



# *General Contract Terms for Orders*

## General conditions for contracts

These general contract terms for orders apply to STARLAB International GmbH.

### 1. Application

The following Contract Terms shall apply to all purchasing agreements, contracts for work and services, and contracts for work and materials concluded with us and all other contracts awarded by ourselves as purchaser / orderer after December 31, 2001 (hereinafter called: „Contracts“). They shall also apply to future Contracts even where no explicit reference has been made to our Contract Terms. Our Contract Terms shall only fail to apply as far as the Vendor / Work Contractor / Contractor (hereinafter called: the „Supplier“) and we have agreed diverging terms by individual contract. For Contracts concluded before December 31, 2001 our Contract Terms in force before December 31, 2001 will continue to be applicable.

The Supplier's terms of sale or other terms and conditions shall not become part of the contractual agreement, even if we do not explicitly object to such Supplier's terms and conditions. The acceptance of delivery / service without explicit objection to the Supplier's terms and conditions can under no circumstances be construed to constitute an acceptance of the Supplier's terms and conditions.

Should any of the provisions of these Contract Terms be or become invalid, this shall not otherwise affect the validity and application of the Contract Terms. Instead the statutory provisions shall apply. Under no circumstances shall the provision concerned be replaced by the Supplier's terms and conditions.

### 2. Severability

If one or more of the provisions contained in the Contract between us and the supplier – for reasons which are not based on the German Act for General Contract Terms – shall be or become invalid, the validity of the remaining provisions contained in the Contract shall not in any way be affected. The provision will be replaced by a valid retroactive clause which best meets the intention of the Parties. The same shall apply in case of an omission.

### 3. Order Contracts

Our orders shall only be binding if the Supplier accepts same in all parts without changes. If the Supplier fails to accept our order in writing within 12 calendar days after receipt, we shall be entitled to effect revocation. We shall be entitled to request changes to the item ordered even after conclusion of the contract. The contractual agreement shall be amended accordingly in so far as the Supplier can be reasonably expected to accept such changes. In the case of such amendment the consequences for both parties, in particular as regards the increases or reductions in costs and the delivery dates, shall form the subject of a separate agreement. Where INCOTERMS are used in the Contract, the INCOTERMS 2010 shall apply.

### 4. Delivery

Delivery periods and dates shall be binding. Whether such periods / dates have been met shall be decided according to the receipt of the goods by us or at the place of delivery specified by us. We shall be immediately notified of any imminent delay in delivery. All of our rights ensuing from the expected delay in delivery shall remain unaffected by such notification.

In the event of a delay in delivery we shall be entitled without prejudice to our other legal claims, to demand at our discretion fulfillment and compensation for the damage caused by defaults or, after expiry of an appropriate period of

grace granted by us, to procure the goods / services from a third party and to claim compensation from the Supplier for our additional costs incurred as a consequence.

The Supplier can only claim that he did not receive the documents required for delivery from us or did not receive same in good time where a reminder in writing in respect of said documents was received by us and the Supplier failed to receive such documents within an appropriate period of time. At our discretion the Supplier in delay of delivery shall be obliged to pay, instead of a compensation for our real damage caused by default, a lump sum amounting to 10 % of the Contract value of the goods affected by the delay. The Supplier is at liberty to prove that we have not suffered any damage or that the real damage is smaller than the lump sum.

The Supplier shall only be entitled to effect partial delivery or part performance where this has been explicitly agreed in writing in the Contract or subsequently following award of the Contract. In the case of batch-dependent goods partial deliveries must originate from one batch and be identified accordingly. Delivery shall be effected, unless agreed otherwise, free our warehouse. The Supplier shall bear all risks including the transport risk until receipt of the goods. Transport insurance may at our expense only be taken out with our explicit consent. The Supplier shall then designate us as the beneficiary, if applicable. The Supplier shall use packagings complying with the applicable regulations and guidelines and which are most suitable for the goods. Packagings shall generally be provided to us free of charge. Where payment for packagings has been agreed, the Supplier is only permitted to charge for packagings at the verifiable cost price. Sales packagings shall be provided with the so-called "Grüner Punkt" by the Supplier. The Supplier shall collect and dispose of the packagings at our request at no charge to us. The costs of disposal of packaging materials shall be borne by the Supplier. This shall also apply where we ourselves dispose of the packaging material.

The Supplier shall be liable for compliance with the specifications for shipment during the entire delivery. This shall in particular apply to the continuous maintenance of any refrigeration chain. The delivery note and the packaging must each provide for unmistakable classification of the goods supplied. The delivery note shall include, in addition to the standard delivery information, our order numbers, the relevant parts numbers, serial numbers and batch identification for the purpose of traceability. We shall not be obliged to accept a delivery if the above prerequisites have not been fulfilled.

### 5. Prices and Payment

The price agreed between the Supplier and us is an all-inclusive, fixed price, deemed to cover all costs incurred by the Supplier which are not to be borne by the Supplier himself. The price does not include valueadded tax at the statutory rate applicable.

Invoices shall bear our order number, delivery note number and the place of delivery. Payment and discount periods shall each commence from receipt of the relevant invoice by us, however at the earliest on the date of receipt of the goods. Invoices which do not contain the above information and /or incorrect invoice amounts, shall only be considered to have been received by us following receipt of a corrected invoice. The assignment of claims by the Supplier from the Contract to third parties is inadmissible without our prior written consent.

### 6. Notification of Defects and Warranty Claims

We shall check delivered goods as regards quantity and quality within a reasonable period of time. Defects that can be discovered with proper examination may be reported not later than 14 working days after receipt of the goods unless the nature or type of goods requires a longer examination period. We shall furnish notification of hidden defects, including those that cannot be



discovered with proper examination, as soon as same are discovered. The above terms relating to examination and notification of defects shall only apply to goods which were supplied on the basis of purchase agreements or contracts for work and materials relating to items specified in terms of number, measurement or weight.

If the Supplier in a contract for work fails to effect the rectification / replacement delivery requested by us within an appropriate period set by us, we shall be entitled to undertake the necessary measures ourselves at the expense and risk of the Supplier or to arrange for performance by suitable third parties commissioned by us. In urgent cases, in particular where damage is imminent due to the defective delivery / service and rectification or replacement delivery by the Supplier cannot be awaited without increasing the risk of damage, we can also undertake rectification ourselves or arrange for performance by a suitable third party without the prior setting of a period of grace if agreement with the Supplier is reached. Where such agreement is not possible, we may also undertake rectification or arrange for performance by third parties without prior agreement with the Supplier.

The costs of rectification or thirdparty performance shall be borne by the Supplier in all cases. In fulfillment of our obligations to limit damage and following prior agreement with the Supplier, we may eliminate minor defects ourselves without it being necessary to satisfy the above prerequisites.

The resulting costs shall be borne by the Supplier. In all cases in which we undertake rectification ourselves or arrange for performance by third parties or procure replacement by third parties, all thereby remain unaffected. The return of defective services / deliveries shall be effected at the expense and risk of the Supplier.

The warranty period shall be 3 years, unless the statutory warranty period in a particular case is longer. In the case of purchase agreements and contracts for work and materials relating to items specified in terms of number, measurement and / or weight it shall commence on handover of the delivery item to us or to the third party designated by us at the place of delivery specified by us. In the case of contracts for work relating to items not specified in terms of number, measurement and / or weight the warranty period shall commence on the date of acceptance specified in our written declaration of acceptance. An exception is made for contracts for work concerning noncorporate works such as development of an individual software, expert opinions etc..

For these contracts the warranty period shall begin pursuant to the legal provisions. The warranty period for spare parts that are ordered at the same time as the main item and designated in the contractual agreement as spare parts, shall only commence, unless the spare parts are not stored properly, with the first use of the individual spare part. It shall end at the latest 2 years after acceptance of the main item or receipt of the spare parts in case they were not delivered together with the main item.

For repaired or newly delivered parts the warranty period shall recommence on completion of rectification or new delivery or, when acceptance of the repaired or newly delivered parts must take place, on acceptance. The Supplier shall submit a written request for acceptance to us if applicable. Where the Supplier examines with our consent the delivery / service for the presence of a defect or rectifies the defect, the period of limitation for the warranty claims shall be subject to extension until the Supplier notifies us of the result of the examination or declares the defect to have been rectified or refuses to continue with rectification of the defect.

## 7. Manufacture under Contract

All items given to the Supplier by us in connection with Contracts, in particular drawings, calculations, drafts, models, moulds and / or tools, shall remain our property. They may only be reproduced where this is necessary for performance of the Contract; such reproductions likewise become our property on their production. All items forming part of our property may only be used by the Supplier for performance of our Contract and shall be returned on demand or disposed of in a verifiable manner at no cost to us following our re-

lease in writing. In the case of contracts for work and services and contracts for work and materials receipt of goods and their trial operation or the expiry of time shall not represent acceptance of the goods. Acceptance in the legal sense shall only occur where an explicit declaration of acceptance is issued by us. We are entitled to an examination within four weeks after delivery unless the nature or type of goods precludes such examination within this period. In the case of all printing orders a copy proof shall be submitted for the print approval before the start of production. The name of the Supplier / printshop may only be included on printed matter with our explicit prior approval.

## 8. Product Liability

Where a claim is asserted against us due to a defect in the goods supplied or a resulting defect in the product manufactured from the goods supplied on the basis of product or manufacturer's liability, the Supplier shall indemnify us from the liability resulting from the defect and compensate us for the entire damage in connection therewith suffered by us. Damage for which we are to receive compensation may also be purely pecuniary damage.

The gross costs for employees incurred during processing and / or handling of such product liability claims, the organization and / or performance of recall campaigns and / or the defense against claims shall be consolidated into a lump sum as appropriate and compensation is to be provided by the Supplier in the share of the amount allocated to the claim per employee. This shall apply analogously to the relevant costs incurred by us for our company management.

In the case of product or manufacturer's liability the Supplier shall also replace the delivery item with a replacement free of defects. We shall be entitled to return defective goods to the Supplier. This shall also apply to such goods which our customers returned to us due to recall campaigns.

If we should have detected the defect and / or undertaken measures to avert the damage, we shall only be liable for intent and / or gross negligence on the part of our management, executive staff and / or persons employed by us in performing our contractual obligations in our relationship with the Supplier.

Where we decide to effect a recall due to a defect in the goods supplied, including a precautionary recall of the goods supplied or the product manufactured from the goods supplied, the Supplier shall provide appropriate assistance and help and in particular furnish us with all information necessary for the most costeffective performance of recalls in a suitable form.

The Supplier shall be obliged to compensate us for the costs associated with such recalls including those performed on a precautionary basis according to the above rules.

The Supplier shall refrain from asserting any rights of recourse against us in conjunction with product or manufacturer's liability. This shall not apply in the case of intent or gross negligence or negligent failure to comply with major contractual obligations by us or our management, executive staff or persons employed by us in performing our contractual obligations.

The Supplier shall be obliged to automatically provide to us the applicable and current safety data sheets required for proper usage and / or start-up of the goods at the latest on delivery. He shall indemnify us from all third-party recourse claims in the event that the safety data sheets are not provided or not provided on time.

## 9. Right of Rescission

Should the goods become unmerchantable following award of the Contract due to press reports and / or publications relating to circumstances on which the defectiveness or the suspicion of defectiveness of the goods supplied to us or the goods manufactured by the Supplier of the same kind could be based, we shall be entitled to rescind the Contract and to return goods already delivered at the expense and risk of the Supplier.

Return shall be effected at our discretion either against a credit note or reimbursement of the price paid. Our warranty claims shall remain unaffected by the above right of rescission.



## 10. Claims to Compensation of Supplier

Claims to compensation on the part of the Supplier, for whatever legal reason, shall only be excluded in the case of minor negligence. The exclusion of our liability for minor negligence shall not apply in so far as by our minor negligence life, body or health are being injured. In the case of a negligent breach of major contractual obligations damages shall be limited to compensation for typical damage which was foreseeable at the time of conclusion of the Contract or at the time of the commission of breach of duty.

The above liability exemptions and restrictions shall also apply to claims in tort so far as these compete with contractual claims. The above liability exemptions and restrictions shall also apply on our liability for our management and staff for the persons employed by us in performing our contractual obligations and the personal liability of our management, staff and the persons employed by us in performing our contractual obligations.

## 11. Set-off and Right of Retention

The Supplier shall only be entitled to effect set-off or to assert a right of retention until counterperformance is effected where the counterclaim is either uncontested or recognized by a final non-appealable judgement. Rights of Retention until counterperformance is effected on the part of the Supplier may only be based on claims which relate to the same Contract.

## 12. Property Rights

The Supplier guarantees and explicitly represents that all deliveries are free of third-party rights and that deliveries and usage of the delivery items do not infringe property rights of third parties, such as patents, licenses, brand names, trademarks, registered designs, utility models, distribution tying arrangements and copyrights. Where third-party claims are asserted against us alleging the infringement of such rights by the goods supplied hereunder or their distribution, the Supplier shall be obliged to defend against such claims.

The Supplier shall indemnify us and our customers from thirdparty claims resulting from any infringement of property rights and shall also bear all costs which are incurred by us in this context. We shall be entitled to obtain approval for the usage of the delivery items and services concerned from the party holding such rights at the Supplier's expense. Claims for compensation on our part beyond the above shall remain unaffected.

## 13. Secrecy Obligation

Each party undertakes to treat as strictly confidential information relating to the technical and commercial knowledge of the other party which becomes known to it during the business relationship, and to only use such information for the purposes provided for in the contractual agreement. Such obligation shall apply for the duration of the business relationship and for a period of 5 years following its termination. It shall not apply to information which is public knowledge that has become known without infringement of this secrecy obligation nor to information which at the time it becomes known to the other party already lawfully

## 14. Place of Performance, Legal Venue and Applicable Law

The place of performance and legal venue for all claims arising from and in connection with the respective Contract shall be our registered office, as far as the Supplier is a merchant, a juridical person under public law or a special fund under public law. We shall also be entitled to bring an action against the Supplier at his registered office.

The contractual relationship shall be solely subject to the substantive law of the Federal Republic of Germany excluding the UN Convention on the International Sale of Goods and other unified law.

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