

General Terms and Conditions of Sales and Delivery of StaRo GmbH, Seevetal  
**Note: This is a translation of the German version. In cases of uncertainty or conflict, the German version shall prevail**

**I. Application**

1. These General Conditions of Sale (Conditions) shall apply to all present and future contracts with commercial buyers, with public legal entities as well as public trusts in regard to deliveries and other services. The Buyer's purchase conditions shall not be binding even if we do not expressly object to them again after their receipt.
2. In case of direct sales ("Streckengeschäfte"), the producer's conditions as laid down in its price list shall apply in addition to these conditions.

**II. Offers and Formation of Contracts**

1. Our offers are not binding to us. Oral agreements, promises, assurances and guaranties made or given by our sales staff in connection with the formation of the contract shall not be binding unless confirmed by us in writing.
2. Any references in our leaflets, catalogues, circulars, advertisements, price lists or in any documents pertaining to our offers including drawings, pictures, technical data and/or indications as to weight, measures or performance of our products shall have no binding effect unless they have been declared as contractually binding.
3. Any trade terms shall, in cases of doubt, be interpreted according to the Incoterms as amended from time to time.

**III. Prices; Payment**

1. Should taxes or other extraneous expenses included in the agreed upon price change or be added later than four weeks after the formation of the contract, we shall be authorised to modify the price relative to the respective change.
2. Unless otherwise agreed or stated in our invoices, payment shall be made without cash discounts immediately so that we can dispose of the sum on the due date. Any payment transfer costs shall be borne by the Buyer.
3. Should it become evident after the formation of the contract, that payment is jeopardised by the Buyer's lack in financial means, or should the Buyer be in default with a considerable portion of the amount due or should other circumstances arise which show a material deterioration in the Buyer's financial position after the conclusion of the contract, we shall be authorised to make use of rights under § 321 BGB (German Civil Code) and to make due any and all of our non statute-barred accounts receivable resulting from the same legal relationship.
4. Should the Buyer default in payment, he will be liable to pay interest at 8 %points above the basic interest rate, unless higher rates have been agreed upon. We reserve the right to claim additional damages resulting from late payment.
5. The Buyer may retain or set off any counterclaims only in so far as his claims are undisputed or have become legally binding.
6. StaRo GmbH is entitled to assign receivables against customers seated in Germany and other countries which belongs to the EU, for refinancing purposes to the abcfinance GmbH, Kamekestr. 2-8 in Cologne, Germany.

**IV. Deliveries**

1. Our commitment to deliver is subject to our correct and timely self-delivery unless we are, by our fault, responsible for the deficient or late self-delivery.
2. Any confirmation as to delivery times shall only be approximate, unless we have confirmed in writing that the delivery shall be effected on a certain date or within a certain period. Delivery times shall commence with the date of our order confirmation and are subject to the timely clarification of any details of the order as well as of the presentation of certain necessary documentation by the Buyer. Any agreed delivery time shall be considered to be met if and in so far the goods have left the works or our warehouse at such time or date. If and in so far the goods fail to be despatched at the agreed time for reasons not attributable to us, the agreed delivery time shall be considered to have been met at the day on which the goods are notified to be ready for dispatch. Any agreed upon delivery periods shall be extended to the extend (plus a reasonable restarting period) by which the Buyer is in default with his obligations resulting either from this or a different contract.

3. We shall be entitled to make partial deliveries and to slightly exceed or reduce the agreed quantities according to trade usage, whereby "slightly" within this sense shall be regarded as deviations up to 10 % of the agreed quantity.

4. Where the contract provides for continuous deliveries, the Buyer shall divide the quantities and grades of the goods into approximately equal monthly shipments. We may refrain from the delivery of such quantities which the Buyer has failed to call on time, yet we may also insist on their acceptance and their payment. Where the single calls for delivery exceed the total contractual quantity, we shall be entitled, yet not committed, to deliver the surplus quantity and invoice it at the prices applicable at the time of the call or the delivery. We are entitled to invoice deliveries on the basis of our prices at the time of delivery, where our deliveries exceed the agreed quantities and where the Buyer fails to call on time.

5. The goods will be delivered unpacked and not be protected against rust. Only where so provided by trade usage will the goods be packed. Any package, protection and/or transport device will be supplied according to our experience and at the Buyer's cost. We will take back such devices only at our warehouse. We will not bear any costs for their re-transport or disposal.

6. We shall be entitled to choose the route and mode of dispatch as well as the forwarding agent and the carrier. In all transactions, including freight prepaid and freight-free deliveries, the risk of loss or damage to the goods shall pass to the Buyer at the time where we hand them over to the forwarding agent or to the carrier, at the latest with their departure from our warehouse. We will buy insurance only if requested to by the Buyer and at his cost. The Buyer shall unload the goods at his cost.

7. Within events of force majeure we shall be entitled – also if and when we are in default - to postpone deliveries for the obstruction period plus a reasonable time necessary for adaptation, and to rescind from the non-performed part of the contract partially or in whole. Force majeure shall include strikes, lockouts, mobilization, war, blockades, import- and/or export restrictions, shortages in raw materials and/or fuel, fire, traffic bars, operational and/or transport impediments, as well as any other circumstances which, not due to our fault, either substantially jeopardise or delay our deliveries and services or make them impossible for us to fulfil, no difference whether such circumstances will affect us or our supplier(s). The Buyer may, in such cases, may ask for our decision whether we will rescind from the contract or effect the delivery. In the absence of such decision, the Buyer may rescind from the contract.

#### **V. Grades, Sizes and Weight**

1. Grades and sizes shall be determined in accordance with the DIN-/EN or mills' standards effective at the time of the conclusion of the contract, in absence of such standards with the trade usage.

2. The weight of the goods shall be determined on our or our suppliers' scales and shall be proven by presentation of the pertinent weight check. Where provided by law, the weight may be determined without weighing in accordance with the standards, whereby any supplements as provided by trade usage ("Handelsgewichte") shall apply. Any indications given in the delivery notes as to the number of pieces, bundles etc. are not binding if and in so far as the goods are invoiced by weight. Where, in accordance with trade usage, the goods are not weighed piece by piece, the total weight of the delivery shall prevail. Any difference with regard to the calculated weight of the single pieces shall be proportionally allocated to them.

#### **VI. Warranty Provisions**

1. The Buyer shall immediately notify us in writing of any defects of the goods. Defects which, even upon careful inspection, cannot be discovered within this period must be notified to us in writing immediately upon their discovery, at the latest before the elapse of any agreed or statutory warranty period. In such cases the Buyer must suspend any processing or manufacturing of the goods.

2. If and in so far the Buyer's claim for defects is justified and has been made in time, we may, upon our discretion, remedy the defect or deliver non-defective goods ("substitution"). Should we fail or decline the substitution, the Buyer may, upon the elapse of an adequate additional period of time set by him, withdraw from the contract or reduce the purchase price. In cases where the defect is minor, where the goods have already been resold, processed or transformed, he may only reduce the purchase price.

3. We will reimburse the Buyer for his expenditures in connection with the substitution only in so far as such expenditures are reasonable and proportional to the purchase price of the goods. We will not reimburse the Buyer for any expenditures in connection with the redelivery of the goods to any other place than the place of performance, unless such redelivery corresponds to the contractual use of the goods.

4. If the Buyer fails to immediately give to us the opportunity to inspect the defect, especially if he fails - upon our request - to immediately make the goods or samples hereof available to us, he will lose all of his warranty rights.

5. 2<sup>nd</sup> choice material as well as special items and overrollings will be delivered without any warranty. Devaluation reasons: Various surface defects of differences. Information on quality, zinc coating, surface finish, surface protection length and tolerances are non-binding. The information listed on this are indicative only. We are not liable for the intended use and costs. Furthermore, we point out that unprocessed raw material is not claimable. After leaving the mill or warehouse the material has been delivered and accepted. Any kind of claims are rejected. There is no right of any compensation in case of non-availability of the goods.

#### **VII. Retention of Title**

1. All goods delivered to the Buyer shall remain our property (Reserved Property) until all of the Buyer's accounts resulting from the business relationship with him, in particular any account balances have been settled. This condition shall apply to any future as well as any conditional claims including accepted notes and such cases where the Buyer will affect payments on specifically designated claims. As soon as the Buyer has settled his accounts with us in full, he shall obtain title to those goods which were delivered to him before such payment was effected.

2. With regard to processing or manufacturing of the Reserved Property, we shall be deemed to be manufacturer within the meaning of § 950 BGB (German Civil Code) without committing us in any way. The processed or manufactured goods shall be regarded as Reserved Property within the meaning of clause V/1 of these Conditions. If the Buyer manufactures, combines or mixes the Reserved Property with other goods we shall obtain co-ownership in the new goods in proportion to the invoiced price of the Reserved Property to the invoiced price of the other goods. If, by such combining or mixing, our ownership expires, the Buyer herewith transfers to us any rights which the Buyer will have in the new stock or goods in proportion to the invoiced price of the Reserved Property, and he will keep them in safe custody free of charge. Our co-ownership rights shall be regarded as Reserved Property within the meaning of clause VII/1 of these Conditions.

3. The Buyer may resell the Reserved Property only within the normal course of his business in accordance with his normal business terms and provided he is not in default of payment and provided also that any rights resulting from such resale will be transferred to us in accordance with clause V/4 through V/6 of these Conditions. The Buyer shall not be entitled to dispose of the Reserved Property in any other way.

4. The Buyer hereby assigns to us any claims resulting from the resale of the Reserved Property. Such claims shall serve as our security to the same extent as the Reserved Property itself. If the Reserved Property is resold by the Buyer together with other goods not purchased from us, then any receivables resulting from such resale shall be assigned to us in the ratio of the invoiced value of the other goods sold by the Buyer. In the case of resale of goods in which we have co-ownership rights according to clause V/2 of these Conditions, the assignment shall be limited to the part which corresponds to our co-ownership rights.

5. The Buyer shall be entitled to collect any receivables resulting from the resale of the Reserved Property. This right shall expire if withdrawn by us, at the latest if the Buyer defaults in payment; fails to honour a bill of exchange; or files for bankruptcy. We shall exert our right of revocation only if and in so far as it becomes evident after the conclusion of the contract that payment resulting from this contract or from other contracts is jeopardised by the lack of Buyer's ability to pay. The Buyer shall - upon our request - immediately inform his customers of such assignment and to forward to us any information and documents necessary for collection.

6. Should the Buyer default in payment or should he fail to honour a bill of exchange, the Seller shall be entitled to take back the Reserved Property and to enter, for this purpose, the Buyer's premises. The same shall apply should, after the conclusion of the contract, it become evident that payment resulting from this contract or from other contracts is jeopardised by the Buyer's lack of ability to pay. If the Reserved Property is taken back, this shall not be regarded as withdrawal from the contract.

7. Should the total invoiced value of the Seller's collateral exceed the amount of the secured receivables including additional claims for interest, costs etc. by more than 50 %, the Seller shall - upon the Buyer's request - release pro tanto collateral at the Seller's discretion.

### **VIII. Restriction of Liability and Limitation Periods**

1. Our liability for breach of contractual or extra-contractual obligations, in particular for nonperformed or deferred deliveries, for breach of duties prior to the contract (“Verschulden bei Vertragsanbahnung”) as well as for tortuous acts - including our responsibility for our managerial staff and any other person employed in performing our obligations - shall be restricted to damages caused by our wrongful intent or by our gross negligence and shall in no case exceed the foreseeable losses and damages characteristic for the type of contract in question.

2. The aforesaid restriction shall not apply to such cases where we breach our fundamental contractual obligations and where such a breach of contract will endanger the contractual purpose; it shall neither pertain to damages to life, to the body or to health caused by our fault nor to any cases where we have guaranteed certain characteristics of the goods. Nor shall such clause affect our statutory liability laid down in the Product Liability Act (Produkthaftungsgesetz) of 15/12/89. Any statutory rules regarding the burden of proof shall remain unaffected by the aforesaid.

3. Unless otherwise agreed to any contractual claims which the Buyer is entitled to in connection with the delivery of the goods shall fall under the statute of limitations within a period of one year after the goods have been delivered to the Buyer. This limitation shall also apply to such goods which, according to their normal purpose of use, have been used for constructional works related to real estate property and which have caused damage within this construction unless this purpose of use has been agreed upon in writing. This restriction shall not apply to our liability resulting from breaches of contract caused by our wrongful intent or by our gross negligence; neither to damages to life, to the body and to health caused by our fault nor to any recourse claims under §§ 478, 479 BGB (German Civil Code).

### **IX. Place of Performance / Jurisdiction / Applicable Law**

1. The place of performance for our deliveries shall be the supplying work in cases of exwork deliveries, in all other cases it shall be our warehouse.

2. All legal relationships between us and the Buyer shall be governed by German laws supplementing these Conditions, in particular the BGB/HGB, including the provisions of the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (UNCITRAL).

3. The place of jurisdiction is our Lüneburg or - at our discretion - the Buyer’s seat.

### **X. Applicable Version**

In cases of doubt, the German version of these General Conditions of Purchase shall apply.