not provide for a regulation, the statutory provisions shall apply.



- c. Any and all disputes arising under this Agreement, whether as to interpretation, performance or otherwise, shall be subject to the exclusive jurisdiction of the courts of the Province of Ontario, Canada. Starlim is entitled, however, to submit claims also to the competent court for the Partner.
- a. The contract shall be subject to Laws of Ontario and the laws of Canada applicable therein. Applicability of the conflict of laws ("International Private Law") as well as the United Nations Convention on the International Sale of Goods shall be excluded.