

## General Sales Conditions

### Article 1. Scope

These Sales Conditions apply to all companies, legal entities under public law and special funds under public law. Our deliveries and services are provided solely on the basis of the Conditions hereinafter. These Sales Conditions apply exclusively. Deviating or unfavourable, supplementary conditions of the Contractual Partner will not form part of the Contract, even where we do not expressly object to inclusion of such conditions.

### Article 2. Offer and conclusion of the Contract

2.1. Our offers are subject to change and non-binding, unless we expressly designate these as binding in writing. Declarations of acceptance and orders by the Purchaser shall, insofar as they constitute offers pursuant to § 145 German Civil Code, only become binding by means of our written confirmation of order. We shall endeavour to accept orders by the Purchaser within 5 working days of receipt of the order.

2.2. Documentation pertaining to our offer within the meaning of Article 2.1, such as illustrations, drawings etc. and dimensions and weight specifications contained therein are only approximate, insofar as we have not expressly designated these as binding. The same applies for instructions for use. Tolerances customary in the trade remain reserved within the scope of what is reasonable for the Purchaser.

2.3. We retain ownership and copyright in relation to all documentation provided to the Purchaser in connection with the order being placed, such as, for example, calculations, drawings etc. These documents may not be disclosed to third parties, unless we have issued written consent thereto. Insofar as we fail to accept the Purchaser's offer within the period specified at Article 2.1, such documents must be returned to us immediately.

### Article 3. Pricing and payment terms

3.1. Unless expressly agreed otherwise, our prices are „ex works“ excluding packaging and plus VAT in the currently applicable amount. Packaging costs will be invoiced separately.

3.2. The purchase price must be paid net within 10 days of delivery. Default interest will be calculated at 9% above the basic interest rate of the European Central Bank. Default occurs as defined by § 286 German Civil Code. The right to claim a higher amount of damages caused by default remains reserved.

### Article 4. Right of set-off / Right of retention

The Purchaser only has a right of set-off, where its counterclaims are legally binding and undisputed. The Purchaser is only entitled to exercise a right of retention to the extent that its counterclaim derives from the same contractual relationship.

### Article 5. Delivery times

5.1. Delivery times are strictly non-binding and approximate. In the event of uncertainty, the delivery period begins with dispatch of the confirmation of order by us.

5.2. Compliance with delivery times requires timely receipt of all documentation to be provided by the Purchaser, the necessary approvals and clearances, in particular of plans, compliance with the payment terms agreed and fulfilment of other obligations by the Purchaser. Where these preconditions are not met in a timely manner, deadlines will be appropriately extended; this will not apply where the delay is attributable to us.

5.3. Where we are culpable of default in delivery, the Purchaser can – insofar as it can prove that it has incurred resultant loss – demand damages for each complete week of delay of 0.1% of the net price for that part of the delivery which cannot be put into useful operation, up to a maximum, however, of 5%.

5.4. Both damages claims by the Purchaser due to default in delivery and compensation in lieu of performance which exceed the limits specified at Article 5.3 are excluded in all cases of delayed delivery, even after expiry of any deadline that we set for delivery. This will not apply in the event of mandatory liability for intent, gross negligence or injury to life, limb or health. The Purchaser may only withdraw from the Contract within the scope of statutory provisions, insofar as the delay to delivery is attributable to the us.

5.5. The Purchaser undertakes to notify us, upon our request, within a reasonable period, as to whether it intends to withdraw from the Contract as a result of the delay or continues to require delivery.

5.6. We are entitled to make partial deliveries and deliveries which fall short of or exceed the delivery amount by approximately 10%.

#### **Article 6. Transfer of risk**

6.1. Delivery is „ex works“ in accordance with Incoterms 2010, insofar as we have not expressly agreed otherwise with the Purchaser. The risk of accidental loss and accidental deterioration of the items delivered by us passes to the Purchaser upon transfer to, or collection by, the shipping agent, insofar as we have not expressly agreed to ship or install the object of delivery. This also applies where we make partial deliveries.

6.2. If dispatch, shipment, commencement or implementation of assembly or installation, acceptance in the Purchaser's facilities or test operation is delayed for reasons attributable to the Purchaser or the Purchaser is in default of acceptance for other reasons, risk transfers to the Purchaser on the date of default of acceptance.

#### **Article 7. Force majeure**

Force majeure, industrial disputes, strikes, riots, official interventions, non-delivery by our suppliers and other unforeseeable, unavoidable and serious events release us, for the duration of the disruption and in the scope of its effects, from our performance obligations. This also applies if these circumstances arise at a time when we are already in default, unless the default was caused intentionally or by gross negligence. We are obliged, as far as is reasonable, to provide the requisite information without delay and to adapt our obligations to the changed circumstances in good faith.

#### **Article 8. Retention of title**

8.1. We retain title to the delivered items until complete settlement of all our claims arising under the Supply Contract. This will also apply for all future deliveries, even if we do not constantly and expressly refer to this fact. We are entitled to take back goods, if the Purchaser acts contrary to the Contract.

8.2. The Purchaser is obliged, as long as title has not yet been transferred to it, to handle the goods with care, being obliged, in particular, to insure these goods, at its own expense, against theft, fire and water damage at a level sufficient to cover their original value. As long as title has not yet transferred, the Purchaser must inform us immediately if the objects delivered are seized or exposed to any interference by third parties. Where the third party is not able to pay the judicial and extra-judicial costs of our complaint under § 771 German Code of Civil Procedure or other costs necessary for prosecution, the Purchaser shall be liable for the resultant loss incurred by us.

8.3. The Purchaser is entitled to resell the goods subject to retention of title in the normal course of business. The claims of the customer from the resale of the goods subject to retention of title are thereby assigned to us in the amount of the agreed final invoice amount (including VAT). This assignment will apply, irrespective of whether or not the goods are resold without or subsequent to processing. The Purchaser remains entitled to collect the receivables even after the assignment. Our power to collect the receivables remains unaffected thereby. However, we will not collect the receivables, so long as the Purchaser continues to meet its payment obligations from the proceeds collected, does not enter into default of payment and, in particular, is not subject to insolvency proceedings and does not cease to make payments.

8.4. Handling, processing or remodelling of the goods by the Purchaser is always effected on our behalf and at our behest. In this case, the expectant right of the Purchaser to the goods continues for the remodelled goods. Insofar as the goods are processed with other objects that do not belong to us, we will acquire co-ownership of the new item at the ratio of the objective value of our goods to the other processed objects at the time of processing. The same applies in the event of combination. Insofar as combination is effected in such a manner that the Purchaser's item is considered to be the principal item, it is agreed that the Purchaser shall assign proportionate co-ownership and shall hold the resultant sole title or joint title for us. To safeguard our claims against the Purchaser, the Purchaser shall also assign to us such claims that accrue to it as a result of combination of the goods subject to retention of title with real property; we hereby accept such assignment.

8.5. We undertake to release securities upon request of the Purchaser, to the extent that their value [www.carlstahl-architektur.com](http://www.carlstahl-architektur.com) exceeds the receivables being secured by more than 20%.

#### Article 9. Warranty

9.1. The Purchaser is obliged to meet its obligation to inspect and submit complaints in compliance with § 377 German Commercial Code as a pre-requisite for making any claim on the basis of defects. Here, it must examine the delivery immediately or, at the latest, one week from receipt, for any defects and notify us where defects are discovered.

9.2. Claims for defects become statute-barred 12 months after delivery of the goods delivered by us, unless these concern a building or an item which has been used in accordance with its customary use in a building and which has caused it to be defective, in which case the limitation period is 5 years from acceptance.

9.3. The Purchaser bears the risk in terms of intended purpose. The condition of the goods is defined exclusively by the agreed, technical, delivery specifications. In the event that we are to make deliveries in accordance with drawings, specifications, models etc. of the Purchaser, the latter bears the risk of suitability for the intended purpose. The contractual condition of the goods is determined at the point that risk is transferred.

9.4. Where acceptance of the goods or a first-sample test is agreed, objection to defects is excluded, where these could have been identified by the Purchaser in the event of a more thorough acceptance or first-sample test.

9.5. For material defects caused by unsuitable or improper use, defective installation or commissioning by the Purchaser or a third party, fair wear and tear, incorrect dimensioning (insofar as we were not responsible for producing the parts), defective or improper handling, we will not be liable, nor for the consequences of improper modifications and modifications made without our consent or maintenance work carried out by the Purchaser or third parties. The same applies for defects which reduce the value or suitability of the item to an insignificant extent.

9.6. We must be provided with an opportunity to establish defects reported. Upon our request, rejected goods should be sent back to us in sufficient quantities for examination; we will cover the shipping costs where reported defects are proven to be justified. Where necessary, the Purchaser will take an active part in investigations, and, where required, making special test facilities and opportunities for testing available for no charge. The Contractual Partners will inform each other of the results.

If the Purchaser fails to fulfil these obligations or makes modifications to goods that have already been rejected without our consent, its claims for defects will become void. For justified, timely defects reported, we will, at our discretion, repair the rejected goods or deliver defect-free replacements. Where we fail to meet these obligations or fail to meet them in a contractually-compliant way within an appropriate period, the Purchaser can set a final deadline in writing, by which we must fulfil our obligations. After unsuccessful expiry of this deadline, the Purchaser can request a reduction of the purchase price, withdraw from the Contract or carry out the necessary repairs itself or contract a third party to do so, at our expense and risk. Reimbursement of costs is excluded, insofar as expenses increase due to the fact that the goods are taken to another location after our delivery, unless this is in conformity with the intended use of the goods. We will make special arrangements with regard to the assessment and apportioning of costs for the Purchaser's expenditure as a result of material defects, and such arrangements must be based on the Purchaser's actual share of the costs and the appropriateness of the expenditure and a review of the reimbursement claimed by the Purchaser which we will carry out.

9.7. The Purchaser itself must carry out an adequate validation process in the original unit. Material defects are excluded, if these could have been determined by a more thorough validation process.

9.8. Where the Purchaser requests that a complaint is processed by means of an 8D Report or by other means, expiry of a processing period set by the Purchaser shall not, under any circumstances, lead to implied acknowledgement of the complaint.

9.9. We will not cover any costs for field activities, insofar as these are not carried out on the basis of mandatory, statutory provisions (e.g. service actions).

#### **Article 10. Other claims / Liability**

10.1. Our liability for damages, on any legal ground whatsoever, in particular, due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contractual negotiations and liability in tort, is limited.

10.2. We are not liable in the event of simple negligence by our institutions, legal representatives, employees and other vicarious agents, insofar as there is no breach of fundamental contractual obligations. Fundamental contractual obligations are those of timely delivery, delivery of the object of delivery, its freedom from defects, which impair its functional capability or serviceability to a significant extent, and advisory, protective and custodial obligations which are considered to enable the Purchaser to use the object of delivery in conformity with the Contract or obligations protecting the life and limb of the Purchaser's personnel or which are intended to protect the Purchaser's property from significant damage.

10.3. Our liability is limited to damages which we foresaw upon conclusion of the Contract as a possible consequence of a breach of contractual obligations, or which we should have foreseen in applying due care. Indirect damages and consequential damages, which are the consequence of defects in the object of delivery are, furthermore, only eligible for compensation insofar as such damages are typically to be expected when the object of delivery is used in accordance with its intended purpose.

10.4. In every case, our liability is limited to the respective sum insured under our product liability insurance, even where there is a breach of fundamental contractual obligations.

#### **Article 11. Confidentiality**

Each Contractual Partner shall use all documentation (e.g. designs, drawings, models, data etc.) and knowledge, which it obtains under this business relationship, only for the agreed joint purposes and shall keep such documentation and knowledge secret, using the same care as it does for its own analogous documentation and knowledge, where the other Contractual Partner identifies such documentation and knowledge as confidential or has an obvious interest in maintaining its secrecy. The obligation does not apply for documentation and knowledge that is generally known or was already known upon its receipt by the Contractual Partner, without the latter then being bound by non-disclosure obligations.

#### **Article 12. Tools**

12.1. Unless otherwise agreed, tools, manufactured by us or on our behalf, remain our property. This also applies where we charge the Purchaser for the tools, in whole or in part.

12.2. Where it is expressly agreed that the tools should be the property of the Purchaser, the latter recognizes that the designs and manufacturing equipment (tools, moulds, templates etc.), which it has commissioned, embody significant development expertise on our part and that we have a special interest in maintaining its secrecy. For this reason, it is agreed that the Purchaser shall have no entitlement to make public the designs and manufacturing equipment, on any legal ground whatsoever, at any time, even in the event that the Purchaser assumes the tool costs in full and/or the supply relationship ends.

In the event of our insolvency or failure to deliver, the Purchaser is entitled to request the return of the tools, where appropriate, in return for payment of the remaining tool costs.

Suessen, March 2020

#### **Article 13. Discontinuation of the project**

In the event that the project is discontinued, for reasons for which we are not responsible and as a result of which the project does not materialize, the Purchaser must bear all project costs incurred as a result of development and implementation of the project up until notification of the discontinuation of the project.

#### **Article 14. Other provisions**

14.1. The law of the Federal Republic of Germany shall apply to the exclusion of conflict-of-law rules and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

14.2. The place of performance shall be our business headquarters.

14.3. Insofar as the Purchaser is a merchant, a legal entity under public law or special fund under public law, the place of jurisdiction for all disputes arising from the contractual relationship shall be our business headquarters. We are also entitled to initiate claims at the Purchaser's registered office.



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14.4. All arrangements made between the Parties for the purpose of implementing this Contract, are set down in the Contract in writing. [www.carlstahl-architektur.com](http://www.carlstahl-architektur.com)

14.5. Where an individual provision of the present Conditions and additional agreements concluded is or becomes ineffective, the validity of the remaining Conditions shall be unaffected thereby. The Contracting Parties undertake to replace the ineffective provision with a provision that comes as close as possible to the economic purpose of the original provision. The same applies in the event of any omissions.

Carl Stahl ARC GmbH

Suesen, March 2020

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