

## GENERAL TERMS AND CONDITIONS OF SALE (GTCS) Revision: January 2018

### 1. Scope of Application

These General Terms and Conditions of Sale (hereinafter "GTCS") shall apply to all contractual relations between thyssenkrupp Materials Processing Europe, S.L. (hereinafter "thyssenkrupp") and the buyer of its products (hereinafter the "Buyer").

Together with the particulars provided in the contract or in the order confirmation issued by the Seller ("Order Confirmation") and the Seller's internal technical specifications and commercial terms on transport, minimum orders or packaging, which the Buyer may request from thyssenkrupp at any time, these Terms and Conditions constitute the entire agreement by and between the Buyer and thyssenkrupp and cancel and replace any other contrary term and/or condition proposed by the Buyer and any written or verbal communication not expressly included in the Contract. The commencement of the supply by thyssenkrupp does not imply acceptance of the Buyer's terms and conditions.

thyssenkrupp shall provide the Buyer with a copy of the General Terms and Conditions in accordance with General Term 2 hereunder. In the event of a discrepancy between these GTCS and any other contractual documents, the order of priority shall be as follows: first, the particular terms and conditions of the Order Confirmation; and, second, these GTCS.

Any condition consigned in its order by the Buyer that does not conform to these GTCS or the terms and conditions of each product shall be considered void and shall therefore be deemed not to have been set unless thyssenkrupp has given its express agreement in writing.

### 2. Offer and Acceptance

If thyssenkrupp's offers on prices, delivery terms and catalogues are not otherwise provided in the offer itself, they shall not be binding.

Upon receipt of such information by the Buyer, the Buyer shall place the corresponding order with thyssenkrupp, which shall confirm the Buyer's order by issuing an Order Confirmation. Said Order Confirmation shall also include the risk coverage, bank guarantees and the payment terms required by thyssenkrupp and a copy of the General Terms and Conditions shall be attached thereto. The offer shall be binding for both parties only when, the Order Confirmation having been issued in the aforementioned terms, twenty-four hours have elapsed since it was issued by thyssenkrupp without the Buyer having represented its disagreement. Once the offer is binding, the Buyer may not cancel any orders placed. Any cancellation of an order once the offer has become binding shall be considered a breach of contract by the Buyer and shall entitle thyssenkrupp to demand compliance with or terminate the Contract with the corresponding compensation for damages caused by such breach.

Any modification of this risk coverage during the supply period may result in the suspension or cancellation of orders by thyssenkrupp until the initial conditions are resolved or restored. Order extensions shall constitute new orders and any other modification of an order shall take effect only when expressly accepted in writing.

In case of termination of contract, the Buyer agrees to withdraw the materials corresponding to two months of consumption, as this is the necessary amount to avoid a possible stockout.

### 3. Specifications

The products shall comply with the agreed specifications. If no specifications have been agreed, the products shall comply with the European regulations applicable to the products according to their quality, on the delivery dates.

The supply of materials subject to national or foreign standards with special conditions or conditions additional to those provided in said standards shall require prior consultation.

The products shall be inspected, tested, analysed and certified by the Company and in accordance with its internal standards.

### 4. Delivery

On each Order Confirmation, thyssenkrupp shall indicate the maximum term for delivering the products ("Maximum Delivery Term"). Said Maximum Delivery Term must not be confused with the specific delivery date of the product.

The calculation of the Maximum Delivery Term begins 24 hours following the issue of the Order Confirmation by thyssenkrupp, at which time the offer shall be binding in accordance with GTCS 2 above.

Should the Parties agree on a fixed delivery date, the Buyer shall grant thyssenkrupp a reasonable period of time for such delivery or shipment. If the delivery is delayed to the extent that it is unduly burdensome to require the Buyer to receive the goods and provided that the reason for the delay is not directly attributable to thyssenkrupp, the Buyer shall be entitled to terminate the contract by written notice to thyssenkrupp.

The foregoing shall not apply if the delay in the delivery is due to the Buyer. In such cases, the Buyer shall be obliged to make the payment as if the delivery had been completed. Similarly, the Purchaser shall hold thyssenkrupp free from any liability for loss or deterioration of the products in its storage unless it involves negligence on thyssenkrupp's part; where the expenses arising from said storage shall be on the Buyer's account. The Buyer also releases

thyssenkrupp from liability for direct or indirect damages or for detrimental consequences resulting from reasonable delay and not indirectly or directly attributable to thyssenkrupp in the delivery.

Notwithstanding the previous sections of these GTCS, thyssenkrupp shall have the power to make partial deliveries unless the Buyer represents its disagreement prior to said partial deliveries in writing.

The Buyer is responsible for inspecting the delivered goods. In the absence of any comments on the delivery note, it shall be understood that thyssenkrupp declines all liability for any visible defect or fault caused in transport.

Unless expressly agreed otherwise, the agreed delivery terms shall be construed in accordance with the latest version of the Incoterms published by the ICC and the sale shall be deemed completed on Ex Works (EXW) delivery terms from thyssenkrupp's warehouses.

### Packaging

The products must be supplied with the appropriate packaging and protection normally used in the trade depending on the nature of the product and the agreed means of transport. The invoiced price shall include the weight of the products and the standard packaging and the cost of destroying, recycling or storing the packaging may not be passed on to the Seller.

### 5. Commercial Warranty

thyssenkrupp warrants that all products supplied are suitable for commercialization and carry no third-party rights or charges.

Under no circumstances does the foregoing warranty extend to the product (a) being suitable for the specific uses the Buyer wishes to make of them, regardless of whether or not they have been declared by the Buyer, (b) conforming to the samples delivered by thyssenkrupp (non-sale on sample), (c) being free from defects in terms of materials or wrong specifications supplied by Buyer or (d) being fit for use if they have been tampered with, stored or processed under inadequate conditions.

The products shall only be considered faulty if they do not comply with the specifications expressly agreed for each particular delivery or, failing that, if they do not comply with the European specifications applicable according to their quality on the delivery date. thyssenkrupp does not guarantee any use, quality or ownership of the products beyond the above. Products sold under the condition of not being first-grade quality ("second-grade quality") shall be understood to be sold as-is, which means that the Buyer waives the right to reject them or claim compensation for defects or faults therein.

If the quantity of product sold is determined by weight, the agreed weight shall be considered approximate and the quantity to be supplied may be adjusted by thyssenkrupp with a maximum deviation of +/-10% of the agreed weight for the total order of each type of product/grade of steel and the price shall be adjusted accordingly. The weight of the product indicated by thyssenkrupp in its supplies in printed format or otherwise shall be considered correct unless proven otherwise.

#### 5.1 Complaints procedure

**A) Product examination** The Buyer shall examine the products immediately upon receipt to determine (i) that they have not suffered any deterioration in transit and (ii) that they are of the quality, quantity and weight specified on the Order Confirmation or, where applicable, delivery note.

The damages suffered by the product in transit shall be recorded on the haulier's delivery note and shall be notified to thyssenkrupp.

In case of defects of the material evident at the time of receipt, the products shall not be processed and shall be stored on the Buyer's premises for review by thyssenkrupp. Otherwise, the Buyer shall lose its right to claim for such defects.

thyssenkrupp shall not be responsible for any additional machining, processing, transport and external analysis costs, etc. or any other forms of manipulation or transformation.

Under no circumstances shall any product return be accepted without prior agreement.

**B) Notice to thyssenkrupp.** The Buyer shall notify thyssenkrupp in writing of defects in the product within the following terms:

- If the products have a defect of quantity or quality (provided that it is not a deviation of weight authorised under the provisions specified above), immediately upon receipt of the goods.
- In the case of hidden defects or faults or those not reasonably detectable upon receipt of the goods, within 30 days of receipt of the product. The Buyer shall lose the right to apply this term if the defect is a consequence of the Buyer's failure to store the product adequately (following thyssenkrupp's instructions) so that the usual quality and performance thereof can be guaranteed. In these cases, the remedy of hidden defects shall not apply, even if the Buyer has exercised such action in the corresponding term.
- In the case of traces of oxidation on any material, no claims shall be accepted on dry or antioxidant oil-free material, and in the case of oiled material, the maximum term to claim shall be 30 days upon the delivery thereof.

After said terms, all claims shall be ineffective.

Likewise, they shall not be effective if the Buyer has modified the delivered product. The current state of the art does not ensure the total absence of defects in steel material, so therefore, according to the steel manufacturers, it is not possible to guarantee ZERO defects in the bulk material delivered. Consequently, and in accordance with general steel practice, the following maximum defectiveness percentages are acceptable:

- 3 % in uncoated material of surface quality A and in coated material of surface quality A or B.
- 1 % in uncoated material of surface quality B and in coated material of surface quality C.

However, according to the volumes, the defectiveness percentages (ppm) accepted by both parties shall be specifically established in each contract.

When the Buyer reports any defect or fault in the products within the term and in accordance with the above conditions, thyssenkrupp reserves the right to request samples to carry out clarifying tests or other evidence deemed necessary to determine the cause of said defect or fault and the subsequent actions to be taken, as appropriate.

The fact that the Buyer files a claim shall not imply its automatic acceptance by thyssenkrupp without carrying out tests, visits to the client or any other action deemed necessary for the settlement of the claim.

Upon acceptance of the claim by thyssenkrupp, it shall have the option to remedy the defect or fault, to deliver new products in accordance with the order or, where applicable, to deliver any missing products to the agreed place of delivery, all at its expense.

**5.2** The Buyer waives any other right or claim against thyssenkrupp beyond the remedies and compensations expressly provided for under these conditions or in the contract, especially compensation for damages.

**5.3** The submission of a claim shall not entitle the Buyer to suspend payment of the invoice corresponding to the material in question or any other invoice outstanding.

#### **6. Force majeure and acts of God**

Neither party shall be liable for delay in performance or for failure to meet its obligations as a result of events or circumstances beyond its control, such as, but not limited to, wars, fire, labour disputes, trade disputes, unsuccessful licence applications, accidents, floods, acts of God, transport delays, material shortages, equipment breakdowns, facility conditions or any cause reasonably beyond the seller's control. Furthermore, the occurrence of a contingency preventing them from meeting their obligations and whose absence constitutes a basic requirement for the issue of this Order Confirmation shall render the seller liable, except when the foregoing circumstances arise from a breach by the party in question.

Failure to meet obligations or any delay therein shall not be considered breach of contract and the corresponding term shall be extended for a period equivalent to the obligation that has been prevented. If the said delay or failure continues for a period of three months, either party may terminate the contract with regard to products not yet delivered to the Buyer. In the event of termination under these circumstances, neither party may claim compensation of any kind and all prepayments shall be refunded and any goods in transit not yet delivered returned.

#### **7. Reserve of Ownership**

thyssenkrupp reserves the ownership of the delivered goods until the Buyer has paid the price thereof in full. Consequently, the delivery of the products shall not have any effect *de traditio*. Until the ownership of the products is transferred to the Buyer, thyssenkrupp shall have the right to recover possession or control of the goods, exercising all its legal rights for said purpose. Should the Buyer include or process any unpaid products in a new product, thyssenkrupp shall be the owner of the proportional part of the product corresponding to the value of the unpaid products until the original products are paid.

The Buyer assigns to thyssenkrupp the credit rights arising from the sale of any goods or new products not paid to thyssenkrupp in proportion to the amounts owed by the Buyer.

#### **8. Payment**

Unless specified otherwise, the agreed prices shall not include Value-Added Tax or any other taxes or duties. Unless agreed otherwise, payment shall be made within 30 days of the date of the invoice and the default interest rate payable from the due date of the invoice shall be as provided in Law 3/2004 on measures to combat default in commercial operations.

All contracts shall be deemed concluded at thyssenkrupp's registered office. The place of payment of the price shall be thyssenkrupp's registered office even if bills of exchange, cheques or promissory notes have been drawn to pay the price.

The invoice shall be issued on the date the product is made available to the haulier for delivery to the Buyer unless the parties have agreed otherwise in

writing.

Payment must be made in the currency indicated on the invoice.

The Company shall be entitled to collect interest for late payment on all amounts due and outstanding at a rate equivalent to the one-month Euribor rate (or any replacement rate) plus the legal interest accrued daily without the need for any prior request for payment and notwithstanding any legal action that may be taken to claim compensation for damages.

In case of late payment and without prejudice to its rights as per these GTCS or any law, the Company shall have the right to cancel, suspend or delay any outstanding deliveries of products or to terminate the agreement immediately.

The Buyer shall refrain from using any products supplied but not paid.

The existence of any claims in connection with the supplied products shall not release the Buyer from its obligation to pay the Company in accordance with the agreed terms and conditions.

Under no circumstances shall the Buyer be entitled to withhold payment for products supplied or pending supply.

#### **9. Governing Law**

All transactions by and between thyssenkrupp and the Buyer of its products shall be governed by Spanish law, applicable international treaties or community regulations and other Spanish commercial practices.

In case of dispute, the Spanish version of these terms and conditions agreed by and between the parties shall prevail over any translation thereof.

#### **10. Jurisdiction**

Any dispute arising directly or indirectly from a contractual relationship involving thyssenkrupp shall be submitted to the Courts of Valencia, where the other party expressly relinquishes its right to any other jurisdiction.

#### **11. Limitation of Liability**

Notwithstanding these General Terms and Conditions of Sale or any agreement to the contrary, under no circumstances shall thyssenkrupp be liable for incidental, indirect, consequential or economic or immaterial damages, loss of profit, *lucrum cessans*, loss of production, unusable production or damages arising from claims submitted by the Buyer's buyers. However, this exclusion shall not apply in cases of negligence or willful misconduct by thyssenkrupp.

In any case, the maximum amount for which thyssenkrupp shall be liable to the Buyer shall not be higher than the sale price of the product.

The term for the Buyer to file claims against the Seller shall lapse 30 days after the date of delivery of the products to the Buyer.

#### **12. Severability**

The total or partial nullity of one or more clauses of these General Terms and Conditions shall not affect the validity of the contract or the other clauses or the rest of the clause affected in case of partial nullity. Any clause rendered totally or partially null and void shall be replaced by a clause whose economic result is as similar as possible to the result sought by the clause rendered null and void.

#### **13. Personal Data Protection**

The Buyer consents to the personal data provided to us being included in a file controlled by thyssenkrupp to process the purchase of the products/services and to inform it of our company's news, including the use of electronic media. The Buyer may exercise its rights of access, rectification, cancellation and opposition by contacting the registered office of thyssenkrupp Processing Materials Europe, S.L. at Centro de Servicios El Puig, Ctra. al Mar, s/n, 46540 El Puig (Valencia), Spain or by email.