

Article 1. Applicability

1. These Stratech Shipment General Terms and Conditions apply to all offers of and agreements with Stratech Holding bv concerning Stratech Shipment Online Service, with its registered office at Pantheon 15 in Enschede, the Netherlands, as well as to all operating companies of Stratech Holding bv, hereinafter jointly referred to as: Stratech.
2. These Stratech Shipment General Terms and Conditions are structured as follows:
 - Section I: Definitions;
 - Section II: General;
 - Section III: Changes.

Section I: Definitions

Article 2. Definitions

The terms below, which are applied in these Stratech Shipment General Terms and Conditions as well as all other applicable conditions concerning the Stratech Shipment Online Service, have the following meaning:

1. Online Service: the Stratech Shipment software delivered (including made available) by Stratech with related services that is accessible via the internet in the hosting environment;
2. Hosting environment: the technical infrastructure in which Stratech makes the Online Service available to the client by means of hosting;
3. Client: the natural person or legal entity with whom Stratech has concluded an agreement as referred to in definition 5. A natural person can only be or become a client if he acts in conduct of a profession or business;
4. Parties: Stratech and the client jointly;
5. Agreement: (1) the agreement between the client and Stratech concerning Stratech's provision of the Online Service to the client in the agreed configuration, hereinafter referred to as: subscription, and (2) the agreement between the client and Stratech concerning the services to be provided by Stratech;
6. Software: the software made available by Stratech to the client, including both software developed by Stratech itself and software developed by third parties;
7. Configuration: the components of the online service selected by the client within the parameters of the price list;
8. My Environment: the environment in the online service where the required information concerning the online service is presented in an orderly manner. The client can alter the data with respect to the online service and place orders in my environment;
9. Customer portal: the digital environment in which the required information concerning the online service is presented in an orderly manner. The client can enter service reports and track the progress of service reports in the customer portal;
10. Price List: the rates for the subscriptions, bundles and services with respect to the online service including payment conditions and other fees payable on the basis of these Stratech Shipment General Terms and Conditions and/or other applicable conditions;
11. Credit: the rate on which the price for among other things but not limited to a shipment, tax returns and documents, or a combination thereof, is based. A rate may consist of one or more credits;
12. Bundle: a quantity of credits;
13. Digital: communication via the customer portal, my environment, or other customary Stratech digital means of communication;
14. Main user: any user appointed by the client as manager of the online service and who is registered as such with Stratech;
15. User: an employee of the client or a third party who has the right to use the online service under the authority of the client in accordance with the subscription;
16. Office hours: working days from 8:30 am to 5:00 pm, except for those times and days when Stratech is closed;
17. Service report: a request for support in the use of the online service provided by Stratech;

18. Services: all services to be provided by Stratech to the client, not being the online service including related services, all of the above as referred to in the Stratech Shipment Service Conditions;
19. Standard training: standard training relating to the online service;
20. Data: the data stored in the database by the client by means of the online service, including personal data;
21. Personal data: personal data as referred to in the General Data Protection Regulation (GDPR), which are set out in appendix 1 to the Stratech Shipment Privacy Conditions;
22. Controller: the controller as referred to in the GDPR, being the client who has instructed Stratech to perform activities;
23. Processor: the processor as referred to in the GDPR, being Stratech;
24. Activities: all activities the client has instructed Stratech to carry out or that are performed or that are to be performed by Stratech on a different basis. The foregoing applies in the broadest sense of the word and, in any event, includes the activities arising from the agreement.

Section II: General

Article 3. General

1. All offers and the rates and payments referred to therein are without obligation unless expressly indicated otherwise.
2. Any purchase or other conditions applied by the client never form part of agreements.
3. If any provision of these Stratech Shipment General Terms and Conditions, the agreement and/or other applicable Stratech Shipment conditions are void or declared void, the other provisions of these Stratech Shipment General Terms and Conditions, the agreement and/or other applicable Stratech conditions continue to apply in full and Stratech and the client will consult in order to agree new provisions to replace the provisions that are void or that have been declared void, in which connection the purpose and purport of the provision that is void or declared void are observed as much as possible.
4. In case of conflicts between the provisions of the agreement and one or more applicable conditions, the following ranking will apply: (1) the agreement, (2) the Stratech Shipment General Terms and Conditions, (3) the Stratech Shipment Online Service Conditions or the Stratech Service Conditions, and all other applicable Stratech conditions. All services not covered by the scope of application of the Stratech Online Service Conditions are subject to the Stratech Shipment Service Conditions. If provisions relating to personal data/privacy relating to offers and agreements or other applicable conditions are contrary to the provisions of the Stratech Shipment Privacy Conditions, the provisions of these Stratech Privacy Conditions prevail.

Article 4. Rate, fee, invoicing and payment

1. Client owes fees to Stratech pursuant to the agreement.
2. The rates and fees for calendar years following the year in which the agreement is concluded can be adjusted by Stratech, without prior notification in accordance with the Statistics Netherlands index for 'CLA wages per month exclusive of special remunerations' in the private sector 'J information and communication'. Client cannot terminate the agreement if this is the case.
3. In the event Stratech wishes to change the rates and fees for a subsequent year by an amount that exceeds the adjustment referred to in paragraph 2, Stratech will be obliged to notify the client of this adjustment in writing at least 3 months before the end of the current calendar year. If Stratech has not complied with this condition, the rates and fees for the next year can only be increased as set out in paragraph 2 of this article.
4. Stratech has the right to adjust the prices of bundles if Stratech considers this necessary.
5. In the event Stratech is confronted with surcharges, levies etcetera imposed by the government of any kind, it will have to charge these on to the client.

6. In the event Stratech incurs reasonable additional costs for the performance of the agreement referred to in the Stratech Shipment Service Conditions, such as accommodation and overnight expenses, office expenses or costs of third parties, Stratech will have the right to charge these costs to the client on the basis of the Stratech rates that apply at that time.
7. Unless indicated otherwise, all rates and fees are exclusive of turnover tax (VAT) and other levies that are imposed by the government. All rates and fees are always stated in euros, unless indicated otherwise.
8. Payable costs are invoiced by Stratech to the client in accordance with the applicable payment conditions. In the event the client requests Stratech to do so in time and in writing, Stratech will indicate the purchase order, PO, on its invoices. Failure to provide the purchase order or failure to do so in time does not release the client from the payment obligation.
9. Payment conditions for the online service are indicated in the current price list and consist inter alia of payment terms, the manner of payment and any payment surcharges.
10. Payment must be made within the payment term indicated in the agreement. If no payment term has been agreed, Article 6:119a of the Dutch Civil Code (DCC) applies with respect to the statutory payment terms for companies and Article 6:119b DCC applies to the statutory payment terms for governments. If the agreed or statutory payment term is exceeded, the client will be in default without further notice of default and all extrajudicial and judicial costs related to the collection of any amount owed by the client will be for the client's account.
11. The provisions of article 9 paragraph 4 apply in the event the client exceeds the payment term(s).

Article 5. Confidential information

The parties commit towards each other that they will observe confidentiality with respect to all data of the other party that comes or will come to their attention or the attention of their employees and/or third parties involved in the performance of agreement(s) under their authority and in respect of which they have indicated or which the other party knows or should reasonably know to be confidential.

Article 6. Privacy

Stratech arranges for protection of personal data in accordance with the Stratech Shipment Privacy Conditions including appendices.

Article 7. Liability

1. Stratech only accepts liability insofar as this is evident from this article. Otherwise, all liability on the part of Stratech on any basis whatsoever and/or with respect to any loss whatsoever is excluded.
2. In case of an attributable failure to comply with the agreement, Stratech shall only be liable for alternative compensation, which means compensation of the value of the performance that was not delivered. Any liability on the part of Stratech for any other form of damage is excluded, including additional compensation of any kind, compensation of indirect loss or consequential losses or losses resulting from lost profit. Furthermore, Stratech is never liable for losses due to delays, losses resulting from the loss of data, losses resulting from exceeding terms of delivery due to a change in circumstances, losses resulting from the client providing defective cooperation, information or materials or losses resulting from information or advice provided by Stratech whose content does not form an express part of an agreement. Stratech is not liable in any event, if the client makes changes or has third parties make changes to the products and/or services delivered by Stratech. This also includes the use for purposes for which the products and services or other information obtained from Stratech were not delivered.

3. The compensation to be paid by Stratech in connection with an attributable failure to comply with an agreement will never exceed the total of the amounts invoiced on the basis of that agreement, exclusive of VAT, and the amounts not yet invoiced, exclusive of VAT, for products or services already delivered, which Stratech could have already invoiced on the basis of that agreement, which total concerns exclusively the online service or the service provision to which the event causing the damage relates. Reference in these Stratech Shipment General Terms and Conditions to an event causing the damage also includes a series of related events. In case of an agreement with a term exceeding one year, whether or not as a result of an extension by operation of law and/or contractually, the compensation in connection with an attributable failure will be at most the amount, exclusive of VAT, for the agreement due in respect of the year preceding the moment at which the damage arises.
The amounts and prices referred to in this paragraph are reduced by the credit amounts stipulated by the client and granted by Stratech.
4. In case of intent or gross negligence on the part of Stratech, its employees for whom Stratech can be held liable at law, as well as the third parties engaged by Stratech, Stratech shall only be liable for compensation of damage resulting from death or physical injury. In such cases, the compensation shall never exceed the sum insured per event causing damage.
5. Liability on the part of Stratech for damage arising from an unlawful act other than as referred to in paragraph 4 of this article is excluded expressly. If and insofar as this cannot be invoked, the compensation per event causing damage will always be limited in accordance with the provisions of paragraph 3 of this article.
6. The creation of any right to compensation is subject to the cumulative conditions that (1) the client has reported the damage to Stratech in writing, with documentation and substantiation, as soon as possible after it arises, but at most within fourteen days after the damage arises and (2) that client implemented measures to limit the damage or to prevent more or other damage immediately after the damage arose.
7. The client indemnifies Stratech against all damage Stratech may sustain as a result of third-party claims related to the products or services provided by Stratech, including but not limited to:
 - claims from third parties, including employees of the client, who sustain damage as a result of unlawful conduct on the part of Stratech's employees who were placed with the client and work under its supervision or on its instructions;
 - claims from third parties, including Stratech employees, who sustain damage in connection with the performance of the agreement as a result of acts or omissions on the part of the client or unsafe situations within its business;
 - claims from third parties who sustain damage as a result of a defect in the products or services delivered by Stratech that were used, altered or resold by the client while adding or in connection with products and/or services provided by the client or third parties, unless the client proves that the defect is not the result of the use, alteration or resale as referred to above.
8. Stratech is never liable for damage resulting from the theft of or damage caused to the goods of the client and/or its employees while representatives of the client and/or its employees reside at the Stratech site or inside its buildings.
9. Stratech is not liable for errors caused by the migration of data to the online service. The client is responsible and liable for the content and accuracy of the data.
10. With due observance of the provisions of paragraphs 1 up to and including 9 of this article, any liability on the part of Stratech, insofar as this is established at law, is limited in any event to the amount that is actually paid out in the relevant case under the Stratech business and/or professional liability insurance.
The provisions of paragraph 3 of this article apply insofar as Stratech is not able to invoke its liability insurance in relevant cases as a result of a cause for which Stratech cannot be held responsible.
11. The Client accepts and acknowledges that the limitation of liability in this article is directly related to the amount of the fee for the Online Service charged by Stratech to the client.

Article 8. Intellectual and industrial property

1. All intellectual and industrial property rights to all software and/or other programs, training materials or other materials such as analyses, designs, documentation, reports, offers, as well as materials in preparation thereof, developed or made available under the agreement vested exclusively in Stratech, its suppliers or its licensors. The client cannot exercise rights in respect thereof in any way. Insofar as it is established at law that the aforementioned software and/or other programs, training materials or other materials such as analyses, designs, documentation, reports, offers, as well as materials in preparation thereof, infringe the rights of third parties, Stratech will indemnify the client against claims from third parties in this connection, such with due observance of the provisions of article 7 paragraph 10.
2. The agreement does not constitute a transfer of any intellectual property right to the online service and all related documentation, information et cetera, including but not limited to patent rights, trademark rights, database rights and copyrights. The client cannot exercise rights in respect thereof in any way. Stratech, its suppliers or its licensors remain at all times the parties entitled to these intellectual property rights.
3. The client will not reproduce, disclose or copy the online service, software and/or other programs and/or other materials mentioned, or make them available to third parties. The client can never claim the surrender of the source code of the online service, software, standard software, software adjusted by Stratech in line with the client's wishes or software that was adjusted otherwise.
4. The client will refrain from infringing the rights of third parties, including but not limited to intellectual and industrial property rights and privacy and indemnifies Stratech against all possible claims from third parties in this connection. In case of such an infringement Stratech will have the right to block access to the online service and/or suspend the services, without prejudice to the other claims Stratech has in such cases.
5. The client may export the data stored in the online service in a file format to be determined by Stratech, if and insofar as the online service offers the aforementioned export functionality.

Article 9. Obligations of the client

1. The client always provides Stratech in time with all data and information useful or necessary for the proper performance of the agreement and will cooperate fully with Stratech for this purpose. The client furthermore ensures that Stratech is provided with all facilities required by Stratech for the performance of the agreement.
2. In the event data necessary for the performance of the agreement are not available to Stratech or are not available to Stratech in time or in accordance with the arrangements or if the client otherwise fails to comply with its obligations, Stratech will have the right in any event to suspend performance of the agreement and it will have the right to charge the costs that have arisen as a result thereof in accordance with its customary rates.
3. The client indemnifies Stratech against damage resulting from the client's failure to comply with obligations.
4. In the event the client fails to comply with any obligation under the agreement and/or the conditions that apply to it, Stratech will have the right to suspend its obligations to the Client, including but not limited to blocking/suspending access to the online service and/or provisions of the services, without being obliged to pay compensation to the client in any way. All costs that arise from the provisions of this paragraph are for the client's account.

Article 10. Force majeure

In case of force majeure, Stratech's obligations concerning the performance of the agreement will be suspended for the duration of such force majeure, without the parties being obliged to pay any compensation in this connection. Such circumstances included among other things: full or partial failure on the part of third parties engaged by Stratech in the performance of the agreement, such as suppliers, subcontractors, overburdening of the hosting environment, overburdening of the Service Desk, the weather, earthquakes, fires, power failures, floods, water damage, loss, theft or destruction of tools or products, road blocks, strikes or work interruptions, import or trade restrictions, the outbreak of viruses, epidemics or pandemics and government measures including import and export measures as a result of such outbreaks, as well as any situation that is effectively beyond Stratech's control.

Article 11. Terms of delivery

1. All delivery and other terms indicated by Stratech have been determined to the best of Stratech's knowledge on the basis of the data that were known to Stratech at that moment. The delivery terms indicated are observed as much as possible.
2. The terms indicated by Stratech never qualify as strict deadlines. Merely exceeding a delivery or other term indicated does not mean that Stratech is in default.
3. Stratech is not bound by delivery or other terms, which can no longer be met as a result of circumstances beyond its control that occurred after the agreement was concluded. If any term is about to be exceeded, Stratech and the client will consult as soon as possible in order to attempt to find a solution that is reasonable and acceptable to both parties.

Article 12. Dissolution of the agreement

1. The parties have the right to dissolve all or part of the agreement with immediate effect if the other party fails to comply with any obligation under this agreement which is so serious in nature that the terminating party cannot reasonably be expected to continue the agreement and the defaulting party, after it was given notice of default by means of a registered letter and was afforded a reasonable term to comply as yet, fails to comply with this obligation or to take the appropriate steps to correct this.
2. Stratech has the right to dissolve all or part of the agreement with immediate effect in any event if the client is declared bankrupt, if the client applies for a suspension of payment or if the client is otherwise unable to comply with its payment obligations. Stratech is never obliged to pay any compensation in connection with the dissolution referred to in the previous sentence.
3. If Stratech has already carried out activities in implementation of the agreement at the time of dissolution and/or the client has already received performances, the client will only be able to terminate the agreement in part and exclusively for that part that has not yet been performed by Stratech. Amounts invoiced by Stratech before dissolution in connection with what it already performed or delivered in implementation of the agreement will remain due in full and will become immediately due and payable at the moment of dissolution, as will amounts for activities performed or performances received that were not yet invoiced at the moment of dissolution.
4. The agreement is dissolved by means of a registered letter addressed to the other party.

Article 13. Conditions applied by suppliers

1. When performing the agreement, Stratech depends on the cooperation, services and deliveries by suppliers, which cannot be influenced directly by Stratech. This includes inter alia, but is not limited to, providers of connections and data centres, including hosting providers. Stratech therefore cannot be held liable in any way for any damage whatsoever arising from permanent or temporary cessation or from incorrect and/or incomplete operation of the services or deliveries provided by these suppliers. Stratech will endeavour if reasonably possible to prevent and/or limit such potential damage.

2. The client indemnifies Stratech against claims from suppliers related to damage that arises in any way as a result of unlawful or careless use by the client of the services and resources made available by the relevant suppliers.

Article 14. Other provisions

1. All agreements between Stratech and the client are governed exclusively by Dutch law. The applicability of the Vienna Sales Convention is excluded.
2. Use of the products delivered by Stratech takes place for the Client's account and risk.
3. Notifications made to each other by the parties pursuant to the agreement are made in writing or digitally. In derogation from the provisions of the previous sentence, dissolution and notice of default take place exclusively in writing.
4. Changes and additions to the agreement, these Stratech Shipment General Terms and Conditions and/or other applicable Stratech conditions are only valid insofar as they have been agreed in writing or digitally.
5. The client allows Stratech to use the name and logo of the client as a reference in communications. This includes reference on the website, in presentations and in communications on social media. Stratech ensures at all times that the name and logo of the client are always handled with due care.
6. Stratech has the right to transfer all rights and obligations arising from the agreement to third parties, which will be notified by Stratech to the client in time, unless the client cannot reasonably be expected to continue the agreement with the third party in question. In the latter case, the client will have the right to dissolve the agreement effective as from the date on which the transfer referred to in the previous sentence occurred.

Article 15. Disputes

All disputes concerning the formation, interpretation or performance of the agreement to which the various Stratech conditions apply as well as the agreements and subscriptions that may arise therefrom, and any other disputes concerning or related to these Stratech Shipment General Terms and Conditions or other Stratech conditions, legally or factually, without exception, will be settled exclusively by the Overijssel District Court, Almelo location. However, Stratech does have the right, but is not obliged, to submit a dispute to the competent court in the jurisdiction where the client has its registered office.

Section III Changes

Article 16. Changes

1. Stratech has the right at all times to change these Stratech Shipment General Terms and Conditions and all other applicable Stratech conditions unilaterally. The changed conditions apply as from the moment they have been provided to the client in writing or digitally. In the event the changed conditions that apply to an ongoing agreement are reasonably unacceptable to the client, the client will have the right to terminate the agreement in question with due observance of a notice period of three months. In the event the client does not terminate the agreement in question within one month after Stratech informed the client of the changed conditions, the client will be deemed to have accepted the changed conditions.
2. Specific agreements in existing agreements between Stratech and the client pertaining to the previous conditions continue to apply to the agreement in question.

These Stratech Shipment General Terms and Conditions as well as the Dutch Algemene Voorwaarden Stratech Shipment were made available to the client prior to or at the time of the conclusion of the agreement to which these Stratech Shipment General Terms and Conditions apply or after these Stratech Shipment General Terms and Conditions were adopted. The conditions can also be read and can be downloaded from the Stratech website: www.stratech.nl.



Stratech

betrokken
kennispartner

DATE

01-08-2022

VERSION

01.2022

SUBJECT

Stratech Shipment General Terms and Conditions

These English Stratech Shipment General Terms and Conditions are a translation of the Dutch Algemene Voorwaarden Stratech Shipment. If any provision of these English Stratech Shipment General Terms and Conditions conflicts with the Dutch Algemene Voorwaarden Stratech Shipment, the provision of the Dutch Algemene Voorwaarden Stratech Shipment shall apply. The Dutch Algemene Voorwaarden Stratech Shipment have been filed with the Overijssel District Court, Almelo location, on 02/08/2022 under number 18/2022.