

**THYSSENKRUPP SUPPLY CHAIN SERVICES, INC.
TERMS AND CONDITIONS OF SERVICE**

1. **GENERAL.** thyssenkrupp Supply Chain Services, Inc., ("tkSCS"), and customer ("Customer") named on the face of tkSCS' quotation, order acknowledgment or invoice, or the contract between tkSCS and Customer ("Instrument of Sale"), to which these Terms and Conditions of Service ("Terms and Conditions") are attached, provided or incorporated by reference with the Instrument of Sale, agree these Terms and Conditions apply to the services, materials, goods and/or products (collectively, the "Services") listed in any accepted purchase order from Customer or ordered pursuant to any contract between tkSCS and Customer (each a "Party" or collectively, the "Parties").
2. **ACCEPTANCE/SOLE TERMS.** The provisions of these Terms and Conditions together with the provisions of the Instrument of Sale constitute all of the terms and conditions of Customer's order/contract with tkSCS. tkSCS' acceptance and provision of Services is expressly made conditional on Customer's assent to these Terms and Conditions. Any and all terms, conditions or provisions specified by Customer are expressly rejected and void.
3. **PRICE.** Payment is due in the currency shown on tkSCS' invoice within thirty (30) days from the invoice date, unless otherwise indicated on the face of tkSCS' order acknowledgment or invoice. Prices stated are subject to change, without notice, in the event of (i) alterations in specifications, quantities, designs or delivery schedules, (ii) increases in the cost of labor, raw materials or auxiliary materials, (iii) foreign or domestic legislation enacted by any level of government, including tax legislation, which increases the cost of producing, warehousing or selling the Services purchased hereunder, and/or (iv) changes in currency exchange rates. Any such change shall be charged to Customer's account. Customer agrees to pay a delinquency charge of one-and-one-half percent (1.50%) per month on the invoiced amounts not paid when due.
4. **LIMITED WARRANTIES/REMEDIES.** Subject to the limitations and restrictions set forth herein, and for a period of ninety (90) days from the provision of the Services, tkSCS warrants to Customer that the Services will be rendered in a professional manner consistent with industry practice for logistics providers and warehousemen.
5. **WARRANTY RESTRICTIONS.** LIMITED WARRANTIES SET FORTH IN THESE TERMS AND CONDITIONS ARE (i) NON-TRANSFERABLE, (ii) DO NOT APPLY TO THE EXTENT A CLAIM IS CAUSED BY CUSTOMER, (iii) IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, DESCRIPTION OR QUALITY NOT EXPRESSLY SET FORTH HEREIN, TO THE EXTENT PERMITTED BY LAW.
6. **LIMITATION OF LIABILITY.** tkSCS' LIABILITY (WHETHER UNDER THE THEORIES OF BREACH OF CONTRACT OR WARRANTY, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) AND CUSTOMER'S EXCLUSIVE REMEDY SHALL BE LIMITED TO REPERFORMING THE SERVICES, OR AT tkSCS' OPTION, TO REFUNDING THE PURCHASE PRICE OF SUCH SERVICES, PROVIDED, HOWEVER, THAT THE COST SHALL NOT EXCEED THE TOTAL VALUE OF THE ORDER/CONTRACT UNDER WHICH THE CLAIM IS BEING MADE.
7. **DISCLAIMER OF CONSEQUENTIAL AND INCIDENTAL DAMAGES.** IN NO CASE WILL tkSCS BE LIABLE FOR REMOVAL OR INSTALLATION COSTS, DOWNTIME, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, DAMAGE TO OTHER PROPERTY, LOSS OF BUSINESS OR PROFITS, LOSS OF PRODUCTION, LOSS OF USE OR ANY OTHER SIMILAR OR DISSIMILAR CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES EVEN IF tkSCS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
8. **ACCEPTANCE OF GOODS, DELIVERY AND TRANSPORTATION.** Upon Customer's receipt of shipment, Customer shall immediately inspect the goods provided under the Services. Unless Customer provides tkSCS with written notice of any claim or shortages of or defects in the Services, including without limitation any claim relating to quantity, weight, condition, loss or damage thereto, within five (5) days after receipt of shipment, such Services shall be deemed finally inspected, checked and accepted by Customer. Unless otherwise agreed in writing, all shipments are made EXW tkSCS' facility (Incoterms 2010).
9. **TITLE AND RISK OF LOSS.** Title to any goods sold passes upon full and final payment, and risk of loss of such goods passes to Customer upon tkSCS making such goods available for pickup by carrier, and any claims for losses or damage shall be made by Customer directly to carrier.

10. **CREDIT TERMS.** All orders and shipments shall at all times be subject to the approval of tkSCS' credit department. If, subsequent to the confirmation of order, circumstances arise with respect to the financial condition of Customer, which in the opinion of tkSCS threaten Customer's ability to make payments when due hereunder, or should Customer fail to make payments when due or otherwise fail to perform its outstanding obligations, then tkSCS may refuse to perform further hereunder unless Customer makes payment in full or provides sufficient security in a form acceptable to tkSCS within a period of ten (10) business days from receipt of notice therefor by tkSCS. Should Customer fail to comply with tkSCS' request contained in such notice within the aforementioned period, then tkSCS may terminate the contract, defer or cancel the order and/or recover damages based on Customer's breach and, in such event, tkSCS shall not be liable for breach or nonperformance of this contract in whole or in part.
11. **SECURITY INTEREST/WAREHOUSE LIEN.** tkSCS shall have a lien on the goods possessed or stored under the Services ("Collateral") and upon the proceeds from the sale thereof to secure Customer's payment of all fees, charges and expenses hereunder in connection with the Services. tkSCS may enforce this lien at any time, including, by selling all or any part of the Collateral in accordance with applicable law.
12. **COSTS OF COLLECTION.** If, at any time, tkSCS or its affiliates, successors or assigns incur any legal expenses or other costs or expenses in connection with (i) any litigation, contest, suit, dispute, proceeding or action in any way relating to the Collateral, (ii) any attempt to enforce any of their rights against Customer or any other person which may be obligated to them hereunder, or (iii) any attempt to inspect, verify, protect, preserve, restore, collect, sell, liquidate or dispose of the Collateral, then, in any such event, the expenses and costs (including attorney's fees) relating to any of the foregoing events or actions shall be payable by Customer on demand and shall be considered additional obligations hereunder secured by the Collateral. tkSCS reserves the right to revoke any credit extended to Customer at any time because of Customer's failure to pay for any goods when due or for any reason deemed good and sufficient by tkSCS.
13. **NO INSURANCE.** Unless otherwise expressly set forth in the Instrument of Sale, tkSCS is neither providing, nor offering to provide, directly or indirectly, any first- or third-party insurance coverage in connection with the sale of the Services to Customer.
14. **TAXES.** Any sales, use or similar taxes, export or custom charges, tariffs, fees or other levies, taxes, duties, governmental charges or surcharges now or hereafter imposed under any present or future law in connection with the production, sale, delivery, use or proceeds of the goods under the Services, including without limitation any equipment, accessories, and attachments (including replacements thereof or spare or replacement parts thereof), any installation, repair, maintenance and instructional services, and any processes or know-how (whether patentable or otherwise) and software, shall be payable by Customer, and if such taxes or fees are paid or are required to be paid by tkSCS, the amount thereof shall be added to and become part of the price payable by Customer hereunder, unless Customer provides tkSCS with a valid tax exemption certificate.
15. **PACKAGING.** Prices stated are based on tkSCS' standard packaging. tkSCS reserves the right of packaging the goods under the Services in pallets, bulk or individual cartons. Packaging will be standard commercial package and acceptable to commercial carriers. Special packaging will be furnished only when specified in the Instrument of Sale, and the cost thereof shall be borne by Customer.
16. **DELAYS.** tkSCS will be not be liable for any damage, loss, fault, or expenses arising out of delays in shipment or other nonperformance of these Terms and Conditions caused by or imposed by (a) strikes, fires, disasters, riots, terrorist act or acts of God, (b) acts of Customer, (c) shortages of labor, fuel, power, materials, supplies, transportation or manufacturing facilities, (d) governmental action, (e) subcontractor or supplier delay including, but not limited to, failure by subcontractor or supplier to make timely delivery, or (f) any other cause or condition beyond tkSCS' reasonable control. In the event of any such delay or nonperformance, tkSCS may, at its option and without liability, cancel all or any portion of the contract and/or extend any date of performance.
17. **TERMINATION, CANCELLATION AND CHANGES.** Except as otherwise provided herein or in the Instrument of Sale, orders cannot be terminated, cancelled or modified, or shipment deferred after acceptance of Customer's order by tkSCS, except with tkSCS' written consent and subject to reasonable charges for expenses incurred, or committed, and work executed by tkSCS or its vendors.

18. **CONFIDENTIALITY.** All files records, documents, drawings, specifications, data, equipment, intellectual property, including trade secrets and other know-how, and other similar items relating to the business of tkSCS, including, but not limited to employee training information, customer lists and contacts, marketing methods, identity of vendors and suppliers, cost of materials, manufacturing processes and techniques, computer data, scientific studies, analysis, and conclusions, performance and other technical data, and sales and pricing information, (collectively "Confidential Information"), is, and shall remain, the sole and exclusive property of tkSCS. Customer shall not misappropriate, disclose, divulge, communicate, or otherwise misuse, directly or indirectly, any Confidential Information in any fashion, form or manner to any person, firm, partnership, corporation, or other entity, unless expressly authorized by tkSCS in writing. Any trademarks, drawings, designs and all other intellectual property rights, including trade secrets and other know-how, of tkSCS embodied in, displayed on, or otherwise provided in connection with, the Services or the Instrument of Sale, shall remain the sole property of tkSCS. Without tkSCS' express prior written permission, no reproduction, use or communication to third parties of any such intellectual property are permitted.
19. **INDEMNIFICATION.** Customer shall hold harmless, defend, save, and indemnify tkSCS, its parent, subsidiary, and affiliated companies, and its and their agents, employees, officers, directors, and its and their respective heirs, assigns, successors and executors from and against any and all liability, claims, demands, whether groundless, false or fraudulent, costs (including expert and attorney's fees), damages, losses, judgments or awards, arising out of or in any way connected with any act or omission of Customer. The duty to defend as provided herein is separate and distinct from the duty to indemnify, and shall arise immediately upon the tender of any third party claim or demand, and shall continue until it is conclusively proven that there is no possibility for indemnity.
20. **EXPORT LAWS.** Customer confirms that no information subject to export controls – i.e., protection of military information, sanctions, etc. ("Export Law") is contemplated to be disclosed under any Instrument of Sale. Customer agrees that no information protected by Export Law will be disclosed to tkSCS under any circumstances unless: (a) the Parties have executed in advance a written amendment to these Terms and Conditions that specifically states that information protected by Export Law may be disclosed under an Instrument of Sale; (b) Customer conspicuously identifies each item of such information as being subject to Export Law at the time of disclosure (for example, by labeling each page of written information as "EXPORT CONTROLLED INFORMATION"); and (c) Customer obtains any necessary authorization(s) from the appropriate government agency or agencies prior to exchanging any information controlled by Export Law.
21. **COMPLIANCE WITH THE FOREIGN CORRUPT PRACTICES ACT.** Customer agrees to comply in all respects with the U.S. Foreign Corrupt Practices Act of 1977 ("FCPA"), as amended. If requested by tkSCS, Customer will, and also have its subcontractors, consultants, agents and representatives, as applicable, from time to time, execute Certificates of Compliance with the FCPA. Customer's failure to comply in all respects with the requirements of this Section and the provisions of the FCPA shall constitute a material breach of the Instrument of Sale and these Terms and Conditions entitling tkSCS to immediately suspend or terminate same.
22. **NO WAIVER.** Forbearance or failure of tkSCS to enforce any of the terms and conditions stated herein, or to exercise any right accruing from default of Customer, shall not affect or impair tkSCS' rights arising from such defaults; nor shall forbearance or failure be deemed a waiver of tkSCS' rights in case of any subsequent default of Customer.
23. **SEVERABILITY.** If any provision of these Terms and Conditions is unenforceable or invalid, these Terms and Conditions shall be interpreted and enforced to the greatest extent possible as if the unenforceable provision or portion had never been a part hereof.
24. **ASSIGNMENT.** These Terms and Conditions shall be binding upon and shall inure to the benefit of the successors and assigns of Customer and tkSCS provided, however, that Customer may not assign or transfer the Instrument of Sale or these Terms and Conditions, in whole or in part, except upon the prior written consent of tkSCS.
25. **GOVERNING LAW; VENUE.** These Terms and Conditions shall be construed in accordance with and governed by the laws of the State of Michigan, without regard to its conflicts-of-laws rules or principles. All actions or proceedings arising directly or indirectly herefrom or related hereto shall be litigated only in the courts of the State of Michigan. The Parties hereby consent to the jurisdiction and venue of such courts.

26. **ENTIRE CONTRACT.** THE PARTIES HEREBY AGREE THAT THESE TERMS AND CONDITIONS ALONG WITH THE INSTRUMENT OF SALE SHALL CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE PARTIES AND NO PRIOR OR CONTEMPORANEOUS ORAL OR WRITTEN STATEMENT, CORRESPONDENCE, SAMPLE OR OTHER TERMS, QUOTATIONS OR UNDERSTANDINGS SHALL MODIFY, ALTER OR IN ANY WAY AFFECT THE TERMS THEREOF.