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**Stainalloy's General Terms and Conditions for the Purchase of Products and Services**  
**As per 30 July 2018**

**Article 1. Area of Application**

- 1.1 The following 'General Purchasing Conditions' ('GPC') apply to orders issued by Stainalloy Nederland B.V., hereinafter called 'Principal' or 'PR', to its suppliers (hereinafter called 'Contractor' or abbreviated 'CO'), and they are considered to be an integral part of agreed purchasing contracts.
- 1.2. The applicability or inclusion of any of the CO's General Terms and Conditions is excluded. These apply only when the PR expressly acknowledges them in writing.

**Article 2. Order**

- 2.1. Only orders issued by the Principal's Purchasing Department, either in written or electronically, are legally binding.
- 2.2. The CO must confirm or reject each order issued by the PR in written within 7 working days. The PR is entitled to withdraw from an order without stating the reasons or having to pay compensation until he has actually received an order confirmation, or at any time during this 7-day period.
- 2.3. Deviations from an order are only accepted when confirmed in written by the Principal.
- 2.4. Any drawings and plans, as well as any samples, models, or other auxiliary means that the PR provided together with the inquiry or order remain the Principal's property. They may not be used for any other purpose without the Principal's written authorization, and must be returned to him, without specific request, together with the offer, or when the order has been executed. Orders are not allowed to be used for advertising purposes. The orders and all related data, documents, etc. shall be treated confidentially as business secrets.
- 2.5. Unless otherwise agreed, the preparation of offers, plans, etc. will not be remunerated.

**Article 3. Scope of Supplies and Services**

- 3.1. The CO commits himself to delivering the agreed scope of supplies and services, incl. the complete documentation in accordance with contractual obligations, at the agreed time, in their entirety, and at the agreed, fixed price.
- 3.2 Subsequent changes/amendments of the agreed scope of supplies and services require the explicit consent of the Principal's Purchasing Department.

- 3.3. Any subsequent changes that are attributable to the Contractor shall not result in additional costs to the PR. Any changes required by law or the authorities that lead to a subsequent change/amendment of the scope of supplies and services shall be the Contractor's responsibility, and any resulting additional costs shall not be invoiced to the PR.
- 3.4. The complete fulfilment of the agreed scope of supplies and services includes, in particular, the effective transfer of unrestricted, unencumbered ownership, and the transfer of unrestricted control over all parts of the supplies/services, including all documents/documentation that are necessary for the commissioning, uninterrupted operation and ongoing maintenance/servicing, as well as any additional documents/documentation that has been contractually agreed. The CO shall concede the PR appropriate, non-exclusive, unrestricted by time, location or content, and within the group of companies of Stainalloy Nederland B.V., freely transferrable and sub-licensable rights of use over these documents/documentation (incl. any source codes), in order to ensure the unrestricted usability of the supplies/services. When making use of the aforementioned rights, the PR shall take the Contractor's legitimate interests as regards the protection of know-how into account.
- 3.5. The Contractor commits himself to ensuring that the use of his supplies and services is not restricted by the assertion of third party rights (brands, patents, models etc.) and that it is not in breach of existing clauses. In the event that such impairments or infringement of rights are asserted, the Contractor commits himself to indemnifying and holding the Principal, without any limitation, harmless from any and all claims made by third parties.

#### **Article 4. Packaging, Shipping and Customs**

- 4.1. The delivery conditions and shipping instructions applicable to the order are specified therein.
- 4.2. The supplies must be packaged appropriately, properly, and as is customary in the industry. Unless otherwise agreed, loading equipment and packing material become the Principal's property.
- 4.3. Any damage caused by inappropriate packing shall be for the Contractor's account. Return shipments will be effected at the contractor's cost and risk.
- 4.4. Supplies from EU countries must be accompanied by the following documents:
  - delivery note, invoice (incl. customs tariff numbers)
  - and a consignment note (CMR/CIM).
- 4.5. Supplies from third countries must be accompanied by the following shipping documents in addition to the aforementioned documents:
  - preference document (such as a movement certificate, declaration of origin on the invoice)
  - and the customs document (import declaration IMA or transit document T1)

- 4.6. The complete order number and the required place of delivery must be clearly visible on the bills of lading, on the shipping documents intended for the consignee, and on the packages themselves (lettering, adhesive labels). All shipping documents, invoices, etc. must include the total weight (gross weight and net weight). When an order includes a contract item number, this number must be indicated in each document and in all shipping documents.
- 4.7. Any ancillary expenses relating to the execution of an order, and that are neither foreseen in agreements nor in INCOTERMS 2010, shall be borne by the Contractor.
- 4.8. Furthermore, depending on each individual business transaction, the shipping and packing guidelines, as well as applicable customs regulations form an integral part of the order.
- 4.9. In the event that the instructions relating to shipping, packaging, customs clearing, and documentation are not adhered to, all resulting risks, damage and costs shall be borne by the Contractor, and the date of the invoice settlement shall be deferred until completion, or when all missing documents are presented.

#### **Article 5. Delivery Time**

- 5.1. All agreed delivery dates are binding.
- 5.2. Delivery dates are deemed complied with only when all necessary documents (e.g. technical, shipping, test documents) have been supplied completely.
- 5.3. In cases of early delivery, the originally agreed payment dates apply. In cases of early delivery without consent, the PR reserves the right to claim related, additional expenses (such as warehouse rent, etc.)
- 5.4. Whenever the Contractor recognises that he will not be able to adhere to the agreed deadlines and dates, he shall be obliged to notify the Principal immediately, in written, by stating the reasons, and the expected duration of the delay.
- 5.5. In the event of delivery delays, the Principal reserves the right, after having set an appropriate period of grace, to withdraw from the contract, and to proceed with a substitute performance at the Contractor's expense. In cases of imminent danger, or when any damage can be expected, the Principal shall be entitled, even without setting a period of grace, to proceed with a substitute performance at the Contractor's expense.

#### **Article 6. Transfer of Risk / Transfer of Ownership**

- 6.1. The transfer of risk takes place in accordance with the agreed clause of Incoterms® 2010.
- 6.2. Unless otherwise agreed, the transfer of ownership related to the supplies/services shall take place at the same time as the transfer of risk. When partial payments have been agreed, the transfer of ownership of the related supplies/services shall take place when the corresponding part of the agreed instalment has actually been paid.

6.3. Unless otherwise agreed in written, no retention of title by the Contractor is accepted.

### **Article 7. Guarantee**

7.1. The CO guarantees that the supplies/services will be performed in the way they have been agreed on in the contract, and that, at the time of handover and during the entire guarantee period, they are and remain free of defects of any kind regarding quality and title, and that they possess the generally expected and specifically agreed properties.

In addition, and relating to the above, the CO guarantees the correctness and completeness of his engineering, consultancy and documentation services.

7.2. Usual wear and tear, as well as damage resulting from improper/wrong use of the supplies/services by the PR are explicitly excluded from the scope of the guarantee. The CO shall bear the burden of proof that for the duration of the guarantee period no defects have occurred.

7.3. The obligation to report defective goods/services as foreseen in Section 7:21 BW (Dutch Civil Code) is herewith explicitly waived.

7.4. The guarantee period shall be 2 years from the time of commissioning the installation or the acceptance of the goods. As regards the legal assertion of claims that arise during the guarantee period, a period of limitation of 24 months applies from the time the claims arise.

7.5. During the guarantee period, the CO commits himself to rectifying, free of charge, and at the discretion of the PR, any existing/emerging defects within a reasonable period of time, by means of improvement, exchange/supplementary delivery. When rectifying defects, the CO must take the PR's legitimate interests in connection with production-related requirements and the need for unhindered, ongoing industrial production into account. When the Contractor does not comply with his warranty-related obligations, the Principal is entitled to rectify such defects or damage on his own, or have them rectified by a third party at the Contractor's expense. Alternatively, the PR shall be entitled, at his discretion, to assert the legal remedies of price reduction or conversion.

In cases of replacement or repairs, the agreed guarantee period of 2 years starts again.

### **Article 8. Damages / Product Liability**

8.1. The CO is liable for any damage caused by him (or persons for whom he is responsible) in accordance with existing legal provisions (including product liability regulations). The PR does not accept any exclusion of liability for any reason, nor limitations of liability on the part of the Contractor, unless these have been individually and explicitly negotiated with the PR and documented in written.

8.2. Should third parties assert a claim against the PR that is related to defective supplies from the CO relating to national/international product liability laws, the CO shall indemnify and hold the PR harmless accordingly. The same applies to any assertion of claims by third parties against the PR, which are based on culpable acts and/or omissions on the part of the CO, or persons for whom he is responsible.

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## **Article 9. Prices / Payment Conditions / Invoicing / Offsetting**

- 9.1 . In the absence of other agreements, all prices that are either agreed or form part of a contract are deemed to be net prices, exclusive of VAT, based on DDP Incoterms® 2010, and include all charges for packaging, transport, customs clearance, etc.
- 9.2. Unless otherwise explicitly agreed, payment will be effected after the receipt of an invoice and the proper delivery of the supplies/services within 60 days.
- 9.3. The payment shall not constitute an acknowledgement that the supplies and services have been delivered correctly, and shall not constitute a waiver by the Principal of his rights to claim for deficiencies in performance, claims related to warranties, damages, or penalties, etc. Complaints against the supplies/services entitle the Principal to withhold due payments in relation thereto.
- 9.4. It shall be permissible to offset all due payments against counterclaims in connection with the relevant transaction and with other transactions of the Principal, or other companies that belong to the same group of companies as the Principal.
- 9.5. Part payments or advance payments can only be effected when they have been agreed to in written, in advance, and against presentation of an irrevocable, abstract bank guarantee that is free of charge for and acceptable to the PR. Any payments (including the final payment) shall become due within 60 days after receipt of a written request for payment and the receipt of an invoice, and after all related order conditions have been fulfilled, especially as regards the correct delivery of documentation.
- 9.6. The PR is entitled to withhold 10% of the order value in the form of a non-interest bearing security against claims on damages and guarantees until the end of the guarantee period plus 60 days. This security can be redeemed, with the PR's consent and at no cost to him, against presentation of an irrevocable, abstract bank guarantee with a term running until the expiry of the guarantee period plus 60 days.
- 9.7. Invoices must be presented in duplicate and with the shipping notice, respectively the delivery note attached. The shipping documents must clearly show the order number and the partner number. Invoices for services must include a proof of performance. The Contractor's invoices must comply with all requirements and include the GO's valid VAT identification number. Electronic invoices must comply with all statutory requirements, and must be approved by the PR in advance. The PR is entitled to reject incorrect invoices, or electronic invoices that have been issued without the PR's approval. Cash-on-delivery shipments are not accepted (except in cases of a specific written agreement).

### **Article 10. Non-disclosure**

- 10.1. The CO shall treat in strict confidentiality all information, such as technical, commercial and/or business information, including formulas, product compositions, manufacturing/production processes, ideas, designs, electronically recorded data, and product samples, etc., that the PR has made available to him verbally, in written, electronically or in any other form {hereinafter called 'Information'}, and not make it available to third parties without the PR's prior written consent, and he shall not use them (not even in part) for any purposes other than those foreseen in the contract/order.
- 10.2. The entire Information disclosed or received during the processing of the order shall be returned to the PR or, at the PR's request be irretrievably destroyed.
- 10.3. To the extent that the PR discloses or makes Information available to the CO, the PR explicitly reserves the rights to this Information, especially as regards intellectual property rights (incl. intellectual property rights, copyrights, trademark rights, utility model rights, etc.).

### **Article 11. Rescission**

- 11.1. In the event that the Contractor does not completely, or only in part, fulfil important contractual obligations, the Principal shall be entitled, notwithstanding any other rights and claims, to fully or partially withdraw from the contract, after having set a reasonable period of grace.
- 11.2. In addition, the Principal shall be entitled to withdraw from the contract without setting a period of grace, when there is an imminent danger, or settlement, or other insolvency proceedings are opened against the Contractor or his suppliers/sub-suppliers, or if such proceedings are rejected for lack of assets.
- 11.3. The Principal shall be entitled to perform any supplies/services that were not, or that were inadequately performed himself, or have them performed by third parties, at the Contractor's cost and expense. Any reasonable additional expenses resulting therefrom shall be invoiced directly to the Contractor.

### **Article 12 EC Declarations of Conformity / Declaration of Incorporation**

- 12.1. As a matter of principle, the CO shall be responsible for the legal conformity of all supplies and/or services, and this applies equally to products imported from countries outside Europe.
- 12.2. Such supplies and/or services must correspond demonstrably and provably to all applicable EU (EC) guidelines, harmonized standards, and applicable Dutch law.
- 12.3. The CO shall be liable for preparing all risk analyses, risk assessments, operating manuals, technical documents, such as validation documentation, manufacturer's declaration, declarations of incorporation, or declarations of conformity, as required by EU(EC) guidelines, and deliver them to the PR, if required, disclose any safety-related installations and measures that are still required for completing the CE certification.



- 12.4. All costs and any damage resulting to the PR due to defective or legally non-compliant supplies and/or services shall be fully borne by the CO.

### **Article 13. Safety Guidelines / Employment of Foreigners**

- 13.1 . The CO and all his employees deployed for the provision of services to the PR are obliged to participate in the PR's safety training relating to risks regarding health, the environment, operations, and the construction sites, as well as to the safety and visitor regulations applicable on the PR's premises, and to adhere to any and all of these regulations. The CO shall guarantee through his comportment and by means of measures (e.g. use of appropriate safety equipment and safety measures) initiated by himself, or any person for whom he is responsible, the safety of all persons employed by him for the performance of his supplies and services for the PR, as well as of all his employees, or those of third parties deployed by him in this context.
- 13.2. The CO further commits himself to adhering to all legal requirements relating to the protection of workers and the employment of foreign workers. Adhere to the Trade, Commerce and Industry Regulation Act, the Anti-Wage and Social Dumping Act.

### **Article 14. Final Provisions**

CO shall comply with ruling legislature, among which dual use, export and customs, anti-dumping and anti-corruption, as recorded in but not limited to "the Bribery Act 2010" in its most recent version. PR is authorised to nullify the agreement and order effective immediately when this legislature is not complied with whereby any by PR suffered damages can be recovered from the CO.

Product / grade may for certain applications fall under Global and European Union's Laws, Rules and Regulations for export/re-export of so called "Dual Use" Products.

### **Article 15. Jurisdiction / Arbitration / Applicable Law**

- 15.1. Only Dutch law applies to these General Terms and Conditions, as well as to all offers and contracts to which these General Terms and Conditions are applicable. The applicability of the Vienna Sales Convention is expressly excluded, as well as any existing or future international regulations for the sale of goods.
- 15.2. With regard to disputes with contracting partners within the EU the following rules apply:  
In the absence of amicable settlement, all disputes arising out of or in connection with the present contract concluded between PR and CO will exclusively be submitted to the court of Rotterdam, the Netherlands, even in the event of third party introduction proceedings or plurality of defendants.
- 15.3. With regard to disputes with contracting partners outside the EU the following rules apply: In the absence of amicable settlement, all disputes arising out of or in connection with the present contract concluded between PR and CO shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.

15.4. Unless otherwise agreed, the place of fulfilment is the business address that is appears on the Principal's order.

#### **Article 16. Miscellaneous**

16.1. The assignment of rights and obligations in connection with the contractual relationship on the part of the Contractor is only permitted with the Principal's prior written consent.

16.2. Furthermore, the Principal must be informed of any potential sub-suppliers, so as to authorize them.

16.3. In the event that one stipulation or individual stipulations of these General Conditions of Purchase are entirely, or partially ineffective, the effectiveness of the other stipulations shall not be affected thereby. The invalid stipulation shall be substituted by a stipulation that comes as close as possible to the economic purpose of the original stipulation.

#### **Appropriate supplementary provisions:**

Appointed place of arbitration shall be Rotterdam – the Netherlands.

a. The substantive law of the Netherlands shall be applicable.

b. The language to be used in the arbitral proceedings shall be English.

These Terms replace the previously filed terms of Stainalloy Nederland B.V.  
These Terms are filed at the Chamber of Commerce in Rotterdam.

Schelluinen, 30 July 2018