

General

- 1.1 thyssenkrupp Materials Nederland B.V. is referred to below as 'the Seller'.
- 1.2 The party that enters into a purchase contract or any other type of agreement with Seller, under which the Seller undertakes to engage in a commercial capacity with such party, is referred to below as 'the Buyer'.
- 1.3 Deviations from any part of these general terms and conditions (the 'General Conditions') are only valid if they have been expressly recorded in writing, signed by both parties.
- 1.4 If there is any difference in meaning of the wording of different language versions of these General Conditions, the Dutch text will always be binding.

Scope

- 2.1 These General Terms and Conditions of Sale and Delivery apply to all contracts with the Seller under which the Seller undertakes to supply goods and/or services. The Seller and Buyer acknowledge that once they have entered into a contract governed by these General Conditions, these General Conditions will also apply in full to all subsequent contracts.
- 2.2 Any terms of trade used in these General Terms and Conditions of Sale and Delivery, quotations, order confirmations or otherwise shall be construed in accordance with the most recent version of Incoterms® as published by the International Chamber of Commerce (ICC) at the time of the conclusion of the contract.

Contract

- 3.1 Price lists and other information supplied by the Seller are without obligation. Oral commitments and agreements with the Seller's employees are not binding on the Seller until and insofar as they have been confirmed by the Seller in writing.
- 3.2 In the event of any difference between the Buyer's order and the Seller's confirmation, only the Seller's confirmation shall be binding.
- 3.3 All additions, amendments and further agreed terms to the contract only apply if they have been expressly agreed in writing.

Delivery

- 4.1 Delivery takes place ex works, 'ExWorks' (Incoterms), unless explicitly agreed otherwise in writing.
- 4.2 The delivery times stated by the Seller are always indications and are therefore never deadlines. The Seller shall not be in default with regard to delivery times until it has been validly served with notice of default.
- 4.3 Exceeding delivery times shall never entitle the Buyer to terminate the contract, to compensation, or to suspend any obligation, except where this is due to intentional act or omission or gross negligence on the part of the Seller.
- 4.4 The Buyer must unload the goods as quickly as possible at the agreed place of delivery. The Buyer is liable for any loss caused by unnecessary loss of time.
- 4.5 The goods are sold and delivered subject to the tolerances for dimensions, quantities and weights that are customary in free trade, unless expressly agreed otherwise in writing.
- 4.6 The Seller is not liable for errors in images, and in indications of price, dimensions, weights, qualities in price lists and other publications (claims) of any nature whatsoever.

Force majeure

- 5.1 'Force majeure' here has the same meaning as defined in Book 6 Article 75 of the Dutch Civil Code.
- 5.2 Force majeure includes, but is not limited to, any breach by the Seller due to a war or threat of war, government measures and transport bans terrorism, riots, riots, acts of war, strikes (organised and unorganised), sit-down strikes, floods, transport problems, fire, water damage, breakdown of machinery and energy supply failures at the Seller's premises or the premises of any supplier to the Seller, or breach of performance by a supplier of the Seller.
- 5.3 In the event of force majeure, the Seller is entitled, without judicial intervention, (a) to suspend the performance of the contract, or (b) to terminate all or part of the contract, or (c) to extend the delivery times by a reasonable period, without thereby being obliged to pay any compensation to the Buyer.
- 5.4 If the force majeure has lasted longer than three months or if it is certain that the force majeure will last longer than three months, either party is entitled to terminate all or part of the contract. In that case, too, the Seller is not obliged to compensate the Buyer for any loss.

Ownership and retention of title

- 6.1 Subject to the provisions of sections 2 to 11 of this Article, ownership of the goods shall pass to Buyer at the time of delivery referred to in Article 4.1.
- 6.2 The Seller reserves title to all goods delivered to the Buyer - paid and unpaid - under any contract between the parties and the related services.

6.3 If within the framework of these contracts the Seller carries out work at any time for the benefit of the Buyer that is to be paid for by the Buyer, the aforementioned retention of title applies until the Buyer has also paid these claims of the Seller in full. The retention of title also applies to any claims which the Seller may have at any time against the Buyer as a result of the Buyer's breach - or through termination of the contract - of any of its obligations to the Seller under the said contracts.

6.4 As long as the ownership of the delivered goods has not transferred to the Buyer, the Buyer may not pledge the goods or grant any other right to them to a third party, subject to the provisions of sections 8 and 9 of this article.

6.5 The Seller hereby reserves the right of pledge as referred to in Book 3 Article 237 of the Dutch Civil Code on goods delivered which have passed to the Buyer and are still in the possession of the Buyer, as additional security for all claims which the Seller may still have against the Buyer on any account whatsoever. The Seller is at all times entitled and hereby irrevocably authorised by the Buyer to carry out the actions required to establish this pledge (explicitly including the establishment of the pledge by means of an authentic or registered private instrument) and to act on behalf of the Buyer in doing so. At the request of the Seller, the Buyer undertakes to cooperate with this pledge without delay.

6.6 The Buyer is obliged to store the goods delivered subject to retention of title with due care in a way that identifies them as the Seller's property. The Buyer must insure the goods for the duration of the retention of title against fire, explosion and water damage as well as against theft and to allow the Seller to inspect the relevant insurance policies on first demand. All claims of the Buyer against the insurers of the goods by virtue of the said insurance policies will, as soon as the Seller indicates such requirement, be pledged to the Seller by the Buyer in the manner indicated in Book 3 Article 239 of the Dutch Civil Code, as additional security for the claims of the Seller against the Buyer. The last two sentences of section 5 of this article shall apply.

6.7 If the Buyer is in breach of its payment obligations to the Seller or the Seller has good reason to fear that the Buyer will breach those obligations, the Seller is entitled to take back the goods delivered subject to retention of title, as it sees fit, and without any liability to the Buyer. After the goods have been recovered, the Buyer shall be credited for the market value, which shall in no event exceed the original purchase price, less the costs incurred in their recovery.

6.8 The Buyer is permitted to sell and transfer the goods delivered subject to retention of title to third parties in the normal course of its business. In the event of sale on credit, the Buyer is obliged to stipulate a retention of title from its customers on the basis of the provisions of this article.

6.9 As soon as the Seller so requires, the Buyer will undertake not to assign or pledge to third parties any claims it obtains against its customers, insofar as the Buyer has not pledged them to its financing bank, without the prior written consent of the Seller. The Buyer undertakes to pledge the said claims to the Seller, as soon as the Seller so requires, in the manner indicated in Book 3 Article 239 of the Dutch Civil Code, as additional security for his claims against the Buyer on any account whatsoever. The last two sentences of section 5 of this article shall apply.

6.10 Insofar as the Seller's retention of title to the delivered goods is lost by accession or conversion, the Buyer establishes in advance a non-possessory pledge on the goods that are the subject of the accession or conversion for the benefit of the Seller, as security for all that the Buyer owes the Seller, on whatever account, at any time. The last two sentences of section 5 of this article shall apply.

6.11 The Seller's retention of title shall not lapse upon payment to it by a third party which is subrogated to the claim of the Seller against the Buyer.

Price and Payment

7.1 The prices stated by the Seller are based on any information provided with the request, irrespective of whether they were supplied orally, in writing, with a special offer or otherwise, and are exclusive of turnover tax and other government costs relating to the sale and delivery.

7.2 Each payment must be made within thirty (30) days of the invoice date, net in cash, and without the Buyer being entitled to any discount or set-off not expressly agreed. Differing payment terms must be explicitly agreed upon in writing. The Buyer is not entitled to set off any claims it may have against the Seller or to suspend its obligations.

7.3 The payment term specified in paragraph 2 of this article is a strict deadline. If it is exceeded, the Buyer is immediately in default, such that service of notice of default is not required. In the event that the Seller believes that the Buyer is in financial difficulties or that the bankruptcy or suspension of payment of the Buyer has been applied for or pronounced, the Buyer is immediately in default and all claims against the Buyer become immediately due and payable.

7.4 From the moment of default as defined in section 3 of this article, the Buyer becomes liable for interest at the rate of 1.5% per month on the full invoice amount.

7.5 All judicial and extrajudicial costs incurred by the Seller in order to enforce the obligations of the Buyer shall be reimbursed by the Buyer. Judicial costs also include the costs of filing for bankruptcy as a means of collection. The extrajudicial (enforcement) costs are set at 15% of the amount due, or €250.00 plus VAT, whichever is more.

7.6 Regardless of any regulations or payments made to the contrary, the Seller is entitled to apply all payments received in an order specified by the Seller in reduction of what the Buyer owes the Seller for deliveries, interest and/or costs.

7.7 The Seller is entitled to suspend the delivery of goods if and for as long as the Buyer does not fully, properly, in good time, or at all, comply with any obligation to Seller under a contract.

7.8 If the Seller reasonably believes that the financial situation of the Buyer so warrants, the Seller is entitled at any time to demand advance payment or the provision of security and, in anticipation thereof, to suspend the full or partial execution of the contract.

Complaints

8.1 Immediately after delivery, the Buyer must check the goods delivered for any discrepancies with regard to the contract terms. Any defects must be notified to the Seller in writing within five working days of delivery. The Buyer must notify the Seller in writing of any latent defects within five working days of discovery, but no later than one month after delivery. After the expiry of the said terms, the Seller is no longer obliged to deal with a complaint.

8.2 The Buyer must keep goods that it has found to be defective available for the Seller to inspect.

8.3 The Buyer's payment obligations shall not be suspended by the submission of a complaint.

8.4 Any legal action must be brought before a court of competent jurisdiction under these General Conditions no later than one year after the complaint has been lodged, failing which any claim for compensation shall lapse.

8.5 Quality requirements or quality standards must be expressly agreed in writing by the Buyer. Minor discrepancies and differences in quality, colour, size or finish, that are normal in the industry or technically unavoidable shall not be deemed to be a breach and shall not constitute grounds for termination of contract or compensation.

Warranty

9.1 The Seller warrants that goods that it does not manufacture itself will function in accordance with the specifications of its supplier, during the guarantee period given by such supplier, which warranty terms begins after delivery of the goods to the Buyer. Deviations from the specifications which do not result in the goods being unsuitable or no longer suitable for the purpose for which the Buyer uses the goods shall not constitute a breach.

9.2 If the Seller manufactures the sold goods from goods supplied by its suppliers, the warranty on the end product shall be limited to the warranty that the Seller has received from the suppliers on the respective parts of the goods.

9.3 The Seller's warranty obligation is limited as follows. The Seller may choose at its own discretion either to repair or replace any non-functioning goods or any part thereof. However, the costs for the removal of non-functioning goods and the costs for the installation of the new goods shall be borne by the Buyer. This includes, but is not limited to, transport and travel costs.

9.4 The Seller does not give any warranty if:

- A. the goods do not function as a result of careless use by the Buyer or of any other cause other than the inadequacy of materials or manufacture;
- B. the Seller supplies used materials or goods in accordance with the contract;
- C. the cause of the malfunctioning of the goods cannot be clearly demonstrated by the Buyer;
- D. the Buyer has not promptly and fully complied with all instructions given for the use of the goods and other specifically applicable warranty regulations.
- E. The Buyer, on its own initiative, makes changes and/or repairs to the delivered goods during the warranty period or engages a third party to do so;
- F. the Buyer does not comply properly, in good time, or at all with any obligation arising from this or any other related contract, such as the obligations set out in these General Conditions with regard to inspection and complaints.

9.5 If the Buyer claims under the warranty and it subsequently transpires that the goods were not covered by the warranty, the Buyer shall reimburse all costs incurred by the Seller in connection therewith.

9.6 Unless expressly agreed otherwise in writing, the Seller is only obliged to fulfil the warranty obligations referred to in this article within the Netherlands.

9.7 If a defect is not reported to the Seller within the applicable warranty period or pursuant to Article 8, the Buyer can no longer invoke that defect in the performance.

Liability

10.2 The Seller is only liable for loss suffered by the Buyer if the Buyer can demonstrate that there has been intent or gross negligence on the part of the Seller.

10.3 Any liability of the Seller for the Buyer's consequential loss is expressly excluded. 'Consequential loss' includes, but is not limited to, loss of profit, loss due to stagnation, labour costs, interest costs and repair costs, transport costs or fines.

10.4 Liability for loss is in any case explicitly limited to the amount that an insurance policy of the Seller pays out in the case in question, increased by the policy excess. If for any reason no payment is made under an insurance policy, liability for loss will be explicitly limited to the invoice amount excluding VAT, or at least to the amount invoiced for the transaction in question or invoiced for the item to which the liability relates. Any further liability on the part of the Seller is expressly excluded.

10.5 Loss shall in any case include loss due to contractual breaches, termination, or wrongful act.

10.6 Claims for compensation must be brought by the Buyer before the competent court specified in these General Conditions within one year after the Buyer has been held liable. After this period of one year, the claim for damages will be time-barred.

Termination

11.1 The Seller is entitled to terminate the contract with immediate effect, by registered letter, without judicial intervention being required, and without being obliged to compensate for any loss whatsoever, if:

- a. the Buyer refuses on first demand to make advance payments or to provide adequate security in the circumstances referred to in Article 7, section 8;
- b. the Buyer applies for a moratorium or files its own petition for bankruptcy, or a third party files a petition for the Buyer's bankruptcy, or the Buyer's business is wound up;
- c. the Buyer dies;
- d. the Buyer does not comply fully, properly, in good time, or at all with any obligation to the Seller under the contract and, despite a request to do so, has failed to remedy the breach within 5 working days of such a request.

11.2 Termination of a contract by the Buyer is only possible with the prior express written consent of the Seller. Without prejudice to the Seller's right to full compensation, the Seller is entitled to compensation in the event of termination of a contract due to the Buyer's breach of its obligation or in the event that the Seller agrees to the cancellation of an order by the Buyer. The amount of the compensation depends on the time that has elapsed between the date on which there is a binding contract and the date on which the contract is terminated by the Seller or cancelled by the Buyer in relation to the agreed time of delivery. Unless there is express agreement in writing otherwise, compensation shall be fixed at a flat rate in accordance with the following scale:

- o Termination/cancellation within the first ¼ period: 25% of the agreed amount;
- o Termination/cancellation between ¼ period and ½ period: 50% of the agreed amount;
- o Termination/cancellation between ½ period and agreed time of delivery: 100% of the agreed amount;
- o Termination/cancellation after agreed time of delivery: 100%.

Disputes

12.1 The competent court for the district in which the Seller has its registered office has exclusive jurisdiction to hear disputes relating to the contract, unless any mandatory law stipulates otherwise. Nevertheless, the Seller shall be entitled to submit the dispute to any court having jurisdiction according to the law.

12.2 The parties agree to be bound by Dutch law in relation to their contract and all contracts derived thereunder. Insofar as the provisions of the Vienna Sales Convention apply to any contract, such provisions only apply to the extent that they are not in conflict with any provision of these General Conditions. In such a case, the provisions of these General Conditions shall take precedence.