

Stainalloy's General Terms and Conditions of Sale and Delivery As per 30 July 2018

Article 1 Definitions

- 1.1. Buyer: prospective Buyer, prospective customer and generally the contracting partner of the Seller.
- 1.2. Seller: Stainalloy Nederland B.V. with registered office and actual place of business at Schelluinen, the Netherlands, in its capacity as provider, Seller, (sub) contractor, supervisor or in any capacity whatsoever.
- 1.3. Purchase order: a document used to request the Seller to deliver the scope of supply in return for payment.
- 1.4. Quotation: a non binding statement from the Seller of the current market price of the product.

Article 2 General Provisions

- 2.1. These General Terms and those matters mentioned in the confirmation of a purchase order of the Seller shall apply to all offers and agreements, that Seller finalizes with its Buyer and Suppliers, as well as the results of such agreements, unless expressly agreed otherwise in writing. Any reference made by the Buyer to his own purchase, tender or other general terms is hereby expressly excluded.
- 2.2. Any arrangements and amendments to existing agreements shall always be effected in writing, which also includes e-mail messages.
- 2.3. Any trade term used in quotations, order confirmations or otherwise must be interpreted in accordance with the International Rules for the Interpretation of Trade Terms (Incoterms latest edition) produced by the International Chamber of Commerce in force at the time when the agreement is concluded.
- 2.4. If any term or condition of these General Terms becomes invalid, then the contract as for the rest shall remain valid. The parties shall replace such invalid term or condition by that valid term or condition that as closely as possible attains the commercial result of the invalid term or condition.
- 2.5. For the purpose of these General Terms of Sale and Delivery, "force majeure" means: any defective performance arising from circumstances beyond the control of the defaulting party, including in any event defective performance as a result of power outage, disruption of telecommunications, cyber criminality, fire, sanction laws, restrictions on import and export, strikes, machine failure, and disruption of operations at or defective performance on the part of suppliers involved in the performance of the agreement and other third parties.



Article 3 Agreement

- 3.1. An agreement with the Seller has come into being by Seller's confirmation of the Buyer's purchase order. Only the Seller's confirmation shall be binding if there is a discrepancy between the Buyer's order and the Seller's confirmation.
- 3.2. A purchase order from the Buyer is irrevocable and may be accepted by Seller within a period of 4 weeks by means of an order confirmation, unless the order confirmation explicitly provides the contrary in writing.
- 3.3. A quotation from Seller shall not be binding, unless the contrary is explicitly provided in writing. Seller may at any time refuse a purchase order, whether or not received following a prior order, in the following manner without giving any reasons therefore.
- 3.4. In case of supply from stock and performance of work to goods made available by the Buyer: within 14 days after the purchase order.
- 3.5. In case of other supplies: within 4 weeks after receipt of the purchase order.
- 3.6. The Buyer shall warrant the correctness of the information provided to Seller by or on behalf of the Buyer. If the Buyer provides any data, drawings etc., Seller will treat the provided information as accurate information, and will make an offer based on the information provided.
- 3.7. If the Seller reasonably believes that the Buyer's financial position is based on resp. reflects any inconstancies in payment and vice versa, the Seller shall be entitled to request payment in advance or the provision of security and, in anticipation thereof, to suspend the performance of the Agreement in whole or part. If such advance payment is not made or if such security is not provided in accordance with Seller's reasonable request, the Seller shall be entitled to dissolve by a simple statement in writing, without judicial intervention, without prejudice to the Seller's right to compensation, if such is warranted, and without the Buyer being able to assert any right to compensation.
- 3.8. If, due to an event of force majeure, the Seller is unable to timely perform an agreement, the applicable delivery period shall be extended with a period equal to the duration of the event of force majeure.
- 3.9. Any additions or amendments to the Agreement and or agreement ancillary to the Agreement shall be valid only if they have been agreed or made in writing.
- 3.10. The Seller shall not be liable for any errors or damages resulting from incorrect information provided by the Buyer or third parties.
- 3.11. An Agreement that has been concluded may be cancelled by the Buyer only subject to the Seller's prior consent in writing. If the Seller agrees to cancellation, the Buyer shall be required to pay compensation to the Seller of the amount that the Buyer would have had to pay to the Seller if the Agreement had been carried out, without prejudice to the Seller's right to compensation in full for any expenses and/or losses incurred.



Article 4 Price

- 4.1. Prices stated by Seller are in Euros (except if clearly indicated otherwise), based on any information furnished at the time of the request, exclusive of turnover tax and other government charges, unless expressly stated otherwise. If agreement was reached on payment of the price in any other currency than Euros, the Buyer shall compensate Seller for any reduction in the value of such currency as compared to the rate of exchange on the date the agreement was concluded.
- 4.2. In case of general price increase, in particular due to collective wage agreements, increase in material prices or currency fluctuations, Seller retains the right to increase its prices. These increases will be clarified to the Buyer on demand.
- 4.3. In addition to the agreed or quoted prices, Seller is entitled to demand payment for work incurred as a result of incomplete, inaccurate or insufficient material/information supplied by the Buyer, or if corrections are made to the delivered goods after Seller has already begun working on the job. Moreover, Seller has the right to invoice the Buyer for any additional time spent on the job above and beyond the time agreed upon, and/or if the Buyer makes changes or additions to the order specification upon which the original quote was based.
- 4.4. When goods are stored by Seller for a period of more than one (1) month after agreed delivery date between Seller and Buyer the resulting cost shall be paid by the Buyer.
- 4.5. If upon inspecting any asserted defect is found and no warranty claim exists, then the Buyer shall pay the cost of such inspection. This includes inspection done by a third party on behalf of Seller.

Article 5 Payment

- 5.1. Payment by the Buyer of the agreed price shall take place within 30 days after delivery and/or date of invoice as referred to in Article 6 or within the period of time indicated on the invoice.
- 5.2. Any and all payments must be made without any off-set into the account of Seller or into an account indicated by the latter.
- 5.3. Even without a reminder or notice being sent, the Buyer shall be in default on payment if the Buyer has not settled the invoice within the period specified in article 5.1.
- 5.4. Should the Buyer fail to effect payment within the specified period, he is deemed to be in default by operation of law and he will owe, automatically and without any further notice of default being required, from the next following day an increase of 1.5% per month (or part of a month), irrespective of the other rights Seller may have in such case.
- 5.5. If the Seller has to take (extra) juridical measures in connection with late payment, the Buyer shall bear all the costs arising there from, which shall total at least 15% of the outstanding claim, subject to a minimum of EUR 150, without prejudice to the Seller's right to compensation in full.



- 5.6. In case of an attachment being laid on goods delivered under retention of title, or suspension of payment or of bankruptcy, any and all amounts receivable by Seller from the Buyer shall be due for immediate payment.
- 5.7. At any time the Buyer shall not be entitled to set off any claim out of any warranty issues or other counterclaims that it might have against the Seller out of this purchase order or any such other agreements between the Seller and the Buyer against sums owing to the Seller unless such claim is undisputed by the Seller or has been decided in the Seller's favor finally and conclusively pursuant to Clause 18 (Jurisdiction/Applicable Law).
- 5.8. The Seller may suspend the delivery of goods if and for as long as the Buyer fails to fulfil any of his obligations to the Seller under the agreement, or to fulfil these in full, properly, or on time. All cost resulting from this suspension may be back charged to Buyer by Seller.
- 5.9 Prior to payment, the seller is entitled to alienate the sales invoice or establish right of lien on the pertaining invoice and/or to encumber the pertaining invoice in any other way.

Article 6 Delivery Time

- 6.1. The time of delivery for goods and/or work to be performed to goods commences on any of the following dates, whichever is the latest:
 - The date on which the agreement is concluded in writing;
 - The date of receipt by Seller of the documents, permits, clearances, data, information or advance payment required for the performance of the agreement.
- 6.2. The delivery period shall have been met where the subject matter of the delivery leaves Sellers works, or Seller gives notification of readiness for delivery, prior to expiry of the said delivery period.
- 6.3. In the case of changes by the Buyer, Seller shall be released from the obligation to comply with the delivery date or delivery period.
- 6.4. The delivery time with respect to goods and/or work to be performed to goods has been given as accurately as possible but it shall not be binding. The agreed delivery dates and times shall always be deemed to be estimates only, unless explicitly agreed otherwise in writing and subject to unforeseen circumstances. In case the delivery time is exceeded Seller will notify the Buyer hereof as soon as possible.
- 6.5. Should Seller become aware, after conclusion of the agreement, of circumstances giving it good grounds to fear that the other party will fail to fulfill its obligations vis-àvis Seller, Seller is entitled to suspend delivery of the items sold. In such instance Sellers other party shall at any rate nevertheless be entitled to require delivery, if it provides adequate security to Seller for the proper performance of its obligations.



Article 7 Transport and Taking Delivery

- 7.1. If the goods are ready for collection by the Buyer, and if the Seller has informed the Buyer accordingly, the Buyer shall be required to collect the goods forthwith. If the Buyer fails to meet this requirement, the Seller shall be entitled either to store the goods, or to keep them stored, at the Buyer's risk and expense, and to invoice the Buyer without the possibility of a refusal of payment thereafter on account of pending collection, without prejudice to the Seller's other rights.
- 7.2. Where the Buyer is required to load or unload the goods, he shall do so immediately. If this requirement is not met, the provisions set out in clause 7.1 shall apply analogy.
- 7.3. All deliveries are ex works (Incoterms), unless explicitly agreed otherwise.

Article 8 Termination

- 8.1. Should the Buyer, other than on account of statutory force majeure, fail to fulfill any obligation arising for him under the agreement concluded with Seller, or fail to fulfill such contractual obligation in good time or with due care, or if there is serious doubt whether the Buyer is willing or able to fulfill his contractual obligation vis-à-vis Seller, as also in case of bankruptcy, suspension of payment, closing down or liquidation of the Buyer's enterprise, Seller has the right without further notice of default being required, to set aside the agreement in whole or in part by registered letter, without Seller being under any obligation to pay damages, or compensation for any expenses and losses incurred, or to provide guarantee and without prejudice to any further rights it may have.
- 8.2. If so requested, the Buyer shall, prior to or during the performance by Seller of the agreement, provide adequate security for the performance of existing or future obligations arising under the agreement concluded. Seller may, for as long as such security has not been provided, suspend its contractual obligations. Should the security not have been provided within the reasonable period of time indicated by Seller for this purpose, or if the security provided should, in Seller's opinion, not be satisfactory or defective, the provisions laid down in paragraph (8.1) shall apply correspondingly.

Article 9 Ownership, Retention of Title and Possessory Lien

9.1. Title in the goods delivered under the agreement shall only pass to the Buyer after Seller's claims on the Buyer on account of goods delivered or to be delivered under the agreement or on account of the work performed or to be performed for the Buyer under such agreement, or on account of the Buyer's failure to perform such agreement, have been paid in full including any interest and costs. Until such time the Buyer shall be required to keep the goods, which the Seller has delivered, separately from other goods and clearly identified as the Seller's property and to insure the goods properly and keep them properly insured.

Buyer is not entitled to alienate the goods, or to establish right of lien or non-possessor lien on the pertaining goods and/or to encumber the pertaining goods in any other way.



- 9.2. In case of deliveries abroad the Buyer is obliged to take all necessary measures to make the Seller's retention of title effective in legal terms, especially with regard to the compliance with publicity regulations.
- 9.3. In case the Buyer fails to fulfill his payment obligations or the fulfillment thereof is overdue, without prejudice to any other right Seller may have, without any further notice of default or intervention of the Court being required, Buyer hereby irrevocably authorizes Seller to take the supplied goods back at first demand, regardless of where the goods are located. The Buyer shall bear the repossession costs.
- 9.4. The Buyer shall properly indicate Seller's property rights on the goods supplied. In case of attachment, suspension of payment or bankruptcy, the Buyer shall forthwith notify the bailiff, trustee in suspension of payments or trustee in bankruptcy of Seller's retention of title and inform Seller about the situation that has occurred.
- 9.5. The Buyer may alienate the goods supplied under retention of title within the normal course of his business, provided this be done under retention of title, but he may not encumber the same.
- 9.6. Seller may suspend the surrender of things made available to it by or on behalf of the Buyer for as long as the amounts due from the Buyer to Seller including the interest and costs thereon have been left unpaid.
- 9.7. Until the above-mentioned claims are met, The Buyer shall not have the right to create a lien of pledge, either possessory or non-possessory, on the goods in question.
- 9.8. The Buyer shall inform Seller without undue delay of any seizing or other legal or physical impairment of endangering of the retained goods or any other security right provided to the Seller.
- 9.9. The Buyer is obligated to insure the Retained Goods adequately against fire, water, damage and theft at replacement value. The Buyer herewith assigns to Seller the Buyer's claims under the relevant insurance policies.

Article 10 Guarantee and Complaints

- 10.1. Seller warrants that the goods sold or work performed comply with the (mill) standards applicable in the branch of industry, and with the explicit guarantees given by Seller in writing. Hence Seller reserves the right to supply goods or hand over work showing deviations that are acceptable or unavoidable in the branch of industry. The warranty obligations of Seller shall not go beyond the quality stipulations explicitly made or the quality standards explicitly agreed.
- 10.2. The Buyer is obliged to comply with his obligation to examine and inspect the goods upon delivery and, if necessary, test them, for any variances from the agreed requirements, even where the goods are resold. The guarantee given by Seller in respect of goods and work is limited to the obligations and periods of time laid down in this Article.



- 10.3. Complaints and defects must be reported and notified in writing within 8 days from the delivery date. On expiry of the aforesaid periods, the Buyer shall be deemed to have irrevocably and unconditionally accepted the goods delivered. Defects which are not supposed to be discovered even upon most careful examination of the goods shall be notified immediately after discovery, however the latest within 4 weeks after receipt of the goods, in writing, otherwise the goods are considered to be approved.
- 10.4. Lodging a complaint shall not suspend the Buyers payment obligation in respect of the goods and work in dispute.
- 10.5. In the event of complaints relating to material, processing or construction defects, the goods have to be in the condition in which they were supplied by Seller following the fact that any machining, manufacturing or processing shall be stopped without delay.
- 10.6. The Buyer must keep any defective goods at the Seller's disposal to allow him to inspect the goods otherwise all warranty rights are said to be expired.
- 10.7. In any case the right to warranty shall be proven by the Buyer. Buyer shall also bear all costs relating to and accruing from any notification of defects not submitted within due time.
- 10.8. In the case of legitimate notification of defects within due time Seller shall have also in the case of a major defect the right to decide between repairing the defect or providing a replacement delivery. According mill standard, goods are guaranteed against hidden defects and faulty workmanship. Damages caused by corrosion, wear or use on applications for which these goods are not intended, are not covered by this guarantee. During the guarantee period goods will be repaired, or at Seller's option replaced which goods prove to be defective, provided they are returned to Seller. Seller will not accept charges for freight, repair by third parties or claims for consequential damages, without Seller's written approval.
 In the event of failure of Seller to repair or replace the goods as required within a reasonable period, or if operational safety is in danger or if any major damages are imminent, Buyer after prior written consent of Seller is entitled to remedy those defects itself or through a third party and impose any subsequent costs to Seller.
- 10.9. If Seller, in fulfillment of its guarantee duty, replaces goods, the replaced goods will become its property. Replacement goods will be redelivered and invoiced; replaced goods will be returned to Seller at Buyer's risk and expense and thereupon will be credited by Seller upon receipt of the returned goods.
- 10.10. If the Buyer fails to fulfil an obligation arising for him under the agreement concluded or any agreement connected therewith, or fails to fulfil such contractual obligation in good time or with due care, Seller shall not be bound to provide any guarantee in relation to any of these agreements.
- 10.11. The warranty obligations of the Seller shall not go beyond the quality stipulations explicitly made or the quality standards explicitly agreed.



- 10.12. The warranty period shall be 12 months from the delivery of the goods or 18 months from the date when the goods have been into commercial use, whichever period expires first. In the event of repaired or replaced parts no extension of the warranty period applies.
 - a. Any rights of recovery deriving from Buyer's anticipated liabilities in front of its client are excluded.
 - b. Any changes made in connection with the goods from Buyer without prior written consent of Seller leads to expiration of any warranty rights.
 - c. As far as those parts are concerned which Seller has drawn from Subcontractors, Seller is only considered to be liable towards Buyer to the extent of those warranty claims which Seller itself has towards the Subcontractor.
- 10.13. Any guarantee given by the Seller shall not be valid if:
 - a. and as long as the Buyer is in default vis-à-vis the Seller;
 - b. one year has elapsed since delivery;
 - c. the Seller has not been given an opportunity to investigate a defect within fourteen working days of its discovery;
 - d. the goods have been exposed to abnormal conditions or have been handled incompetently or without due care;
 - e. the goods have been stored for longer than usual and if a loss of quality is likely to have been sustained as a consequence thereof.
- 10.14. Public statements made by the Seller, Seller's agents or any manufacturer's agent, including but not limited to those made in advertising materials, regarding characteristics of our goods shall give rise to warranty claims on the Buyer's part only where they have been made an integral part of a quality specifications between the parties.
- 10.15. As regard to declassed goods and second-tier quality goods all warranty claims shall be excluded for defects the Buyer has knowledge of at time of entering the contract. The Seller shall also not be liable for any defects the Buyer has failed to become aware of at the time of entering the contract due to the Buyer's own gross negligence, except where the Seller had fraudulently concealed such defect or had extended a warranty for characteristics of the goods.
- 10.16. Any warranty claims of Buyer do not entitle him to any retention of his payments.

Article 11 Indemnity Claims/Liability

- 11.1. Unless Seller is liable pursuant to mandatory provisions or if it is a matter of willful misconduct or gross negligence on its part, liability of Seller is expressly limited to performance of the guarantee obligations described in Article 11.
- 11.2. Statutory claims arising from liability shall become time-barred 6 months as from the date on which Buyer became aware of the damage and the author thereof. The burden of proof that such a willful conduct or gross negligence exists is with Buyer.



- 11.3. Within the framework of the preceding paragraph Seller also excludes any liability for compensation for any expenses or losses incurred, costs, damages or interests that occur as any direct or indirect consequence of the use of data or information provided by or on behalf of the Buyer, acts or negligence of subordinates or other persons employed by or on behalf of Seller for the performance of the agreement, and late delivery, consultancy work or force majeure.
- 11.4. Unless not agreed otherwise, any further claims of the Buyer for whatever legal reasons are not admissible. Therefore, Seller is not liable for any damage which is not related to the delivered items, in particular, Seller is not liable for any consequential damages including but not limited to loss of profit, pure financial loss or other damage to the property of the Buyer.
- 11.5. For slight negligence Seller is only liable as this is based on a violation of essential contractual obligations. In this case any liability is limited to the typically foreseeable damage and to the value of the (partial) delivery only.
- 11.6. Subject to the provisions hereinafter, neither Seller nor Seller's employee(s), nor third parties engaged by Seller shall ever be liable, for any reason, for any loss sustained by the Buyer or any third party in respect of any delivery commitment, the delivery of goods, the delivered goods themselves or the use thereof or any work or recommendations.
- 11.7. Seller's liability for any direct costs and losses, in any way relating to or caused by an error or omission in the performance of the Agreement, shall be limited at any time to redelivery or to the line item amount for the order.
- 11.8. Seller shall never be liable for any indirect, special, incidental or consequential losses or punitive damages, in any way whatsoever associated with or caused by an error or omission in the performance of the agreement, including but not limited to transport costs, travel and accommodation expenses, (dis)assembly and/or (re-)installation costs, lost profit, profit reduction, pure financial losses and interruption of operations, even if Seller has been advised of the possibility of such types of loss or damages. The maximum liability of Seller as far as covered by Seller's insurance policy, is limited to an amount equal to the total purchase price per line item. Seller shall have no liability under the contract for loss profit, economic loss and/or consequential damages suffered by the final customer.
- 11.9. If a purchase order has been made according to specifications, drawings or models from Buyer or Client, Seller shall only be liable for performance in compliance with the general details provided by Buyer/Client. In no event Seller guarantees and shall never be deemed to have guaranteed or to warrant that the goods purchased are suitable for the purpose respectively any "intended use" or any accuracy of technical/design engineering provided by Buyer/Client for which the Buyer wishes to treat or process them or wishes to use them or cause third parties to use them.
- 11.10. The Buyer fully indemnifies the Seller against any third-party claims for compensation for loss or otherwise which relate directly or indirectly to any delivery commitment, the delivery of goods, the delivered goods themselves or the use thereof or any work or recommendations.
 - The Buyer furthermore indemnifies the Seller against any claims by third parties for compensation of loss or otherwise which relate directly or indirectly to the editing and/or (electronic) transmission of the information furnished by the Seller.



- 11.11. If the agreement covers goods that the Seller procures or has procured from third parties, the Seller's responsibility and/or liability shall be limited to the responsibility and/or liability to the Seller of the Seller's supplier or of a third party or third parties engaged by the Seller. This provision shall apply only in so far as its application is more advantageous to the Buyer than the application of the provisions set out in article 12d, 12e, 12f and 12g.
- 11.12. The Buyer shall have the duty to mitigate any losses, if any, as much as possible in consultation with Seller.
- 11.13. Apart from having Seller's consent in writing, the Buyer shall not return any goods to Seller.

Article 12 Declarations

Declarations of Seller in relation to this agreement and/or the performance or nonperformance thereof made to the Buyer will be effective even if they have not reached the Buyer or have not reached him in time, if this situation results from the Buyer's own acts or negligence, from the acts or negligence of the persons for whom he is responsible, or from other circumstances which are personal to him and justify that he suffer the consequences.

Article 13 Revival of Rights

If Seller has demanded performance by the Buyer, but the Buyer fails to perform within a reasonable period, Seller's rights are newly revived.

Article 14 Calculation of Damages

Where, in the event that the agreement is set aside, the object sold has a current price, the damage will equal the difference between the price fixed in the Agreement and the price of the day on the day of non-performance.

If there is no such current price or if it would be difficult to apply it, the current price is replaced by the price of the market which can reasonably replace this one; in doing so, account is taken of differences in the costs of transportation of the object sold, unless Seller should claim the damage actually sustained by it, in which case Seller shall have to produce evidence of such damage.

Article 15 Conflicting Provisions

Should, according to the competent Court, any of the provisions of these Terms not be applicable or be in conflict with public policy or the law, then only the relevant provision will be considered as not having been written, but the remainder of these Terms will continue in full force and effect.

Article 16 Property Rights and Copyrights

Seller reserves all and any property rights and copyrights in all and any drawings, illustrations, estimates of cost and other documents enclosed with any offer. Such documents may not be made accessible to any third party nor be used commercially without the prior consent of Seller, and shall be returned to Seller without undue delay at Seller's request. If this provision is violated, the Buyer is obligated to compensate the Seller in full for any damage or harm resulting thereof.



Article 17 Final Provisions

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

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. This means that the Buyer/End User of the goods in some special cases will be requested to deliver a Statement of End use and Application prior to order acceptance by Seller. Seller might also be required to apply for an Export License from the authorities.

Article 18 Jurisdiction/Arbitration/Applicable Law

- 18.1. 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.
- 18.2. 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 Seller and Buyer will exclusively be submitted to the court of Rotterdam, the Netherlands, even in the event of third party introduction proceedings or plurality of defendants. The Seller may instead also elect to bring any such dispute before any other court that has jurisdiction pursuant to the
- 18.3. 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 Seller and Buyer 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.

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