

## General Terms and Conditions of Sale of Stadler Rail Service Deutschland GmbH (SRS DE)

### Section 1 Applicability

1. These General Terms and Conditions of Sale ("GTCS") shall apply to all service transactions between Stadler Rail Service Deutschland GmbH (SRS DE) - hereinafter also referred to as "Contractor" or "Stadler" - one to one hand, and its customers - hereinafter also referred to as "Clients" - on the other hand (jointly referred to as "Parties"). They shall only apply if the Client is an entrepreneur (paragraph 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.

2. The legal relationship between the Contractor and the Client shall be governed by present Terms and Conditions. Deviations, amendments and supplements must be in writing. Conflicting, additional or conditions deviating from present Terms and Conditions of the Client shall only become part of the Contract if the Contractor expressly accepts them in writing. The acceptance without contradiction of deliveries and services as well as payment thereof constitutes an acceptance of the Terms and Conditions of the Contractor. The Contractor shall object to any additional or contradictory or conflicting conditions or terms in enquiries, delivery requests, orders or confirmations by the Client. The provision of services without contradiction by the Contractor does not constitute acceptance of terms and conditions of the Client.

3. Individual agreements with the Client concluded on a case-by-case basis shall take precedence over these GTCS in each case. Subject to proof to the contrary, the content of such agreements shall be governed by a written contract or our written confirmation.

4. These GTCS shall apply, to the extent a mutual commercial transaction is concerned, also for all future legal relations between the Client and the Contractor, even if no explicit reference is made to present Terms and Conditions of Sale in individual cases.

5. These GTCS apply to all service operations, such as the sale of spare parts, equipment, other parts or systems, the sale of other (raw) materials, software services, contracted work services of any kind or services (the "delivery object" or the "delivery service").

6. In so far as the performance of the Contractor consists of construction services, the provisions set forth in these GTCS and in addition the statutory provisions shall apply, under exclusion of the Construction Tendering and Contract Regulations (VOB/B).

### Section 2 Usage Rights to Software, Data, Documentation and Other Intellectual Property

1. In so far as the Contractor is obliged to supply software, the Contractor shall grant the Client a licence of use, which is described in more detail in Section 2(2). The agreed remuneration also covers the licence fee for software as well as for all other delivery service components protected by intellectual property.

2. The Client shall obtain a non-exclusive usage right on data, software, information, documents and other delivery service components - protected by intellectual property - provided by the Contractor, such right being unlimited in time and limited to the territory of the European Union. Such right of use shall include the use for the purpose of usual or contractually agreed and assumed use. Reverse engineering as well as the commercial utilisation of the transferred data, software, information, documents and other delivery service components - protected by intellectual property - is prohibited. The forwarding and transfer of the right of use to third parties and the granting of subordinated rights of use to third parties is moreover prohibited - unless necessary for the purpose of usual or contractually agreed and assumed use - and is subject to the prior written consent of the Contractor, which the latter will not unreasonably refuse. However, the Contractor may refuse to grant consent, in particular if the potential recipient of the right of use is in actual or potential competition

with the Contractor or the group companies related to the Contractor, whereby competition within Switzerland and/or the European Economic Area is sufficient.

3. Insofar as a third party has intellectual property in the Contractor's delivery services (in particular software), the Contractor shall ensure, to the best of its efforts, that the Client can use the delivery services for the purpose of the usual or contractually agreed and assumed use by granting the Client corresponding rights of use. Section 10(2) and (3) shall apply.

### Section 3 Force Majeure

1. In cases of force majeure following the conclusion of the Contract such as, in particular

- a) fire damage;
- b) war;
- c) floods;
- d) strikes;

(e) epidemics and pandemics - in the context of epidemics and pandemics, in so far as a risk level of at least "medium" or "moderate" for vaccinated persons or "high" (if no vaccine which is - conditionally - approved in the EU exists) is determined by the German Robert Koch Institute for the place of principal service performance of the affected Party upon commencement of the event due to which the affected Party invokes force majeure, -

the Party affected by this shall be exempt from the obligation to render services for the duration and to the extent of the event. A new circumstance occurring after the conclusion of the Contract also exists in this regard if a situation already known to the two Parties before the conclusion of the Contract has new effects after the conclusion of the Contract which cannot be foreseen at the time of the conclusion of the Contract. This also includes business closures after conclusion of the Contract (ordered by the authorities), in particular with regard to the Coronavirus pandemic, as well as statutory curfews and quarantine obligations for employees, which are indispensable for the provision of the relevant contractual services.

2. The affected Party shall immediately notify the other Party of the beginning and end of any delay due to force majeure. The Parties shall coordinate by mutual agreement on the further course of action and postponements or additional services.

### Section 4 Prices / Terms of Delivery and Payment / Assignment of Claims / Offsetting

1. All prices quoted are prices in EURO (€). Unless expressly agreed otherwise in the Contract, all additional costs such as installation, removal, other assembly, transport, customs duties, export or import licences or insurance are not included in the price and are not owed by the Contractor. In particular, the Client must also obtain any necessary export and import authorisations in sufficient time to ensure that the agreed timetable is not affected. Likewise, the Client must ensure that the Contractor's performance in accordance with the Contract does not conflict with export control provisions or other applicable legal sanction provisions. With regard to all delivery services received from the Contractor, the Client shall undertake to comply with the export control provisions and any other applicable legal sanction provisions; in particular, it shall not send any delivery services from the Contractor in violation of the aforementioned legal provisions.

2. Payments shall be made in cash within 30 days of invoicing and without a discount to the account specified by the Contractor in the offer. The receipt of the full payment on the Contractor's account is decisive for compliance with the payment deadline. All prices stated in the Contractor's offer are exclusive of the respective statutory value added tax (VAT).

3. The Client shall not be entitled to assign its claims to third parties or to have them collected by third parties without the con-

## General Terms and Conditions of Sale of Stadler Rail Service Deutschland GmbH (SRS DE)

sent of the Contractor. If the Client assigns its claims against the Contractor to a third party without the Contractor's consent, contrary to the first sentence, the assignment shall nevertheless be effective. However, the Contractor may, at its option, provide services to the Client or the third party in discharge of its obligations.

4. The agreed remuneration is to be paid after acceptance (contracted work delivery services) or delivery (purchase delivery services) or full performance of the service (service delivery) and invoicing. The Contractor is entitled to issue partial invoices in accordance with the progress of the service (in the case of contracted work delivery services); the provisions of paragraph 632a BGB apply.

5. The Client may only offset such claims against the Contractor that are undisputed or have been legally established.

### Section 5 Provisions

1. Designs, samples, means of production, models, data carriers, prototypes, illustrations, drawings, documentation, materials, equipment, components, parts, containers, packaging, tools, measuring instruments, devices, samples or other objects provided to the Client by the Contractor, even on loan, which are located at the Client pursuant to their purpose (hereinafter referred to as "provisions"), shall not be the property of the Client, but remain the property of the Contractor, unless expressly agreed otherwise.

2. The Client shall inspect and check the provisions without delay - any complaints shall be communicated to the Contractor in writing without delay. The Client may use the provisions only in the course of the agreed function and may not use them for any other purposes or allow others to use them without the prior written consent of the Contractor.

3. Provisions shall be clearly marked as the property of the Contractor and shall be kept securely and separately from other objects or items with the due care of a proper merchant free of charge for the Contractor. The Client shall handle the provisions carefully and properly, keep them in good condition at its own expense, replace them where necessary and keep the Contractor harmless from any claims, costs and damage that follow from the installation, use, storage or repair of the provisions or are related thereto. The Client shall bear the risk for the provisions as long as they are in its custody or under its control. The Client is obliged to insure the provisions at its own expense against all insurable risks (All Risk) in the amount of their replacement value. The Client hereby assigns its claims against the insurance to the Contractor in advance. The Contractor hereby accepts such assignment. After full performance or agreed use of the provisions, the Client shall return all provisions to the Contractor (dispatch to the Contractor against payment of reasonable transport costs or making available for collection by the Contractor).

4. With regard to provisions from the Client, the Material Provision Policy of the Contractor in the version in force at the time of conclusion of the Contract applies, which is published on the website of the Stadler Rail Group under the link <https://www.stadlerrail.com/de/zulieferer/> and can be made available to the Client free of charge digitally on request. All terms of the Material Provision Policy are binding on the Client.

### Section 6 Acceptance / Transfer of Risk / Retention of Title

1. If the Client fails to comply with its obligation to participate in an acceptance test after the written notification of acceptance readiness by the Contractor, the delivery service shall be deemed to have been accepted fifteen (15) calendar days after the Contractor has given written notification of acceptance readiness, provided that during this time no defects preventing acceptance are claimed by the Client.

2. Unless agreed otherwise in the Contract, the risk shall pass upon acceptance of the delivery service (contracted work delivery service) or upon handover of the properly packaged delivery

service (purchase delivery service) to a shipping service provider or upon collection of the properly packaged delivery service by a shipping service provider.

3. Until full payment of all present and future claims arising from the existing delivery service relationship, the Contractor reserves ownership of the delivery services.

The delivery services subject to retention of title may not be pledged to third parties or transferred as a security before the complete payment of the present and future claims arising from the existing delivery service relationship. The Client must inform the Contractor immediately in writing if a request for the opening of insolvency proceedings is made or if third parties access (e.g. seizures) the delivery services belonging to the Contractor.

In the event of the Client's conduct contrary to the Contract, in particular in the event of non-payment of the due remuneration, the Contractor shall be entitled to withdraw from the Contract in accordance with the statutory provisions (in particular after unsuccessful setting of a deadline, insofar as this is not dispensable according to the statutory provisions) or/and to demand the return of the delivery service on the basis of retention of title. The demand for restitution does not at the same time include the declaration of withdrawal, unless the Contractor expressly makes this clear.

The Client shall be entitled to sell and/or process the delivery services subject to retention of title in the proper course of business until cancellation in accordance with (c) below. In such case, the following provisions shall apply in addition.

a) The retention of title shall extend to the products resulting from the processing, mixing or combination of the delivery services of the Contractor at their full value, whereby the Contractor is considered to be the manufacturer in this respect. If, in the case of processing, mixing or combination with goods of third parties, their right of ownership remains, the Contractor acquires co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In addition, the same shall apply to the resulting product as to the delivery services supplied under retention of title.

b) The Client assigns to the Contractor as a security the claims against third parties arising from the resale of the delivery services or the products, in accordance with the preceding paragraph, in total or up to the amount of any co-ownership share of the Contractor. The Contractor accepts this assignment. The obligations of the Client set forth in provisions of (3) subpara. 2 of this clause shall also apply regarding the assigned claims.

c) In addition to the Contractor, the Client shall remain authorised to collect the claims. The Contractor shall not collect the claims as long as the Client fulfils its payment obligations towards the Contractor, there is no defect in its performance capability and the Contractor does not retain title by exercising a right in accordance with (3) subpara. 3 of this clause. However, if this is the case, the Contractor can demand that the Client disclose to it the assigned claims and their debtors, provide all necessary information for collection, hand over the associated documents and inform the debtors (third parties) of the assignment. In addition, in such case, the Contractor shall be entitled to revoke the Client's authority to further sell and process the delivery services subject to retention of title.

(d) If the exploitable value of the securities exceeds the Contractor's claims by more than 10%, the Contractor shall release the securities at the Contractor's option at the request of the Client.

### Section 7 Confidentiality

1. The Client undertakes to keep strictly secret and to secure against unauthorised access, loss or use all non-obvious commercial and technical details which become known to it through the business relationship (regardless of the carrier medium, the

## General Terms and Conditions of Sale of Stadler Rail Service Deutschland GmbH (SRS DE)

marking as “confidential” or “secret”, regardless of economic value and the application of technical or organisational protection measures). The foregoing is hereinafter referred to as “information”. Information may not be made available or handed over to unauthorised third parties without the written permission of the Contractor. This obligation does not apply to such information (a) that is or becomes generally known without breach of this obligation, (b) that has been or will be disclosed to the Client by a third party without breach of a corresponding obligation, (c) of which the Client can prove to have possessed it before the entry into force of this obligation or to have developed it independently thereafter, or (d) that must be disclosed by mandatory judicial or administrative order which cannot be avoided by means of legal remedies, in which case the Client must use all efforts to ensure that the confidential information is treated confidentially by the court or the authority and inform the Contractor immediately, before disclosure, of the request for disclosure.

2. The reproduction of such information is permitted only within the scope of business requirements and copyright regulations (the legal regulations apply only insofar as no deviating regulations are provided in Section 2), to the extent this does not prevent the contractually agreed and assumed use of the delivery services.

3. In the event of actual or imminent breach of the present confidentiality regulations by the Client, the Contractor shall be entitled to interim legal protection and to obtain an injunction against such breach in addition to all other rights or remedies which are legally available to it.

In any case of infringement of the present confidentiality provisions, the Contractor may require the Client to pay a reasonable contractual penalty, which the Contractor may reasonably determine and which, in the event of a dispute, shall be reviewed by the competent court. Any additional claims for damages by the Contractor shall remain unaffected. Any contractual penalty paid shall be set off against any claims for damages.

4. Employees and any other subcontractors of the Client are - insofar as legally permissible - to be subjected to corresponding obligations.

5. Unless otherwise stipulated in the Contract, this obligation of secrecy shall apply indefinitely from the conclusion of the Contract.

### Section 8 Liability for Defects

1. The statutory provisions shall apply to the rights of the Client in the event of material and legal defects (including incorrect and short delivery), unless otherwise specified below.

2. The general limitation period for claims arising from material and legal defects shall be one year from delivery or, if agreed or on the basis of the underlying right, from acceptance; this limitation period shall also apply to warranty-related claims for damages as well as claims for compensation of expenses (compensation of futile expenses) of the Client. The above reduction of the limitation period shall not apply if and to the extent that liability is mandatory pursuant to Section 9. If the delivery service is a case under paragraph 438 (1) no. 1 or (2) BGB or paragraph 634a (1) no. 2 BGB, the limitation period shall instead be subject to the statutory provisions.

3. The Contractor's liability for defects shall in principle be based on the agreement reached on the quality and the assumed use of the delivery service, in particular any specifications and other technical requirements. If the quality has not been agreed upon, it is to be assessed according to the legal regulations whether a defect exists or not.

4. In the case of delivery services with digital elements or other digital content, the Contractor shall only be obliged to update the

digital content if this is expressly stated in a contractual agreement.

5. Furthermore, the Client's claims for defects are subject to the condition that - insofar as legally relevant or contractually agreed - it has fulfilled its statutory inspection and notification obligations (paragraphs 377, 381 of the German Commercial Code (HGB)). In any case, for building materials and other products intended for installation or other further processing, an inspection shall be carried out immediately prior to processing. If a defect is found upon delivery, in the investigation or at any time thereafter, the Contractor shall be informed thereof in writing without delay. If the Client fails to carry out a proper inspection and/or notification of defects, the Contractor shall not be liable for the defect which was not reported or was not reported in time or in a proper manner in accordance with the statutory provisions. In the case of a delivery service intended for integration, attachment or installation, this shall also apply if the defect became apparent as a result of the breach of one of these obligations only after the corresponding processing; in this case, in particular, the Client shall not be entitled to reimbursement of corresponding costs (“removal and installation costs”).

6. If the delivery service is defective, the Contractor can first choose whether to perform subsequent performance by eliminating the defect (rectification) or by supplying a defect-free item (replacement delivery). If the Contractor's chosen type of supplementary performance is unreasonable for the Client in individual cases, the latter may refuse it. The right of the Contractor to refuse subsequent performance under the statutory conditions remains unaffected.

7. The costs necessary for the purpose of testing and subsequent performance, in particular transport, travel, labour and material costs as well as, if applicable, removal and installation costs, shall be borne or reimbursed by the Contractor in accordance with the statutory regulations and these GTCS if a defect actually exists. Otherwise, the Contractor may claim from the Client compensation for the costs arising from the unjustified request for rectification of defects if the Client knew or could have recognised that no defect was actually present.

8. In urgent cases, for example when operational safety is endangered or to prevent disproportionate damage, the Client also has the right under sales law to remedy the defect itself and to demand compensation from the Contractor for the objectively necessary expenses. The Contractor shall be notified immediately, if possible beforehand, of such remedy by the Client itself. Such a right to perform remedy independently within the scope of the purchase right does not exist if and to the extent that the Contractor would be entitled to refuse a corresponding subsequent performance in accordance with the statutory provisions. The statutory rights of the Client to perform remedy itself within the scope of contracted work legislation remain unaffected.

### Section 9 Other Liability

1. With regard to the liability of the Contractor, the statutory liability provisions shall apply with the following limitations. The Contractor shall only be liable for intent and gross negligence.

2. This limitation of liability shall not apply to claims arising from (a) damage resulting from the injury or death of persons;

b) damage events according to the German Product Liability Act (Produkthaftungsgesetz) and from other cases where legally binding liability applies;

(c) fraudulently concealed defects or the assumption of a quality guarantee, the assumption of a procurement risk or the agreement of a certain quality level;

d) damage resulting from the breach of essential contractual obligations. Essential contractual obligations are those the fulfil-



## General Terms and Conditions of Sale of Stadler Rail Service Deutschland GmbH (SRS DE)

ment of which is necessary to achieve the purpose of the Contract. In the case of a breach of essential contractual obligations caused by simple negligence, the liability of the Contractor for material and financial damage is limited to the foreseeable damage typical of such Contract.

Insofar as the liability of the Contractor is excluded or limited in accordance with the above provisions, this exclusion or limitation shall also apply to the same extent to the liability of the bodies, executive officers, other employees, representatives and other vicarious agents or assistants of the Contractor.

### Section 10 Intellectual Property: Claims by Third Parties

1. The Contractor shall ensure that the contractual use of its delivery services does not impede any intellectual property of third parties (in particular patent, trademark and design rights); see Section 2.

2. To the extent a third party asserts claims against the Client in respect of the Contractor's delivery services on the basis of an (alleged) infringement of intellectual property, the Contractor shall, excluding any additional claims - if and to the extent no mandatory liability pursuant to Section 9 applies and irrespective of Section 10 (3) - at its option and at its own expense

a) obtain the necessary rights of use for the Client; or

b) modify its delivery services in such a way that there is no longer any infringement of intellectual property rights, without prejudice to the contractually agreed (if agreed) or to the owed condition accordance with the legal provisions; or

(c) Take back the delivery services concerned in return for reimbursement of the contractual remuneration.

3. The Contractor shall indemnify the Client in the Parties' internal relationship at the request of third parties against it on the basis of the infringement of intellectual property in respect of the delivery services of the Contractor. The Client shall inform the Contractor without delay if a third party asserts claims against the Client in respect of the Contractor's delivery services on the basis of an alleged infringement of intellectual property. The Client shall - insofar as reasonable and not prevented by mandatory law - not make any statements, admissions of guilt or other statements to the third party without the Contractor's consent in this regard. The Contractor shall bear the costs of the legal defence against the aforementioned claims due to the infringement of intellectual property, provided that the Contractor is given the opportunity to participate in the legal defence or to do so at his own expense.

### Section 11 Termination of Contract

1. The Parties may terminate the Contract extraordinarily without giving notice for good cause. Good cause shall in particular be deemed the breach of a contractual obligation incumbent on the Client, which the Client does not remedy completely within a reasonable period of time set by the Contractor (in particular provisions owed by the Client based upon an individual contract but not supplied or non-payment of the remuneration owed). Good cause shall also be deemed to exist in the case of the application for the opening of insolvency proceedings over the assets of the Client or if a material deterioration occurs or threatens to occur in the financial situation of the Client, which could endanger its compliance with contractual payment obligations.

2. If the Client exercises a contractual or legal right of withdrawal, the declaration of withdrawal must be made in writing. In such case, the Client is entitled to pay compensation for value instead of the return or provision of the services received up to such point in time. The amount of the compensation shall be based on the invoice value of the service provided at the time the declaration of withdrawal was made.

3. After termination of the Contract, the provisions of Section 7, Section 4 (1) last sentence and Section 12 (3) sentence 3 and 4 in particular shall continue to apply unchanged (unless otherwise

regulated within statutory limitation periods). Further provisions shall continue to apply if this results directly from their wording or purpose (e.g. liability for defects according to Section 8 during the warranty period).

### Section 12 Compliance

1. The Client shall be obliged to make itself fully familiar with Stadler's Codes of Conduct for Suppliers and Business Partners (the "Code of Conduct"); the Code of Conduct is available on Stadler's website ([https://www.stadler-rail.com/static/pdf/CoC\\_DE\\_2021\\_02.pdf](https://www.stadler-rail.com/static/pdf/CoC_DE_2021_02.pdf)) and may be provided to the Client digitally free of charge upon request.

2. The Client acknowledges that compliance with the Stadler Code of Conduct is essential for cooperation with Stadler and assures full compliance. As a result, the Client agrees that in the event of a violation of the principles in Stadler's Code of Conduct it will inform Stadler immediately about the violation that has occurred.

3. The Client shall remedy any breach of the principles of the Stadler Code of Conduct which it has notified or which Stadler has identified as such without undue delay. If this is not done within a reasonable time or if special circumstances exist which justify immediate termination taking into consideration the Parties' mutual interests, Stadler shall be entitled to terminate the existing contracts exceptionally and without notice for good cause. The Client shall indemnify Stadler for any liabilities and other damage and expenses incurred by Stadler as a result of an infringement of the principles in Stadler's Code of Conduct by the Client or any of its subcontractors and shall hold Stadler harmless in such respect. Any other rights remain reserved to Stadler.

### Section 13 Miscellaneous

1. The place of performance for the services and deliveries from the respective contract shall be the seat of the Client's branch which places the order, unless another place of performance is designated in the Contract.

2. Where there are inconsistencies between the regulations of these GTCS, the Material Ordering Policy and/or the Stadler Code of Conduct or among the aforementioned policies, the following, descending order of application shall apply:

- a) These GTCS
- b) Stadler Code of Conduct
- c) Material Provision Policy

3. References to paragraphs/sections where no law or act is mentioned shall be references to provisions contained in these GTCS.

4. Should one or more of the provisions of the Contract or of these General Terms and Conditions of Sale be or become invalid in whole or in part or should the Contract or these General Terms and Conditions of Sale be incomplete, the effectiveness of the other provisions of the Contract and of these General Terms and Conditions of Sale shall not be affected thereby. The invalid parts shall be replaced by a provision which corresponds to or comes closest to the intent and purpose of the invalid parts. Other gaps shall be filled at the Parties' reasonable discretion.

5. The exclusive place of jurisdiction for all disputes arising from or in connection with a Contract is - insofar as legally permissible - the locally competent court at the registered office of the Contractor.

6. The laws of the Federal Republic of Germany shall apply exclusively, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods (UN Convention on the International Sale of Goods) and the conflict-of-law rules of international private law.