

# B2B General Terms and Conditions of Delivery and Service – Steel Service Krefeld GmbH

## Part A: General Terms and Conditions of Business

### § 1 General – Scope of Application – Form

- (1) We act as resellers and intermediaries of movable property (“**Goods**”), contractors of work and providers of services. We conclude contracts exclusively with entrepreneurs (Sec. 14 BGB (Bundesgesetzbuch [German Civil Code])), legal entities under public law and special funds under public law (“**Customer**”), in particular with regard to business relationships in which the Customer commissions
  - a) the sale and/or delivery of Goods (“**Purchase Agreement Object**”) and/or
  - b) the provision of services and/or work (“**Services and/or Work**”).
- (2) “**Customer**” within the meaning of these B2B General Terms and Conditions of Delivery and Service are both the buyer in the case of purchase agreements, the principal in the case of agreements for work and services and the person authorised to provide services in the case of service agreements.
- (3) Our B2B General Terms and Conditions of Delivery and Service shall apply exclusively. We do not recognise any terms and conditions of the Customer that conflict with, deviate from or add to our B2B General Terms and Conditions of Delivery and Service unless we have expressly agreed to their validity in writing. Our B2B General Terms and Conditions of Delivery and Service shall also apply if we perform the delivery to the Customer without reservation in the knowledge that the Customer’s terms and conditions conflict with or deviate from our B2B General Terms and Conditions of Delivery and Service.
- (4) Legally relevant declarations and notifications made by the Customer in regard to the Agreement (e.g. deadlines, notification of defects, withdrawal or reduction) must be submitted in writing. Written form within the meaning of these B2B General Terms and Conditions of Delivery and Service means that legally relevant declarations must always be made in written/text form, e.g. by letter, e-mail or fax. No qualified signature is required for e-mail unless this has otherwise been agreed with the Customer. Statutory formal regulations and other verifications shall remain unaffected by this, particularly in the event of any doubt regarding the identification of the declarant.

### § 2 Conclusion of Agreement

- (1) Our presentations and descriptions of the Purchase Agreement Objects, services and/or work do not constitute binding offers on our part to conclude the Agreement but instead invite the Customer to declare bindingly whether and which Objects of the Purchase Agreement the Customer would like to order from us (“*invitatio ad offerendum*”). This is also the case if we have provided the Customer with catalogues, brochures, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions, performance descriptions or documents, including in electronic form; these only represent approximate values or examples and are not binding unless we have expressly indicated this.
- (2) The order of the Purchase Agreement Object, the service and/or the work by the customer will be deemed a binding contractual offer. The Customer must describe details and specifications of the Purchase Agreement Object (such as specific materials, qualities, deviations from any standards), the service and/or work completely, clearly and correctly; incomplete or unclear information will be at the Customer’s expense.
- (3) An Agreement with the Customer shall not be regarded as concluded with us until we accept the offer by written confirmation (e.g. order confirmation). Unless stated otherwise in the Customer’s offer according to paragraph 2, we shall be entitled to accept this contractual offer by the Customer within two weeks of its being received by us. Silence in response to an offer by the Customer shall not be deemed to constitute acceptance.

- (4) Verbal agreements, promises, assurances and guarantees made by our employees and other auxiliary persons in connection with the conclusion or amendment of the Agreement shall only become binding upon our written confirmation.
- (5) The conclusion of the Agreement between the Customer and us (“**Party/Parties**”) may occur in German, French, Italian or English.

### § 3 Pricing – Terms of Payment

- (1) Unless otherwise agreed or stated in the order confirmation, pricing shall be determined in accordance with the price list valid at the time the Agreement is concluded – we will send the Customer this price list if requested, unless the Customer is already familiar with it – and our pricing shall apply “ex works or ex warehouse” (“EXW/ex works” according to Incoterms® in the respective valid version), plus the respective applicable statutory value added tax. Any packaging and transport costs, customs duties, assembly costs, fees, taxes and other public charges incurred shall be borne by the Customer and shall invariably be invoiced to the Customer additionally and separately. The packaging and transport costs will be shown separately in the invoice on the day of invoicing. Our prices are payable in euros unless otherwise specified in our order confirmation.
- (2) The legally owed value added tax is not included in our prices but will be shown separately in the invoice at the statutory rate on the day of invoicing. Insofar as the non-collection of the legally owed value added tax is dependent on cooperative acts on the part of the Customer, the Customer shall be obliged to perform such acts.
- (3) If the costs according to sentences 2 and 3 of section 1, which the Customer is contractually obliged to pay, should change later than four weeks after conclusion of the Agreement, we shall be entitled to adjust the remuneration accordingly.
- (4) The deduction of a discount shall require a special written agreement. If a cash discount has been agreed, it shall only apply to the invoice value and shall always presuppose that all due liabilities on the part of the Customer have been settled at the time of the cash discount.
- (5) Bills of exchange and cheques will only be accepted on account of performance based on an explicit agreement and only free of costs and charges for us.
- (6) Unless otherwise agreed or stated in the order confirmation, the purchase price for delivering the Purchase Agreement Object or the remuneration for the provision of the service and/or work shall be due for payment “net” without deduction within 30 days of invoicing and shall be paid to the account specified by us. Payment periods shall start once the invoice has been received but not before delivery and acceptance of the Purchase Agreement Object, receipt of the service and/or acceptance of the work. Within the framework of an ongoing business relationship, we shall be entitled at any time to insist on advance payment before making a delivery in whole or in part; we declare a corresponding reservation at the latest with our order confirmation. The receipt of payment by the payee shall be decisive for compliance with the payment deadlines. Any costs of payment transactions shall be borne by the Customer.
- (7) The Customer shall be in default once the payment deadline specified in paragraph 6 expires. The statutory regulations regarding the consequences of payment default shall apply. Interest is payable on the purchase price or remuneration during the period of default at the respectively applicable statutory rate of default interest. We reserve the right to assert further damage caused by default. With respect to merchants, our claim to the commercial due date interest rate (Sec. 353 HGB (*Handelsgesetzbuch* [German Commercial Code]) shall remain unaffected.
- (8) The Customer shall only be entitled to rights of set-off or retention to the extent that the Customer’s claim has been legally established or is undisputed. In case of defects of the delivery of the Purchase Agreement Object, the opposing rights of the Customer, particularly Part B § 7 (6), sentence 2, shall remain unaffected.

#### § 4 Compensation – Limitation of Liability

- (1) Unless stated otherwise in these B2B General Terms and Conditions of Delivery and Service and the following provisions, we are liable for a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- (2) Liability for a specific grade, quality, purpose or suitability shall only be assumed insofar as this has been expressly agreed. The assumption of a quality, durability or other guarantee shall require an express written agreement; the contents of any agreed specification or any expressly stated purpose of use shall not constitute a corresponding guarantee without an express written agreement. Even if we agree to provide factory certificates, declarations of conformity, test certificates or similar documents (accompanying documents), this shall not constitute a guarantee or liability without a special express written agreement.
- (3) We shall be liable for damages – irrespective of the legal grounds – within the scope of culpable liability of content and gross negligence. In the event of simple negligence, we shall only be liable – subject to statutory limitations of liability (e.g. due diligence in own affairs; insignificant breach of duty) – for
  - a) damages due to injury to life, body or health,
  - b) for damages due to violation of a material contractual duty (duties which must be fulfilled for proper performance of the agreement and the adherence to which the respective Party relies and may routinely rely on); in this case, however, our liability is limited to replacement of the foreseeable damage which may typically be expected at the time the Agreement is concluded.
- (4) The limitations of liability arising from paragraph 3 shall also apply to third parties and to breaches of duty by (or in favour of) persons where we bear culpable responsibility according to statutory provisions.
- (5) The limitations of liability arising from paragraph 3 shall not apply if we have fraudulently concealed a defect or assumed a guarantee concerning the properties of the Purchase Agreement Object and for claims by the Customer according to the Product Liability Act.
- (6) The Customer shall only be entitled to withdraw from or terminate the Agreement due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. The Customer's free right of termination is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

#### § 5 Reservation of Rights – Trademark Rights / Other Industrial Property Rights – Advertising Material

- (1) We reserve all rights (in particular property rights, copyrights and industrial property rights) to the offer documents, information, know-how and other documents – including in electronic form – such as catalogues, technical documentation (e.g. drawings, illustrations, plans, calculations, references to DIN standards) and other product descriptions provided by us to the Customer. This particularly applies to documents identified as “secret” or “confidential”.
- (2) The Customer must obtain our express written consent before passing on the offer documents, information, know-how and other documents set out in paragraph 1 to third parties, irrespective of whether we have marked them as confidential. This does not apply to information that is already in the public domain independently of the sales and service transaction, that the Customer demonstrably was already in possession of prior to its transmission or that was made accessible to the Customer by a third party authorised to disclose it independently of the sales and service transaction.
- (3) The Customer shall be obliged to protect our trademark rights and other industrial property rights.
- (4) All promotional, advertising and sales material (“**Advertising Material**”) provided by us shall remain our property. The Customer may only use this Advertising Material in accordance with our instructions and only for the sale of the Purchase Agreement Objects; the Customer is not entitled to allow third parties to use the Advertising Material.

## § 6 Data Protection – Confidentiality

- (1) Pursuant to Sec. 33 BDSG (*Bundesdatenschutzgesetz* [German Federal Data Protection Act]) in conjunction with Art. 14 GDPR, please note that we process the Customer's data in accordance with the provisions of the GDPR and BDSG. In this regard, we refer to our separate data protection declaration for our customers, which can be viewed on our website (<https://www.steel-service-krefeld.de/datenschutz/>).
- (2) Each Party shall be obliged to keep secret any information it learns of the other Party which requires secrecy. The Parties shall undertake to involve only those employees or third parties in the collaboration whom they have previously committed to confidentiality to a comparable extent.
- (3) All information from a Party – irrespective of its form – which is marked in writing as “secret” or “confidential” or whose need for secrecy clearly results from its nature, in particular trade and business secrets, is subject to secrecy. Information that does not need to be kept secret is information that the receiving Party can prove
  - is or was generally accessible to the Party at the time of transmission,
  - was already known to the Party at the time of transmission without a confidentiality obligation or has subsequently become so,
  - was developed by the Party independently and without the use of confidential information or
  - was lawfully acquired from a third party.
- (4) The Parties are obliged to maintain confidentiality of the information according to paragraphs 2 and 3 beyond the end of the business relationship.

## § 7 Applicable Law – Place of Jurisdiction / Place of Performance – Prohibition of Assignment –

### Partial Nullity

- (1) The laws of the Federal Republic of Germany apply for these B2B General Terms and Conditions of Delivery and Service and the contractual relationship between us and the Customer, excluding international uniform law, in particular the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980, as amended from time to time (UN Sales Convention) and other conflict of laws rules.
- (2) If the Customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction – including internationally – for all disputes arising directly or indirectly from the contractual relationship shall be our place of business in Krefeld. The same shall apply if the Customer is an entrepreneur within the meaning of Sec. 14 BGB. However, we shall also be entitled to take action at the place of performance of the delivery commitment pursuant to these B2B General Terms and Conditions of Delivery and Service or a predominant individual agreement or at the Customer's place of general jurisdiction. Superordinate statutory provisions, in particular on exclusive competences, shall remain unaffected by this.
- (3) The customer shall not be entitled to assign the rights arising from the contractual relationship with us to third parties unless we have expressly agreed to the assignment in writing. Sec. 354a HGB shall remain unaffected by this.
- (4) Changes or additions to this Agreement and/or these B2B General Terms and Conditions of Delivery and Service or to collateral agreements must be in writing. This also applies to any amendment of this written form requirement.
- (5) Should individual provisions of these B2B General Terms and Conditions of Delivery and Service or one provision among other regulations be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions.

## **Part B: Regulations for the Sale and/or Delivery of Purchase Agreement Objects**

### **§ 1 Area of Application**

The regulations of Part B shall apply in addition to the regulations in Parts A and C with regard to the sale and/or delivery of Purchase Agreement Object.

### **§ 2 Delivery – Sales Shipment – Transport Costs – Partial Delivery**

- (1) Unless expressly agreed otherwise or stated in the order confirmation, our deliveries of the Purchase Agreement Objects shall be made “ex works or ex warehouse” (“EXW/ex works” according to Incoterms® in the respective valid version), where the place of performance for the delivery and any subsequent performance shall also be. At the Customer’s request and expense, the goods shall be shipped to another destination (sales shipment). Unless otherwise stipulated, we shall be entitled to specify the type of shipment (particularly forwarding agents, dispatch route, packaging) ourselves at the expense and risk of the Customer.
- (2) As a rule, the Purchase Contract Object will be delivered unpacked and not protected against rust ex works or ex warehouse. If customary, we will deliver it packed. In our experience, we take care of packaging and protective and/or transport aids at the Customer’s expense. They will be taken back at our warehouse. We do not assume the Customer’s costs for the return transport or for the Customer’s own disposal of the packaging.
- (3) If the Customer requests shipment of the agreed Purchase Contract Object (sales shipment), our prices pursuant to Part A § 3 will not include the delivery and freight/shipping costs (transport costs). The amount of the transport costs shall require an individual agreement between the Parties. The Customer shall bear the transport costs ex works or ex warehouse plus any transport insurance desired. Apart from this, the provisions of Part A § 3 paragraph 1 shall apply.
- (4) We shall be entitled to make partial deliveries and render partial services to a reasonable extent – particularly in the case of call-off contracts and agreements concluded with an ongoing business relationship or delivery (long-term supply agreements). We shall be entitled to exceed and fall short of the agreed delivery quantities to a reasonable extent. The indication of an “approximate” quantity shall entitle us to overdelivery/underdelivery and corresponding invoicing of up to 10%.
- (5) Compliance with our delivery obligation further presupposes the timely and proper fulfilment of the Customer’s obligation, in particular pursuant to Part A § 3 paragraph 3. We reserve the right to plead non-performance of the Agreement (Sec. 320 BGB) and any rights of retention (Sec. 273 BGB).

### **§ 3 Delivery Periods and Deadlines, Delay in Delivery**

- (1) Our delivery obligation is subject to timely and correct delivery by our suppliers and, in the case of import transactions, also subject to timely receipt of the necessary import and export documents (e.g., surveillance documents, export and import licences), unless we are directly responsible for the delayed or incorrect delivery or the untimely receipt of the necessary documents.
- (2) The delivery period is agreed individually or indicated by us when accepting the Customer’s offer. If this is not the case, the delivery period shall be approx. 3 weeks from conclusion of the Agreement.
- (3) Compliance with the delivery periods and deadlines requires that the order has been fully clarified in all details, that any necessary licences or approvals have been communicated or made available in good time and that we have received all documents and information to be provided by the Customer in good time for the delivery of the Purchase Agreement Object, including the provision of any agreed letters of credit, payment guarantees, securities and deposits and the receipt of agreed advance payments. In addition, all other individually agreed prerequisites for executing the Agreement or order must have been met.
- (4) If we cannot adhere to binding delivery periods for unforeseeable, unavoidable reasons beyond our control or in the case of events for which we are not responsible (“**Disruption**”), we will inform the Customer of this in writing without delay and at the same time notify the Customer of the expected

new delivery period. If we notify the Customer verbally in this respect, this notification shall be confirmed in writing as soon as this is reasonable for us under the circumstances.

- a) A Disruption within the meaning of this paragraph exists in particular in the case of
- monetary, trade policy and other sovereign measures, particularly official orders and the like at home and abroad;
  - mobilisation, warlike events, riots, civil war, blockades, industrial action, demonstrations, lockouts, factory occupations and sabotage;
  - adverse natural events such as ice, high/low water, hurricanes, cyclones, earthquakes and tidal waves;
  - loading or transport obstructions, delays, restrictions and stoppages;
  - obstruction of operations for which we are not responsible (e.g., due to explosion, fire, complete or partial destruction of manufacturing facilities or of warehouses, machines and machine parts, shortage of raw materials or energy, cyberattacks);
  - shortage of labour due to diseases, epidemics, pandemics;
  - in the event of non-delivery or delivery not in accordance with the order by our upstream supplier (paragraph 2) if we have concluded a congruent cover transaction;
  - obstruction of traffic routes;
  - delay in import/customs clearance;
  - imminent infringement of national or international regulations, particularly import or export regulations relating to the delivery or any delays due to approval procedures provided for under these regulations; the customer shall be responsible for providing all information and documents which it can produce and which are required under these regulations for the export/transfer/import.

It is irrelevant whether the Disruption occurs at our premises, at the supplier's works or at a sub-supplier's premises.

- b) If, due to a Disruption as described under a) the execution of the Agreement for the delivery of the Purchase Agreement Object becomes unreasonable for us or the Customer, in particular because the execution of the Agreement is delayed in significant parts by more than 12 months, the respective Party may demand the cancellation of the Agreement. If, during the duration of the obstruction, our purchase and/or transport and/or handling costs (acquisition costs) change by more than 20% compared to when the Agreement was concluded, we shall be entitled to make an appropriate price adjustment at our reasonable discretion.
- c) For the duration of the Disruption, we shall be released from delivering the Purchase Agreement Object. If the service is not available within the new delivery period either, we shall be entitled to withdraw from the Agreement in part or in its entirety; we will immediately reimburse any already rendered return services to the Customer. However, we shall be entitled to make partial deliveries of the Purchase Agreement Objects or to provide partial services if this is possible for us despite the Disruption. The invoice amount will be reduced proportionately. The Customer shall only be entitled to partial withdrawal in this respect. This shall not apply if the Customer has no interest in a partial delivery or partial service. The right of withdrawal is excluded as long as and insofar as we are obliged to accept the Purchase Agreement Object on the basis of our supplier contracts and the Customer can reasonably be expected to continue to adhere to the Agreement. The right of withdrawal must be exercised in writing.
- d) The Customer must reimburse us for any necessary costs incurred in the event of (partial) withdrawal prior to the occurrence of the Disruption as described in a) above.
- (5) The occurrence of our delay in delivery is determined in accordance with the statutory provisions. In any case, however, a reminder from the Customer is required. If we are guilty of delay in delivery, the Customer may demand lump-sum compensation for the damage caused by the delay. The lump sum for damages shall amount to 0.5% of the net price (delivery value) for each completed calendar week of the delay but not more than 5% of the total delivery value of the Purchase Agreement Object delivered late. We reserve the right to prove that the Customer did not suffer any or suffered substantially less damages than the aforementioned lump sum. Any further liability for a delay in delivery for which we are responsible is excluded.

- (6) In the event that an “advance payment” has been arranged, we shall only be obliged to deliver the Purchase Agreement Object when we can dispose of the invoice amount.
- (7) If, after conclusion of the contract, it becomes apparent that our claim to the remuneration is jeopardised by the Customer’s inability to pay (e.g. by an application to open insolvency proceedings), we shall be entitled to provide outstanding deliveries or services against advance payment or the provision of security; if this is not provided even after the expiry of a reasonable grace period, without prejudice to further rights under the statutory provisions, to refuse performance and – if necessary after setting a time limit – to withdraw from the agreement(s) concerned (Sec. 321 BGB).

#### **§ 4 Passing of Risk – Delay in Acceptance**

- (1) Unless otherwise agreed, the risk of accidental loss or deterioration of the Purchase Agreement Object shall pass to the Customer no later than at the time when it is delivered to the Customer. In the case of a sales shipment, however, the risk of accidental loss or deterioration of the Purchase Agreement Object and the risk of delay already passes with the delivery of the Purchase Agreement Object to the forwarding agent, carrier or the person or institution otherwise assigned to carry out shipment, at the latest, however, when the goods leave the supplying plant or – if a supplying plant is not specified in the order confirmation – our warehouse. Insofar as an acceptance has been agreed, this shall be decisive for the transfer of risk; this shall also apply in the event of a contractual agreement on a delivery free of freight and packaging costs (e.g., “free domicile” or “carriage paid”) of the Purchase Agreement Object to the contractually agreed place of destination. Delay in acceptance by the Customer shall be equivalent to delivery or acceptance.
- (2) If the Customer is guilty of delay in acceptance, fails to cooperate on the basis of a primary or secondary contractual obligation or if our delivery is delayed for other reasons for which the Customer is responsible, we shall be entitled to demand compensation for the damage we have suffered in this respect, including any additional expenses (e.g., storage costs). Proof of higher damages and our statutory claims (particularly compensation for additional expenses, reasonable compensation, termination) shall remain unaffected by this; however, the lump sum shall be set off against further monetary claims. The Customer shall be entitled to prove that we have incurred no damage at all or only significantly less damage than the aforementioned lump sum.
- (3) If the Customer is guilty of delay in acceptance, we shall be entitled to dispatch the Purchase Agreement Object without acceptance or to store it under reasonable conditions at the Customer’s expense and risk. We will insure the Purchase Agreement Object at the Customer’s expense if the Customer expressly requests this. From the 10th day after notification of readiness for dispatch, we will charge the Customer for the costs incurred by storage – at least 0.5% of the invoice amount for each month if stored in our works/warehouse.

#### **§ 5 Call-Off Orders / Long-Term Supply Agreements**

- (1) In the case of call-off orders, the Purchase Agreement Object reported as being ready for dispatch must be called off immediately; otherwise, we shall be entitled, after issuing a reminder, to dispatch it at our discretion at the expense and risk of the customer or to store it at our discretion and invoice it immediately.
- (2) In the case of long-term supply agreements, call-offs and grade classification for approximately equal monthly quantities shall be given to us; otherwise, we shall be entitled to determine these ourselves at our reasonable discretion.
- (3) If the individual call-offs exceed the total contractual quantity, we shall be entitled, but not obliged, to deliver the excess quantity. We may charge prices valid at the time of the call-off or delivery for the additional quantity.
- (4) If a binding order quantity is not stipulated, then we will base our calculation on the non-binding order quantity (target quantity) expected by the Customer for a specific period of time. If the Customer accepts less than the target quantity, we shall be entitled to increase the unit price appropriately.

## § 6 Retention of Title

- (1) We reserve the title to the respective sold Purchase Agreement Object (goods subject to retention of title) until all our current and future arising and conditional claims from the contractual relationship and an ongoing business relationship (secured claims) have been fulfilled, in particular including the respective balance claims to which we are entitled as part of the business relationship and from the current account (balance reservation) and the claims which are unilaterally established by the insolvency administrator by way of the choice of fulfilment. This shall also apply if payments are to be made for specific claims. This balance reservation will finally expire when all claims still outstanding at the time of payment and covered by this balance reservation have been settled.
- (2) The Customer shall be obliged to treat the goods subject to retention of title with care and to adequately insure them against loss due to fire, water and theft for replacement cost at the Customer's expense. If maintenance and inspection work becomes necessary, the Customer must carry it out in good time at the Customer's own expense.
- (3) As long as sold Purchase Agreement Objects are subject to retention of title, they may neither be pledged to third parties nor be assigned as collateral before full payment of the secured claims. The Customer shall be obliged to point out our ownership of the Purchase Agreement Object and to promptly inform us in writing if an application to open insolvency proceedings has been filed or if third-party access (e.g. garnishments) takes place regarding the (reserved) goods belong to us so that we can enforce our ownership rights. If the third party is not able to reimburse us for the judicial or extrajudicial costs incurred in this connection, the Customer shall be liable for such costs.
- (4) If the goods subject to retention of title are taken abroad before they have been paid for in full, the Customer shall be obliged to promptly inform us of this, stating the country, and – at our request – to assist in the creation and, if necessary, registration of comparable foreign security interests (e.g. liens/moveable property mortgages, transfer of claims from the resale of the goods subject to retention of title); we shall be entitled to disclose and notify third parties of our retention of title to the goods subject to retention of title, including the assignment of claims.
- (5) If the Customer acts contrary to Agreement, particularly in the case of non-payment of the purchase price due, we shall have the right to withdraw from the Agreement according to legal regulations and/or to demand restitution of the goods subject to retention of title. The Customer shall bear the transport costs incurred for the return. The demand for restitution of the goods subject to retention of title shall not automatically constitute a withdrawal; in fact, we shall have the right to merely demand the restitution of the goods and to reserve the right of withdrawal. If the Customer does not pay the purchase price due, we may only assert these rights if we have previously and unsuccessfully set an appropriate deadline for the Customer to pay or if such a deadline is legally superfluous. We shall be entitled to dispose of any goods subject to retention of title taken back by us. The proceeds of the exploitation shall be set off against those amounts which the Customer owes us under the agreement after we have deducted a reasonable amount for the costs of the exploitation.
- (6) Until revoked in accordance with letter c), the Customer shall be authorized to resell and/or process the goods subject to retention of title in the ordinary course of business, provided that the Customer is not in default of payment. In this case, the following additional provisions shall apply.
  - a) The reservation of title extends to the products resulting from the processing (including conversion), intermixture or combination of our goods at their full value, whereby we shall be deemed to be the manufacturer within the meaning of Sec. 950 BGB, without any obligation on our part. If the processing, intermixture or combination of the goods subject to retention of title with third-party goods results in said third party still having rights to ownership, we shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (final invoice amount including VAT) to the other processed items at the time of processing. Furthermore, the same shall apply to the resulting product as to the goods subject to retention of title. If the goods subject to retention of title are inseparably combined or mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (final invoice amount including VAT) to the other combined or mixed items at the time of their combination or mixing. If the goods subject to retention of title are combined or mixed in such a way that the Customer's item is deemed the main item, the Parties



hereby agree already that the Customer will transfer co-ownership of this item to us on a pro rata basis. We accept said transfer. The Customer shall keep the sole ownership or co-ownership of an item thus created safe for us.

- b) By way of security, the Customer hereby assigns to us in total or in the amount of any co-ownership share on our part pursuant to letter a) the claims against the Customer's customers or third parties arising from the resale of the goods subject to retention of title or the product resulting from the processing, mixing or combining of our goods. We hereby accept said assignment. The Customer's obligations stated in paragraph 3 shall also apply in consideration of the assigned claims.
- c) By way of security, the Customer hereby assigns to us now in full the claims against the Customer's customers arising from a resale of the goods subject to retention of title along with those claims of the customer relating to the goods subject to retention of title which arise for any other legal reason against its customers or third parties (particularly claims arising from tort and claims to insurance benefits), including all balance claims from the current account. We accept said assignment and transfer.
- d) The Customer may continue to collect these claims for its account in its own name as long as we do not revoke this authorisation. Our right to collect these claims ourselves shall not be affected thereby. However, we hereby commit to refraining from collecting the claim as long as the Customer duly meets its payment obligations towards us, there is no deficiency in its ability to pay and we do not terminate the retention of title by exercising a right pursuant to paragraph 4. If this is the case, however, we shall be entitled to demand that the customer disclose the assigned claims and the corresponding debtors to us, provide all the information required for collection, surrender the associated documents and notify the debtors (third parties) of the assignment. In this case, we shall also be entitled to revoke the Customer's authorisation to continue selling and processing the goods subject to retention of title.
- e) If the realisable value of the collaterals exceeds our claims by more than 10%, we will, at the Customer's request, release collaterals at our own discretion.

## **§ 7 Customer Rights in the case of Defects, Obligations to Report Defects and to Investigate**

- (1) The statutory provisions shall apply to the rights of the Customer in the event of material defects and defects of title (including incorrect and short delivery as well as improper assembly/installation or defective instructions) unless these B2B General Terms and Conditions of Delivery and Service provide for a deviating provision.
- (2) The liability for defects is based on the agreement reached on the quality and the presupposed use of Purchase Agreement Object (including accessories and instructions). All product descriptions and manufacturer's specifications which are the subject of the individual agreement or which were publicly announced by us (particularly in catalogues or on our Internet homepage) at the time the Agreement was concluded shall be deemed to be an agreement on quality in this sense. Insofar as the quality has not been agreed, the statutory provision must be referred to, to determine whether or not there is a defect (Sec. 434 (3) BGB). Public statements made by the manufacturer or on its behalf, particularly in advertising or on the label of the Purchase Agreement Object, shall take precedence over statements made by other third parties.
- (3) In the case of Purchase Agreement Objects with digital elements or other digital content, we shall only owe the provision and, if applicable, updating of the digital content insofar as this expressly arises from an agreement on quality according to paragraph 2. We accept no liability for public statements made by the manufacturer and other third parties in this respect.
- (4) As a rule, we bear no liability for defects of which the Customer is aware at the time the Agreement is concluded or is not aware due to gross negligence (Sec. 442 BGB).
- (5) Furthermore, the Customer's claims for defects presuppose that it has fulfilled its statutory inspection and notification obligations (Sec. 377 HGB). The Customer's obligations to inspect and give notice of defects shall not be affected by the enclosure or handing over of accompanying documents or by the Customer's resale of the delivered Purchase Agreement Object.

- (a) If a defect becomes apparent upon delivery of the Purchase Agreement Object or, in the case of partial deliveries, upon delivery of the part of the Purchase Agreement Object (hereinafter collectively referred to as "Delivery"), upon inspection or at any later time, we must be notified thereof in writing without delay. In any case, obvious defects must be reported in writing within 5 working days from the delivery and defects not recognisable during inspection within the same period from when they are discovered.
- (b) Upon request, Purchase Agreement Object that is the subject of the complaint or a sample thereof is to be made available to us at our expense. If the Customer's notice of defect proves to be unjustified and if the Customer has recognised this before issuing the notice of defect or has negligently failed to recognise this, we shall be entitled to compensation for all costs incurred as a result, in particular freight and handling costs as well as the costs of inspection (expert costs, laboratory costs, etc.).
- (6) If the delivered item is defective, we shall be entitled to first choose subsequent performance by correcting the defect (subsequent improvement) or delivery of goods free from defects (replacement). If the type of subsequent performance chosen by us is unreasonable for the Customer in the individual case, the Customer may reject it. This shall not affect our right to refuse subsequent performance under the statutory provisions.
- (7) We shall be entitled to base the subsequent performance owed on the Customer paying the purchase price due. However, the Customer shall be entitled to retain a portion of the purchase price commensurate to the defect.
- (8) The Customer is obliged to give us the time and opportunity required for the subsequent performance owed, in particular to hand over the rejected Purchase Agreement Object for inspection purposes. In the case of replacement, the Customer must return the defective item at our request according to the statutory provisions; the Customer shall not have a right of return, however. Subsequent performance does not include the dismantling, removal or deinstallation of the defective item or the assembly, fitting or installation of a defect-free item if we were not originally obliged to perform these services; claims by the Customer for the reimbursement of corresponding costs ("dismantling and installation costs") shall remain unaffected by this.
- (9) In urgent cases (e.g., if operational safety is endangered or to prevent disproportionate damage), the Customer shall have the right to remedy the defect itself and to demand compensation from us for the expenses objectively necessary for this. We must be notified immediately in advance of any such self-remedy. The right of self-remedy does not exist if we would be entitled to refuse a corresponding subsequent performance according to the statutory provisions.
- (10) If subsequent performance has failed or if a reasonable period to be set by the Customer for the subsequent performance has expired to no avail or is dispensable in accordance with the statutory provisions, the Customer shall be entitled to withdraw from the Agreement or reduce the price. The right to withdraw does not apply in the event of a negligible defect, however.
- (11) Claims of the Customer for the reimbursement of expenses pursuant to Sec. 445a (1) BGB are excluded unless the last contract in the supply chain is a consumer goods purchase (Sec. 478, Sec. 474 BGB) or a consumer contract for the provision of digital products (Sec. 445c, sentence 2, Sec. 327 (5), Sec. 327u BGB). Claims of the Customer for damages or reimbursement of fruitless expenditures (Sec. 284 BGB) shall only be valid according to Part A § 4 and Part B § 7 with regard to defects in the Purchase Agreement Object as well.

## § 8 Statute of Limitations

- (1) The general limitation period for claims arising from material defects and defects of title is 1 year from delivery. If acceptance is agreed upon, the limitation period starts with the acceptance.
- (2) The limitation periods according to paragraph 1 also apply to contractual and non-contractual claims for damages of the Customer based on a defect of the Purchase Agreement Object unless the application of the regular statutory limitation period (Sec. 195, Sec. 199 BGB) would reduce the limitation period in the individual case. The Customer's claims for damages pursuant to Part A § 4 paragraph 3 and under the Product Liability Act shall become time-barred exclusively in accordance with the statutory limitation periods.

## **Part C: Regulations for the Conclusion of an Agreement for Purchase Agreement Objects when ordering in the Online Shop**

### **§ 1 Area of Application**

The conclusion of an agreement for Purchase Agreement Objects shall be governed by the B2B General Terms and Conditions of Delivery and Service unless different provisions are regulated in the following § 2 and § 3 for the sale of Purchase Agreement Objects via our Online Steel Shop at [www.stahl-shop.com](http://www.stahl-shop.com) (“Online Shop”).

### **§ 2 Conclusion of Agreement**

- (1) The Customer must log in via its customer account before each order process or, if not already done, register for the first time via the “New Customer Registration” button. As soon as we have checked and approved the registration as a new customer, the Customer will receive an e-mail confirming the registration.
- (2) The presentations and descriptions of the Purchase Agreement Objects in the Online Shop do not constitute binding offers on our part to conclude the Agreement but instead invite the Customer to declare bindingly whether and which Objects of the Purchase Agreement the Customer would like to order from us (“invitatio ad offerendum”).
  - The Customer can select the corresponding Purchase Agreement Objects (e.g. materials) from our range in the Online Shop via the “Catalogue” and “Category” buttons, provided they are correspondingly marked as available and reservable.
  - The Customer must then enter its order number (choice between a new shopping basket and existing shopping basket) and optionally an item reference before it can add the Purchase Agreement Object to the shopping basket via the “Shopping Basket” graphic button.
  - As long as the orders are stored in the “Shopping Cart”, the Purchase Agreement Object selected is reserved for the Customer.
  - In order to continue and complete the ordering process, the Customer must use the “Shopping Baskets” button to view the orders or the “Reservations” button to view the reservations with the corresponding order number and number of the Purchase Agreement Objects selected by the Customer.
  - By clicking on the “Shopping Cart” graphic button, the Customer is shown all orders with the Purchase Agreement Objects it has selected, the respective current price per piece, any discount per piece, any surcharge per piece, the subtotal, any special discount, the shipping costs (only if the Purchase Agreement Object is shipped within Germany), the net total, the statutory valid added tax and the final total once again in an order overview for review. When the Purchase Agreement Object is shipped within Germany, the final sum is the total amount excluding packaging costs; when the Purchase Agreement Object is shipped outside of Germany, the final sum is the total amount excluding transport and packaging costs.
  - After clicking on the “Checkout” button, the Customer has to specify the invoice recipient and the delivery address before confirming with the “Next Step” button.
  - The Customer has the opportunity at any time to check the content of its orders and to identify and correct any input errors before then clicking on the “Proceed to Checkout” button to proceed to the “Binding Order” button.
  - Before the customer can click on the “Binding Order” button, it must indicate any request for a delivery note and a certified certificate of analysis according to EN 10204/3.1 and any desire for a specific material presentation and whether it wants to submit an order note. The Customer will be expressly referred to the B2B General Terms and Conditions of Delivery and Service applicable to the conclusion of the Agreement in the language selected in the order process. The Customer may call them up again before placing the order and save them in reproducible form. Before the Customer can effectively complete the purchase process, it must confirm

having read and understood our applicable B2B General Terms and Conditions of Delivery and Service and our Privacy Policy and give its consent to their validity by clicking on the corresponding button. The Customer's offer to conclude an agreement for the Purchase Agreement Objects in the shopping basket shall only become binding by clicking the "Binding Order" button.

- (3) After the Customer has placed a binding order for the Purchase Agreement Object in question, an automatic confirmation of receipt will then be sent to the Customer by e-mail, once again listing the Customer's order and allowing the Customer to print it out using the "Print" function. This automatic confirmation of receipt merely documents that the Customer's order has been received by us and does not constitute acceptance of the offer. The agreement has not been effectively concluded until we issue our declaration of acceptance, which is sent with a separate e-mail (order confirmation). The wording of the agreement is saved in compliance with data privacy but will no longer be accessible to the Customer.
- (4) If there is no stock of the Purchase Agreement Object selected by the Customer at the time the order is placed, we will inform the Customer of this right away. If the Purchase Agreement Object selected is permanently unavailable, we shall be entitled to refrain from issuing a declaration of acceptance. In this case, no agreement will be concluded. If the Purchase Agreement Object specified in the Customer's order is only temporarily unavailable, we will also inform the Customer of this in writing right away.

### **§ 3 Remuneration**

All prices stated in our Online Shop are determined in accordance with Part A § 3.

## **Part D: Regulations for Services and Work**

### **§ 1 Area of Application and Scope of Services**

The regulations of Part D shall apply in addition to the regulations in Part A with regard to the provision of services and work.

### **§ 2 Services and Work, Service Log, Vicarious Agents**

- (1) We provide services and work.
- (2) We do this with due care in line with our performance description according to the recognised current state of the art. Technical or other standards shall only be complied with insofar as we expressly stipulate this in the performance description. If the performance description contains unintended gaps or ambiguities, we shall be entitled to adjust the performance description at our reasonable discretion, taking into account the Customer's interests.
- (3) The services rendered by us, particularly the hours worked, and spare parts used, are to be confirmed in writing in a log on site by the Customer.
- (4) We shall be entitled to commission subcontractors to perform the agreed service and/or work (vicarious agents).

### **§ 3 Remuneration**

- (1) Unless otherwise agreed, we shall invoice the services and/or work performed by us on a monthly basis according to actual hours plus any travel costs and other ancillary costs incurred along with the expenses for performing the services and/or work.
- (2) If the remuneration is based on the number of person-days, agent-days or similar ("day"), one such "day" shall correspond to up to 8 hours of an employee's time on a calendar day.
- (3) Otherwise, Part A § 3 shall apply.

#### **§ 4 Cooperation Obligations of the Customer**

- (1) The Customer must cooperate with us to the extent necessary for us to perform the service and/or work. Both parties are therefore obliged to see to mutual consideration, comprehensive information, precautionary warning of any risks and protection against disruptive influences, including from third parties.
- (2) In particular, the Customer shall be responsible for ensuring that all information and documents required for performing the service and/or work are made available to us without needing to be solicited, in a timely manner and free of charge for us and that we are informed of all processes and circumstances that are directly or indirectly relevant to our performance of the service. The same shall also apply to documents, information, processes and circumstances which only become known during our activities.
- (3) To the extent necessary for our performance of the services, the Customer hereby warrants that (i) we will be provided with the necessary access to the Customer's premises, (ii) we will be provided free of charge with the necessary health and safety instructions to work on the Customer's premises, (iii) we will be provided free of charge with sufficient ability to work and communicate (in particular by designating and providing a contact person at the Customer's premises) and (iv) if and to the extent necessary, relevant staff of the Customer will be available in sufficient numbers to provide the necessary technical support. Furthermore, unless otherwise agreed in writing, we must receive from the Customer – free of charge for us – sufficient remote access to all systems required for providing the service and/or work along with sufficient authorisations for these systems.
- (4) The Customer shall assume all obligations of cooperation and provision mentioned in the above paragraphs 1 to 3 as its own essential contractual obligation.
- (5) Paragraphs 1 to 4 shall apply mutatis mutandis to the commissioning of subcontractors.

#### **§ 5 Special Terms and Conditions for Services**

- (1) With regard to services, we shall owe neither a specific success nor the achievement of a specific project objective nor the suitability of the results for a specific purpose nor the further processing or use of the results by the Customer.
- (2) In the event of non-performance or performance not in accordance with the accordance with the Agreement, we shall be entitled to provide the service properly or to repeat it, provided this is possible and reasonable for the Customer. The Customer shall only be entitled to further rights and claims in accordance with the statutory provisions if it has asked us – setting a deadline of at least 14 days – to provide the service properly or to repeat the service and the grace period has elapsed to no avail, provided that the setting of a grace period is not dispensable.
- (3) The limitation period for the Customer's rights in the event of non-performance or performance not in accordance with the Agreement shall be 1 year from the statutory commencement of the limitation period. The statutory periods shall remain unaffected in the event of an intentional or grossly negligent breach of duty by the supplier, in particular by its legal representatives or vicarious agents, in the event of fraudulent intent and in cases of injury to life, body or health.
- (4) Withdrawal from the Agreement is excluded. Insofar as the service agreement does not have a fixed contractual term or stipulates otherwise, service agreements may be terminated by us or by the Customer with 4 weeks' written notice at the end of the month. An agreed minimum term shall remain unaffected by this right of termination. The right to terminate for good cause shall remain unaffected by this.

#### **§ 6 Special Terms and Conditions for Work**

- (1) In the case of work, we shall owe the contractually agreed specific success.
- (2) We shall make the work available to the Customer for acceptance after its completion. Unless otherwise agreed, the Customer must declare acceptance of the work within 7 days of its provision if the work produced does not have any defects that prevent acceptance. If acceptance does not take place in accordance with sentence 2, we shall be entitled to ask the Customer in writing to accept the

goods within a period of 14 days. Upon expiry of this period, the work shall be deemed to have been accepted.

- (3) The Customer must sign the acceptance log after the acceptance test, which will show the result of this test with all defects that may have occurred and their classification.
- (4) Contracts for work may be terminated by the Customer at any time by giving four weeks' notice in writing at the end of the month. In this case, we shall be entitled to demand the agreed remuneration pursuant to Part D § 3 and Part A § 3.
- (5) Furthermore, the provisions of Part A § 4 paragraphs 2 to 5 shall apply as well.
- (6) Warranty claims shall be time-barred in 12 months after acceptance.

This period shall not apply to fraudulently concealed or intentionally caused defects or if and insofar as we have assumed a guarantee.

- (7) In all other respects, the statutory limitation period shall apply, particularly for claims for damages by the Customer arising from culpable injury to life, body or health, for claims for damages by the Customer due to damage caused by us intentionally or through gross negligence, for claims for damages by the Customer for reasons other than defects in the contractual object and for claims under the Product Liability Act or in the case of other mandatory statutory liability provisions.