

## **General Purchasing Terms and Conditions of thyssenkrupp Materials Hungary Corp. valid from the 11<sup>th</sup> of December 2017.**

### **Scope and applicability of these General Conditions**

These General Terms and Conditions (“General Conditions”) shall apply with exclusive validity to all purchasing contracts (“Contract”) issued by thyssenkrupp Materials Hungary Corp. (“Purchaser”) in order to purchase goods from his business partner (“Seller”) (together: Parties).

Purchaser only accepts Seller’s notwithstanding conditions or conditions that defer from General Conditions, if Purchaser issues a written statement regarding these matters. Takeover of Goods and payment of prices do not mean the acceptance of Seller’s General Conditions.

Provisions of these General Conditions of Purchaser – in lack of written agreement between Parties on the matter - are valid for future deals between Parties without separate notification and submission.

However, if one or more provisions of these General Conditions are found to be invalid or ineffective, the validity of other provisions is not influenced; except if the agreement between Parties would not have come into being without the invalid or ineffective parts.

### **Conclusion of contract**

Contract between Parties can only be concluded with a written statement:

- by Seller’s confirmation of Purchaser’s order,
- by signature of both Parties of the contract agreed by both Parties in a written form.

Parties consider statements to be written agreement of Parties if sent in letter via post, in fax, or in electronic way (e-mail).

Parties agree that any custom or practice, that were formed in earlier contracting or that are characteristic to similar contracts of the same business sector, become part of the contract concluded according to these Conditions only in case of written agreement regarding these matters.

With confirmation of order, Purchaser considers his own General Conditions accepted by the Seller; Seller’s confirmation of own General Conditions shall not be considered a new offer. Purchaser excludes applications of Seller’s General Conditions even in case Purchaser does not explicitly reject them in written form.

Verbal or written enquiries shall not result in obligation for price payment.

Price offers issued by Seller are mandatory and their modification is only possible with the written contribution of Purchaser.

Seller is obliged to send confirmation within 3 working days from order. Without this, the order shall be considered accepted and the contract, with the contents of these General Conditions, shall be concluded on the next working day following the three-working-day period, except the Seller rejects Purchaser's order in written form during this period.

Purchaser may change characteristics, packaging, and way of delivery by written coordination with Seller anytime until the performance of contract.

In case the order is modified and due to this modification costs - which are necessary for the performance of order - or delivery time increase or decrease significantly, Parties shall conclude a new agreement in question of price and delivery time with a clause stating that price can only be increased and delivery time can only be shortened with the explicit, written contribution of Purchaser.

Parties shall consider Seller's differing confirmation from order in important conditions (primarily price, delivery time) as a new offer.

Purchaser's order shall not be transferable; its transmission is only possible with Purchaser's written approval.

Parties agree that in case Seller does not confirm or confirms the order with differing contents but Purchaser takes over delivered Goods, the contract shall be concluded between Parties with these General Conditions.

### **Performance of contract**

Deadlines set by Parties are fixed and can only be modified with a mutual written agreement.

Seller is only entitled to preperform after written notification of Purchaser and Purchaser's approval of preperformance in the form of written contribution. The approval of preperformance does not influence Seller's commitments on due dates.

If the quantity of delivered Good exceeds the quantity ordered by Purchaser, Purchaser is not obliged to take over the extra amount of Goods which exceeds +/-10%. In case of special materials, or in case Parties have separately agreed on overdeliveries (containing pieces by number), Purchaser is obliged to take over the quantity stated in agreement of Parties.

Seller is obliged to carry back overdelivery on his own expense. If failing transportation, Purchaser does not take responsibility for securing the overdelivered Goods and puts the costs of occurring damages on Seller.

Seller is obliged to notify Purchaser immediately in writing about every important circumstance regarding period of completion and quality of Goods.

Unless otherwise agreed, takeover of Goods and performance take place at Purchaser's establishment stated in order.

The condition of due performance of contract is the takeover of Goods in contractual time at the place of performance and Purchaser's signature of delivery note.

Parties individually agree about delivery of Goods in order/contract.

If Goods are transported by Seller, Seller is obliged to check in previously into the Checkin system operated by Purchaser. Unloading of Goods can only take place if it meets all work safety rules which are valid on the establishment of Purchaser.

Seller is obliged to indentify Goods and certify the origin of Goods in a traceable way. Seller shall provide all papers of delivery or other certificates which belong to the performance of Seller's delivery at the day of delivery – but at the handover of Goods the latest.

During delivery of Goods, Seller must take care of professional packaging - according to order-, preservation and identification of Goods. In case of delivering dangerous materials, Seller must take care of meeting all special regulations regarding the matter.

The minimum contents required for the identification of Goods:

- material quality,
- size and
- quantity
- indentifying number that is necessary to add inspection document (in case of inspection document number 3.1, including piece number is mandatory)
- in case of plastic, the color of material.

In case Goods are ordered with inspection document, Seller must ensure Goods' attribution to inspection document in order to indentify product in the way stated in product standards or in order. Document corrected by hand is not acceptable regarding proving attribution to inspection document.

In case Seller provides the certificate of origin of Goods:

- Seller obliges himself to ensure custom management inspection of origin documents, provides all necessary information and attaches necessary certificates if needed,
- Seller obliges himself to pay the damages which come from the fact that the competent authority does not acknowledge the certificate of origin because of Seller's fault.

Risk passes to Purchaser from Seller by Purchaser's signature of delivery note.

Seller must seek the establishment of a quality assurance system which complies with most modern technologies, which is documented properly and Seller approves that Purchaser may evaluate this quality assurance system within quality audits carried out personally or by representative.

### **Price**

Price is the value of Goods in the currency stated in order, which can not be changed without Purchaser's written contribution and is valid until the complete performance of contract according to order.

Market price, mid-market price can only be applied with the mutual written agreement of Parties.

If Seller, after an agreement with Purchaser, decreases prices with a general statement, then the price valid on the day of delivery shall be applied on the contract concluded with Purchaser.

### **Payment terms**

The takeover of Goods in itself does not entitle Seller to claim price.

Purchaser shall pay price laid down in order/contract following the takeover of Goods that are without quality fault, delivered in period of completion and after Purchaser received invoice issued by Seller.

Invoice can not be attached to Goods. Seller can submit invoice only via post or email on the following address of Purchaser:

Address: 1158 Budapest Körvasút sor 110.  
e-mail.: [szamla@thyssenkrupp.com](mailto:szamla@thyssenkrupp.com)

Seller must indicate the order number given by Purchaser and the number of delivery note. The delivery note is not the attachment of invoice; it should be attached to Goods.

Purchaser shall not send separate notification about the reception of invoice.

Purchaser may reject the payment of price on an invoice which is not issued about contractual performance or it is incorrectly or incompletely issued formally, numerically or in contents. Purchaser shall send back the insufficiently issued invoice for Seller or in case of rectification, the date of rectification is considered as the date of invoice receipt. Purchaser's objection to invoice has a suspensory effect on payment term.

Purchaser only undertakes costs of his national account holding bank as transfer costs. Seller must pay the costs of transfer in Euro or in other currencies.

Purchaser shall not provide deposit, unless Parties agree about it in writing.

Seller shall not reclaim the sum of rebate charged in case of financial execution prior to the payment term set out in order/contract.

Seller shall not claim late performance interest from Purchaser with reference to invoice which was not received by Purchaser or with reference to late performance of an objected invoice.

The currency of late performance interest is the currency of the sum which was the basis of late interest agreed by Parties. Its amount is the same as the sum defined in Civil Code.

The payment of price by Purchaser does not mean any waiver of costumer rights which originate from agreement of Parties or regulation.

Without an advance written permit of Purchaser, Seller is not entitled to assign or factor any claims existing according to this contract to a third person. Purchaser is entitled – at the same time with the notification of Seller - to count in his expired claims against Seller into the debt originating from order.

### **Breach of contract**

Purchaser may refuse the takeover of Goods because of performance not in conformity with contract in the following cases:

- In case Goods are delivered by Seller and Seller does not check in into the Purchaser's Check in system,
- In case Goods are delivered by Seller and Goods are loaded on transport equipment in a way that unloading means risk of life or accident or may cause significant financial damage,
- In case Goods are delivered by Seller and are loaded on transport equipment in a way that unloading is only possible by moving other Purchaser's Goods.
- In case Goods are impossible to identify or label(s) serving for identifications is/are damaged,
- In case of over delivery, relating to Goods exceeding the quantity according to contract.

In the above mentioned cases, Purchaser shall notify Seller immediately in writing about the refusal, and if Parties can not agree in writing about the remedy of takeover defects and/or takeover defects can not be remedied this way, Purchaser is entitled to send the Goods back to the address of Seller on Seller's



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expense. In case of refusal of takeover of Goods, Seller or his representative must not store Goods on the establishment of Purchaser.

Seller shall take warranty of delivered Goods in the following fields:

- They meet conditions stated in order/contract, regulations and rules of authorities,
- They are suitable for the special purposes – set in order/contract - about which Seller knows or can know,
- They are free from any kind of ionizing radiation,
- Free from visible or hidden faults,
- Free from any kind of claim or right of a third person.

If Goods during warranty period do not meet the above mentioned criteria, Purchaser is entitled to ask Seller according to his choice for:

- The repairing of faulty Goods by Seller and on Seller's expense,
- The replacement of faulty Goods by Seller and on Seller's expense or,
- The reduction of price by Seller.

If repairing or replacement by Seller harms or endangers interests of Purchaser, Purchaser is entitled to purchase them with a hedge from others on the expense and risk of Seller, to claim his demands related to non-conforming performance against Seller and to withdraw from contract.

In case of withdrawing, Purchaser is entitled to send back the Goods on expense and risk of Seller. The sent back Goods remain in the ownership of the Purchaser if their value has been paid by Purchaser until the arrival of substitution consignment or until the payback of their value.

If - according to choice of Purchaser - Seller replaces Goods with faultless ones, Seller is not entitled to claim compensation for Purchaser's usage of Goods if Goods have been properly inserted by a third party.

Seller must pay all damages and costs of Purchaser, which are directed to Purchaser from a third party in case of faulty Goods delivered by Seller including the possible costs of inserting and uninstalling Goods, costs rising from eliminating faults and the costs of possible legal procedures.

Takeover of Goods by Purchaser does not mean the acceptance of product's quality or waiver of warranty rights by Purchaser, Purchaser can enforce his related warranty rights any time within term of limitation.

Seller must notify Purchaser of the foreseeable delivery delays and set a limitation period at the same time.

### **Cancellation penalty**

If termination of contract takes place because of a fault attributed to Seller, Purchaser is entitled to claim cancellation penalty against Seller which is 20% of price.

### **Termination of contract**

Purchaser has a right to terminate contract with Seller immediately in writing if he becomes aware of the fact that

- Seller becomes insolvent especially he is subject to bankruptcy, liquidation or voluntary dissolution proceedings,
- Seller breaches his obligations severely or repeatedly especially he delivers the contractual Goods in delay or with quality faults for Purchaser.

### **Confidentiality**

Parties shall treat all data, facts – given in spoken or written form - gained by the conclusion and performance of contract as business secrets. Parties are not entitled without the written approval of other Party to forward, copy documents, information treated as business secret or use them for purposes different than set in contract, or reveal them to a third party and they must protect them from unauthorized access.

The obligation of confidentiality does not concern information which is available for the public or other information which were already in possession of the other Party before the conclusion of contract.

This confidentiality remains valid after termination of this contract between Parties.

Without prior written approval of Purchaser, Seller is not entitled to use his business relationship with Purchaser for marketing purposes and can not refer to this relationship as reference without advance written approval of Purchaser.

### **Obligation of cooperation**

Parties shall cooperate with each other during the conclusion and performance of contract. To this end, they must inform each other immediately in writing about all changes in facts, circumstances which are important regarding contract conclusion, about changes in data and contact persons.

Seller must notify Purchaser immediately if the prices of raw materials which are necessary for Purchaser's order or production methods change significantly comparing to last order.

Seller must satisfy the data requirement which is necessary for Purchaser in order to request an EAKER number within appropriate timeframes, which is the condition of delivery. If the inability of requesting EAKER number is linked to the fact that Seller did not send or sent incomplete or overdue data to the request of Purchaser in due time, Purchaser has a right to burden all related damages (including the sum of possible penalty as well) to Seller.

### **Dispute, governing law**

Parties try to resolve their disputes amicably: with cooperation. In case non-judicial cooperation has no result, Parties appoint the exclusive competence of the court according to registered office of Seller.

Except as otherwise agreed in writing by Parties, the rules and regulations of Hungarian material and procedural law are applicable for contract between Parties.

All question not regulated in contract between Parties or in these General Conditions shall be governed by Act V. of 2013 on Civil Code, furthermore, other current legal provisions related to contract are governing.

Budapest, 11th of December 2017

thyssenkrupp Materials Hungary Corp.