



General sales terms and conditions of Oryx Stainless (Thailand) Co., Ltd.
92/8-9 Moo 1, Tambol Homsin, Amphur Bangpakong, Chachoengsao, Thailand 24130
Ministry of Commerce No./VAT-ID-No. TH 0115556007445

1. Scope

The general sales terms and conditions ("General Sales Terms") of Oryx Stainless (Thailand) Co., Ltd. ("ORYX (THAILAND)") laid down in the following text shall govern all engagements involving ORYX (THAILAND) and all sales of scrap materials, raw materials and similar materials by ORYX (THAILAND) to the buyer ("Buyer").

All agreements concluded with ORYX (THAILAND) shall explicitly be governed by Thai law. The provisions of the UN Convention regarding contracts on the international sale of goods (CISG) are excluded and shall not apply.

All references by Buyer to its own general terms and conditions, howsoever named and done, in whichever stage of the realization of an agreement entered into with ORYX (THAILAND), are expressly rejected. In the event that these terms and conditions deviate from the written terms and conditions, howsoever named, of Buyer, the conditions herein will prevail, unless and insofar as the applicability of the written conditions of Buyer have been expressly accepted by ORYX (THAILAND) in writing.

The General Sales Terms shall govern all future business relationships and contracts with Buyer and replace any general sales terms and conditions issued at any earlier point in time by ORYX (THAILAND). Individual agreements with Buyer (including side agreements, additions and amendments) will have priority over the General Sales Terms. The content of any individual agreement is defined by ORYX (THAILAND)'s written contract or written confirmation.

2. Contract and Price

All offers made by ORYX (THAILAND) are subject to confirmation and remain indicative unless confirmed in writing.

A sales agreement is deemed to be concluded by the written confirmation thereof by ORYX (THAILAND). This written confirmation by ORYX (THAILAND), irrespective of its form, shall count as conclusive evidence of what has been agreed (e.g. price, quality, delivery terms, payment terms), unless Buyer immediately, or not later than within 2 (two) business days, raises objections to the written confirmation by ORYX (THAILAND).

The concluded sales agreement shall consist of (i) an individual agreement signed by ORYX (THAILAND) and Buyer and (ii) these General Sales Terms which form an integral part of the Sales Agreement ("Sales Agreement").

If, after the conclusion of a Sales Agreement, facts become available to ORYX (THAILAND) which give rise to reasonable doubts regarding Buyer's ability to meet its financial obligations, ORYX (THAILAND) is entitled to demand full payment before delivery or the provision of an appropriate security by the Buyer. Objective evidence of the facts giving rise to the above-mentioned doubts shall be a reduction of Buyer's credit limit with ORYX (THAILAND)'s credit insurance or factoring counterparties.

All prices quoted by ORYX (THAILAND) are net prices excluding VAT. Prices are based upon taxes, levies, duties and freight rates applicable at the time of quotation. Changes and increases to taxes, levies and duties applicable to the Sales Agreement will increase the sales price accordingly. If both parties agreed to freight paid delivery conditions, freight rate increases after the conclusion of the Sales Agreement will increase the sales price. Freight price increases due to delivery obstructions will be added to the sales price.

3. Delivery and passage of risk

If no other delivery condition has been defined in the Sales Agreement, the delivery condition shall be “ex works” Bangkok in accordance with the Incoterms 2020.

ORYX (THAILAND) is entitled to fulfill its delivery obligations in several partial deliveries.

In the case that delivery conditions other than “ex works” have been agreed upon, ORYX (THAILAND) is free to choose the means of transport and transport service provider. Unless otherwise agreed in the Sales Agreement or otherwise following from the agreed delivery condition ex Incoterms 2020, risk is transferred to Buyer at the moment of handover of goods to the carrier but at the latest at the time of the goods leaving ORYX (THAILAND)'s yard.

Weight differences of +/- 10 (ten)% for deliveries and partial deliveries are to be accepted by Buyer and there shall be no price adjustment.

Delivery date shall always be the date of dispatch at the yard of ORYX (THAILAND). If a delivery period is agreed upon, the delivery period starts with the date of issuance of ORYX (THAILAND)'s written Sales Agreement. If the Buyer does not comply with or is in delay with complying with its contractual obligations which form a prerequisite for commencing a delivery (e.g. opening a letter of credit, issuing documents, making an prepayment), ORYX (THAILAND) is entitled to adjust delivery periods or delivery dates reasonably in accordance with ORYX (THAILAND)'s production and shipping schedule.

In the case that ORYX (THAILAND), due to force majeure or a strike, is unable to fulfill its contractual obligations, or the fulfillment of the contractual obligations is considerably hindered, ORYX (THAILAND) is entitled to fully or partially cancel the Sales Agreement or to prolong the period for fulfillment without giving Buyer the right to make any demands or claim compensation.

4. Claims

The delivered goods are deemed to be free from defects, if they do not deviate, or only deviate insignificantly from the specifications defined in the Sales Agreement. The Buyer agrees to purchase the goods in their present conditions, ORYX (THAILAND) is not liable for any deterioration of the quality of the goods after the time the risk has been passed to Buyer. Deviations in weight, dimensions and class are permitted according to the applicable customs as recorded in the “usances of the metal trade” published by “Verband Deutscher Metallhaendler” (VDM) in the most recent version.

ORYX (THAILAND) shall have the right to be present during unloading, inspection and test melting of ORYX (THAILAND)'s delivery at the destination. Buyer shall inspect the goods immediately upon arrival.

ORYX (THAILAND) will not accept any claims, if the Buyer

- did not allow an employee of ORYX (THAILAND) or a representative assigned by ORYX (THAILAND) to be present at unloading of the delivery and during test melting of the product; or
- did not inform ORYX (THAILAND) about the time of unloading or the time of test melting within a reasonable time before unloading or test melting is scheduled, so that no employee of ORYX (THAILAND) or representative assigned by ORYX (THAILAND) could be present at the destination during unloading or test melting.

Claims regarding obvious defects have to be notified immediately by Buyer, but not later than one week after the unloading of the goods at the destination. Notification of defects that cannot be detected within this period and can only be detected during the test melting of ORYX (THAILAND)'s products, has to be given immediately in writing not later than 2 (two) business days after they have been discovered.

Claims, if accepted by ORYX (THAILAND), will result in a price reduction, compensation or penalty to be negotiated between ORYX (THAILAND) and Buyer, if the applicable penalty, compensation or price reduction has not been agreed upon in the Sales Agreement. ORYX (THAILAND) may choose to replace the defective delivery at its own discretion and at its own expense.

The assertion of claims for payment shall be in accordance with Article 6.

Subject to the above provisions, the period of limitation for claims for defects shall, in no event, be longer than 12 (twelve) months from the moment of passage of risk.

5. Reservation of title

Until all accounts receivable against Buyer which are due to ORYX (THAILAND) now or in future, for whatever legal reason, have been settled, ORYX (THAILAND) shall be granted the following securities:

Title to the goods delivered by ORYX (THAILAND) shall remain with ORYX (THAILAND). Processing or transformation shall always be performed for ORYX (THAILAND) as the manufacturer but without any obligation therefor. If the purchased goods are processed with other objects not belonging to ORYX (THAILAND), ORYX (THAILAND) shall acquire co-ownership of the new object pro rata to the value of the purchased goods (total invoiced amount, including VAT) relative to the other processed objects at the time the processing took place. The value of the co-ownership of ORYX (THAILAND) cannot be reduced below the value of the goods delivered by ORYX (THAILAND) at contract prices.

Buyer, at its own expense, shall keep the goods in its sole ownership or co-ownership so created in safe custody for ORYX (THAILAND) and store the goods separately from goods belonging to Buyer or third parties, marking them as ORYX (THAILAND)'s property. Buyer shall also allow ORYX (THAILAND) access to Buyer's premises to verify that the obligations are being complied with. Buyer is obliged to treat the goods subject to retention of title with care; specifically Buyer is obliged to insure them adequately with a reputable insurance company at its own expense against loss or damage caused by fire, water and theft. ORYX (THAILAND) shall reserve the right to pre-approval of the insurance company, if necessary.

Goods to which ORYX (THAILAND) has title (full or as co-owner) are hereinafter referred to as "goods subject to retention of title".

If goods subject to retention of title are being seized by any third party, Buyer will inform the third party about the existing ownership or co-ownership by ORYX (THAILAND) and inform ORYX (THAILAND) about any third-party claim being brought forward.

Buyer is entitled to process the goods subject to retention of title in the regular course of business and resell them, subject to retention of title, provided he is not in default. Pledges or assignment as security shall not be permitted. The Buyer shall fully assign the receivables arising from the onward sale or from some other legal cause (insurance, unlawful act) in respect of the goods subject to retention of title to ORYX (THAILAND) in written form made by ORYX (THAILAND) and Buyer, upon written notification by Buyer to the onward buyer of the goods. In the event of any onward sale, Buyer is obliged to divulge his customer's name and address to ORYX (THAILAND) at any time upon demand. ORYX (THAILAND) shall irrevocably authorize Buyer to collect the receivables assigned to ORYX (THAILAND) in their own name on their behalf. This collection authorization can only be revoked if Buyer fails to honor his payment obligations in the proper fashion.

Should Buyer commit a breach of contract - in particular late payment - ORYX (THAILAND) shall be entitled to take possession of the goods subject to retention of title and if necessary demand assignment of Buyer's claims for surrender against third parties. ORYX (THAILAND)'s recovery of the goods subject to retention of title shall not constitute grounds for withdrawing from the contract. Any costs incurred due to the recovery of the goods are for the account of Buyer.

The retention of title in accordance with the aforementioned provisions shall remain effective, even if ORYX (THAILAND)'s individual receivables are included in current account with Buyer.

6. Payment

Payments are due to ORYX (THAILAND) without deductions, prompt at the time of transfer of risk unless other payment terms have been agreed in writing.

Each delivery to a Sales Agreement shall be seen as an individual transaction with individual and separate payment specifications.

If a payment target has been agreed upon, the delivery date shall be the effective date from which payment targets are calculated. Potential interest calculations shall start from this effective date.

Payments shall be made exclusively by bank transfer to the account specified by ORYX (THAILAND) on the invoice. Other payment methods shall only be regarded as effective payment if agreed upon in the Sales Agreement in writing.

A payment shall be deemed to have been made, if the funds transferred to ORYX (THAILAND), or the beneficiary of the account specified in the invoice, are available for use.

Should Buyer fail to pay the invoice according to the agreed payment term, ORYX (THAILAND) shall be entitled to demand interest as late payment fee at the prevailing base rate (Euribor / Libor) plus eight percent. The right to claim further damage remains.

Should Buyer not meet his payment commitments or suspend payments or if ORYX (THAILAND) becomes aware of facts, which cast doubt over Buyer creditworthiness, ORYX (THAILAND) is entitled to declare all outstanding debt due and, at ORYX (THAILAND)'s discretion, to demand provision of appropriate securities (e.g. a bank guarantee). In the event that juridical insolvency proceedings have been started over Buyer's assets or insolvency has been declared, ORYX (THAILAND) is entitled to cancel the Sales Agreement without notice.

Termination of the Sales Agreement shall be without prejudice to any rights or remedies which ORYX (THAILAND) may have against Buyer at the time of termination.

7. Limitation of liability

Liability of ORYX (THAILAND) shall be exempt except for:

- Where ORYX (THAILAND) has expressly provided a guarantee, deliberate or grossly negligent breach of duty, death or injury to body and health, or in the event of product liability as per the applicable law; or
- Willful violation of essential contractual obligations by ORYX (THAILAND). Liability shall be restricted to the typical, foreseeable loss or damage and shall not exceed the total amount of the related individual Sales Agreement.

Vicarious liability shall be restricted to the liability of a diligent selection of factors, servants and assignees.

8. Confidentiality

Buyer shall treat any information received from ORYX (THAILAND) strictly confidential and shall not disclose this information to any third party without the prior written consent of ORYX (THAILAND). These restrictions will not apply to any information which:

- (a) is or becomes generally available to the public other than as a result of Buyer's breach of its obligation under this Article; or
- (b) was available to Buyer on a non-confidential basis prior to the reception; or
- (c) is disclosed as required by law or regulations.

9. Final provisions

The non-exclusive place of jurisdiction for all potential disputes arising from these conditions and / or any contractual relations between ORYX (THAILAND) and Buyer shall be the competent court of jurisdiction in Thailand. ORYX (THAILAND) shall at all times have the right to bring any disputes arising from these conditions and / or any contractual relations between ORYX (THAILAND) and Buyer before the competent court of the registered office of Buyer or the court of jurisdiction where the Buyer's assets or properties are located.

Buyer shall not assign its claims under the Sales Agreement to third parties without ORYX (THAILAND)'s written consent.

If any provision of these terms is, for any reason, invalid and/or unenforceable, the remaining provisions shall continue to be valid and enforceable to the fullest extent permitted by law. The parties agree to replace an invalid and/or unenforceable provision with a valid and/or enforceable provision which most closely follows the intent and economic.