

## PURCHASE ORDER TERMS AND CONDITIONS

**1. General.** The Seller is the vendor or supplier ("Seller") who is providing Goods (as defined herein) to ThyssenKrupp Steel and Stainless USA, LLC, its successors, assigns and designees ("Buyer"), pursuant to a Buyer purchase order which specifies these terms and conditions and identifies the Seller. The Seller shall supply the Goods pursuant to these terms and conditions ("Terms"), Buyer's purchase order document(s) ("Order"), and any other attachment thereto agreed to in writing by Buyer, if any (collectively "Agreement"). These Terms shall apply to all goods, materials, supplies, tools, facilities, equipment, machinery, work, and services, provided by Seller to Buyer, pursuant to an Order ("Goods"). In the event Seller is to perform any work on Buyer's premises, Seller shall comply with all of Buyer's rules and regulations generally applicable to its on-site contractors, and additionally, Seller will be required to enter into a Buyer on-site services agreement acceptable to Buyer prior to performing any on-site work.

**2. Acceptance.** Acceptance of the Order is expressly limited to the terms of the Agreement. Shipment and/or delivery by Seller of the items covered by the Agreement with the consent of Buyer shall in all cases constitute an unqualified acceptance of all the terms and conditions of the Agreement by Seller, whether or not Seller has countersigned the Agreement and/or the Order. No additional and/or different term(s), including those which appear in any quotation, acceptance, invoice, sales order, or acknowledgment of or written confirmation by Seller, shall be of any force or effect, and Buyer hereby notifies Seller of its objection to any additional and or different term(s), unless and to the extent Buyer has expressly agreed to any such additional and or different term(s) in a duly executed writing. Upon acceptance, this Agreement shall constitute the entire agreement between Buyer and Seller unless otherwise expressly agreed to in a writing duly executed by Buyer and Seller.

**3. Delivery.** Time, quality and quantity are of the essence with regard to Seller's obligations under this Agreement. Seller shall be liable for increased manufacturing costs, loss of profits and other incidental or consequential damages arising from Seller's failure to deliver the Goods in accordance herewith. If any Goods are not delivered to Buyer by the time specified in the Agreement, Buyer may at its option refuse acceptance of such goods, cancel any remaining unshipped portions of the Agreement, and avail itself of any other remedies available to it at law or equity for breach of contract.

**4. Price; Taxes; Payment.** All prices shall be inclusive of applicable taxes, excises, duties, or any other governmental impositions on or related to the production, sale or transportation of the Goods, and subject to increase only with prior written consent of Buyer. Unless otherwise specified herein, the price of Goods shall be paid after delivery and within thirty (30) days following receipt by Buyer of an appropriate invoice and other supporting documentation reasonably requested by Buyer. Buyer shall not be obligated to pay Seller in the event that Seller is in material default of any of its obligations pursuant to this Agreement. All payments are subject to Buyer's right to withhold an amount reasonably necessary in Buyer's opinion to fully protect and insure itself against any actual or potential liability or damage directly or indirectly related to the Agreement or the Seller's breach or threatened breach of any other contract, or to set-off any amounts owed to Buyer by Seller. Buyer shall have the right to access and review Seller's records and books relating to the supply of the Goods or any payment related thereto.

**5. Taxes.** Under no circumstances will sales, use or other tax be added to the order price unless specifically stated on the Order. Seller shall directly pay when due all such taxes, including but not limited to, Mobile County nonabated sales and use tax imposed and applicable to the Order. Buyer has been issued a Form STE-2 Sales and Use Tax Certificate of Exemption in connection with Buyer's Alabama project. Seller shall comply with all requirements for any tax abatements or exemptions from any sales, use, excise or other taxes to which the Buyer may be entitled.

**6. Change; Cancellation.** Buyer shall have the right to change from time to time any of the drawings, specifications or instructions for Goods covered by this Agreement and Seller agrees to comply with such notices. If such changes result in a decrease or increase in the Seller's cost or in the time for performance, Seller shall notify Buyer within seven days after receipt by it of the change notice. There shall be no adjustment in the price and time for performance unless agreed to by both parties in writing. Buyer may at any time by written notice to Seller, cancel or terminate this Agreement or any Order, with or without cause, upon three days advance written notice.

**7. Warranties.** In addition to any other express or implied warranties, Seller expressly warrants that: (a) it has good and marketable title to all Goods furnished under the Agreement and the right to transfer title to such Goods to Buyer free of all liens, claims, and encumbrances; (b) all Goods provided shall be in accordance with all requirements of the Agreement; (c) all Goods shall be of new and first class material and workmanship, shall be fit and satisfactory for the purpose for which they are intended, and shall be of merchantable quality; (d) all Goods furnished shall be free from defect in material, design or workmanship; (e) all work shall be performed in a workmanlike manner and in accordance with industry standards for such work; and (f) the Goods will be properly branded, labeled, tagged, marked and/or registered (if required) in accordance with all applicable laws, rules and regulations. These warranties are in addition to all other warranties, express or implied, at law or equity. The Goods provided hereunder will be subject to inspection and approval by Buyer and any applicable governmental authorities. Buyer's inspection or non-inspection of materials or its receipt, possession or acceptance thereof, will not relieve Seller from any of Seller's obligations and warranties hereunder.

**8. Remedies.** Seller shall promptly replace or correct defects in the Goods not conforming to this Agreement or any warranty, without expense to Buyer, when notified of such non-conformity by Buyer. Alternatively, Buyer may reject or revoke acceptance, and cover by making any reasonable purchases in substitution for those rejected and the Seller will be liable to Buyer for any additional costs for such substituted material; or Buyer may proceed to correct Seller's nonconforming work by the most expeditious means available, and the costs for such correction shall be for Seller's account; or Buyer may retain the nonconforming material and an equitable adjustment reducing the Order price to reflect the diminished value of such nonconforming material will be made by written revision. Seller's liability hereunder shall extend to all damages proximately caused by the breach of any of the foregoing warranties, including incidental damages, such as disassembly, removal, inspection, re-installation, re-testing, and costs of transportation and warehousing.

**9. Intellectual Property.** Seller warrants that the Goods provided hereunder shall not infringe any U.S. and/or foreign patent, trademark, trade name, copyright and/or any other third party intellectual property right and Seller shall, at its expense, defend, indemnify and save Buyer harmless from and against any and all loss, damage, expense or liability that may result by reason of any such infringement or alleged infringement, including, without limitation, attorneys' fees incurred by Buyer in its defense. In the event that any of the Goods furnished to Buyer hereunder or the operation thereof become the subject of an alleged infringement of a U.S. and/or foreign patent and/or any other third party intellectual property right, Seller shall, at its expense, procure for Buyer the right to continue using the Goods or replace or modify the same so that they become non-infringing. Furthermore, Seller hereby grants Buyer at no extra cost a royalty-free, non-exclusive, irrevocable license under any intellectual property rights owned or controlled by Seller in connection with Buyer's use of the Goods, including any repair or subsequent sale of the Goods. If Goods ordered pursuant hereto are to be made to any innovations, designs, plans, specifications, drawings or the like supplied by or on behalf of Buyer (collectively, "Designs and Drawings"), then such Designs and Drawings shall at all times remain the property of Buyer, and Seller shall have no rights or interest in such Designs and Drawings.

**10. Compliance with Laws.** Seller warrants and agrees that all Goods furnished hereunder shall comply with all laws, rules, regulations and requirements of all governmental authorities having jurisdiction. Seller shall promptly apply for and procure at its own expense all permits, certificates and licenses required by governmental authorities having jurisdiction over the Goods or Seller. Seller further represents that neither it nor any of its subcontractors will utilize child, slave, prisoner or any other form of forced or involuntary labor in the supply of goods or provision of services under this Agreement. At Buyer's request, Seller shall certify in writing its compliance with this provision. Seller agrees to indemnify and hold the Indemnitee (as defined below) from and against any liability claims, demands, fines, penalties or expenses arising from or relating to Seller's noncompliance with this section.

**11. Indemnity; Insurance.** To the maximum extent permitted by law, Seller will indemnify, protect, defend and hold harmless Buyer, its subsidiaries, successors, partners, directors, officers, employees, agents, assigns, representatives, consultants, affiliates, construction coordinators (if any), construction site manager (if any) and each of them (hereafter individually and collectively, the "Indemnitee") from and against any and all claims, liabilities, liens, demands, law suits, actions, losses, damages, injuries, judgments, settlements, costs or expenses whether asserted in law or in equity, including but not limited to, attorney's fees (hereinafter collectively, "Claims") arising out of, or caused in whole or in part by any activity that arises, result from or relate to: (a) any breach by the Seller of any term, condition, covenant or warranty contained in this Agreement; (b) any defect in the Goods furnished pursuant to the Agreement; or (c) any negligent act or omission, or willful misconduct, of Seller in the course of furnishing the Goods, whether or not such Claims are based upon actual or alleged active or passive negligence of Indemnitee, except that Seller will not be required to indemnify Indemnitee against Claims that are the result of the sole negligence or willful misconduct of Indemnitee. Seller shall be and is responsible for the acts and omissions of Seller's subcontractors and agents. Seller shall carry and maintain insurance coverages satisfactory to Buyer to cover the above and upon Buyer's request shall furnish to Buyer appropriate evidence of such insurance, and Seller shall name the Indemnitee as additional insureds.

**12. Confidentiality; Publicity.** Any Designs and Drawings, samples, know-how, processes, plans or other similar items or other technical, commercial, or financial information relating to Buyer's business (the "Information") which Seller may obtain or which Buyer may in any way disclose to Seller in connection with this Agreement, shall be deemed to be confidential and Seller shall not use the Information for its own purposes (other than for this Agreement), and Seller shall not disclose the Information to any person or firm, other than those that may be specifically authorized by Buyer in writing. Seller shall not make or authorize any news release, advertisement, or other disclosure which shall deny or confirm the existence of this Agreement without prior written consent of Buyer.

**13. Force Majeure.** Either Buyer or Seller may suspend performance during the occurrence of an excusable delay, which shall mean and include any delay which results from the acts of God or public enemy, restrictions, prohibitions, priorities or allocations imposed by governmental authority, embargoes, floods, fires, hurricanes, earthquakes, and epidemics. Excusable delays do not include lockout, strikes, shortage of labor, lack of or inability to obtain raw materials, fuel or supplies or any other industrial disturbance. Notwithstanding the foregoing, in the event of a delay by Seller due to an excusable delay, Buyer may terminate any Order subject to such delay without further liability or obligation to the Seller, except for payments for Goods previously delivered in compliance with this Agreement.

**14. Law and Jurisdiction; Dispute Resolution.** Any questions arising out of or in connection with the Agreement shall be governed by and construed in accordance with the laws of the State of Alabama, without giving effect to its conflict of laws provisions. At Buyer's option, Seller agrees to litigate all claims and actions arising under or otherwise concerning this Agreement in either the Circuit Court of Mobile County, Alabama or the Federal District Court for the Southern District of Alabama, and hereby consents to personal jurisdiction of such courts. Buyer at its option may also invoke binding and exclusive arbitration in Mobile, Alabama under the American Arbitration Association's Commercial Arbitration Rules (as the parties agree that this Agreement impacts or is related to interstate commerce), and Seller agrees to submit to such arbitration and to dismiss any legal proceedings related to the subject matter of such arbitration, in which case Section 15 herein shall not apply. Buyer, at its option, may also invoke non-binding mediation and Seller agrees to submit to such mediation and to stay or dismiss any legal proceedings relating to the subject matter thereof. Buyer, at its option, may require that Seller continue to supply the Goods pursuant to the terms of this Agreement during any such litigation, arbitration or mediation process.

**15. WAIVER OF JURY TRIAL. EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY ON ANY CLAIM, COUNTERCLAIM, SETOFF, DEMAND, ACTION OR CAUSE OF ACTION ARISING OUT OF OR IN ANY WAY RELATING TO THIS AGREEMENT OR ANY ORDER, OR IN ANY WAY CONNECTED WITH OR RELATED TO OR INCIDENTAL TO ANY DEALINGS OF THE PARTIES HERETO WITH RESPECT TO AN ORDER OR THE WORK TO BE PERFORMED OR MATERIALS TO BE SUPPLIED HEREUNDER, AND WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. ALL PARTIES AGREE THAT ANY ONE OF THEM MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE KNOWING, VOLUNTARY, AND BARGAINED AGREEMENT BETWEEN THE PARTIES IRREVOCABLY TO WAIVE TRIAL BY JURY, AND THAT ANY DISPUTE OR CONTROVERSY WHATSOEVER BETWEEN THEM SHALL INSTEAD BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.**

**16. Other Considerations.** Seller acknowledges the importance to Buyer of using Minority-Owned Business Enterprises ("MBEs"), Women-Owned Business Enterprises ("WBEs") and businesses within the State of Alabama ("LBEs") for the supply of the services and goods necessary for Seller to supply the Goods. Seller is required to use commercially reasonable efforts to obtain bids from at least two MBEs, two WBEs and two LBEs with respect to its subcontractors and suppliers. MBEs and WBEs should be certified by a certifying agency that is approved by Buyer. Seller shall be accountable for the usage of MBEs, WBEs and LBEs through the monitoring and reporting of its MBE and WBE subcontractors and suppliers. Seller shall provide Buyer with appropriate supporting documentation of this requirement upon request by the Buyer.

**17. Miscellaneous.** The Agreement and any payments to be made hereunder shall not be assigned or transferred without prior written approval by Buyer. Neither Seller, nor its subcontractors, or the employees or agents of them, shall be deemed to be Buyer's employees or agents, it being understood that Seller and its subcontractors are independent contractors for all purposes and at all times. No amendment, modification, or waiver of any provision of the Agreement shall be effective without the written consent of Buyer. The failure of Buyer to insist upon the performance of any provision of the Agreement shall not be construed as waiving any such provisions. Any provision of the Agreement prohibited by applicable law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions hereof. All covenants and agreements contained in the Agreement by and on behalf of any of the parties hereto shall bind and inure to the benefit of the respective successors and permitted assigns. Sections 4-5, 7-12, 14-15, and 17 shall survive termination of the Order.