

ThyssenKrupp Stahlkontor

General Conditions of Purchase

I. Scope

1. These General Conditions of Purchase apply to all – including future – orders for goods and services and the processing thereof. We do not recognize contradictory terms of the vendor or terms deviating from these General Conditions of Purchase unless otherwise determined in these General Conditions of Purchase or in the contract with the vendor. If we take receipt of the goods without specific objection, this can in no way be interpreted to signify our acceptance of the vendor's terms.
2. Verbal agreements by our employees only become binding upon written confirmation by ourselves.
3. Offers shall be submitted to us free of charge and without engagement.
4. The interpretation of the trade clauses is governed by the INCOTERMS in their latest valid version.

II. Prices

1. The agreed price – unless otherwise agreed – is a fixed price free to the place of receipt. The goods are billed exclusive of packaging.
2. In the case of pricing "free place of receipt", "free destination" and other "free/franco" deliveries, the price includes the cost of freight and packaging. Packaging is only to be paid for if there was a specific agreement for payment thereof. In such cases the packaging must be credited at 2/3 of the invoice value in the event of carriage-paid return to the consignor.

III. Payment

1. Invoices are to be submitted separately in five copies – i.e. not with the shipment – immediately the delivery or service has been effected. Monthly deliveries or services are to be billed by the third working day of the next month at the latest. Partial invoices must be marked as such. Unless agreed otherwise, invoices shall be settled either within 30 days – in which case a 2% discount is applicable – or by the end of the month following the delivery or services by a mode of payment chosen by us. Such modes of payment include promissory notes eligible for discounting or customer's bills of exchange. In the case of payments with promissory notes or customer's bills of exchange, we reimburse appropriate discount charges based on the respective base rate of the European Central Bank, noted on the date the bill of exchange is submitted.
2. Invoices which do not arrive within the given time limit shall only be settled at the end of the month following receipt of the invoice at unchanged terms and without payment of interest and shall be subject to deduction of the additional costs incurred for us through the incorrectly timed transmission, particularly for bank guarantees furnished by us.
3. The time limits for payments and discounts start on receipt of the invoice, but not before receipt of the goods and in the case of services not before they are accepted, and, in the event that part of the scope of delivery or service comprises documentation, works certificates (e.g. test certificates) or similar documentation, not before it is delivered to us in accordance with the contract.
4. Payments shall be made by check or credit transfer, and shall be deemed to have been made punctually if the check was mailed on the due date or the credit transfer was passed to the bank on the due date.
5. Interest may not be accrued after the due date, but in the case of arrears the rate of interest charged is five percentage points above the base rate. We are in any case entitled to submit proof that any default-induced loss was lower than that claimed by the vendor.
6. We benefit from the statutory rights of set-off and retention.



7. On the basis of the authorities conferred on us by the companies within our group (§ 18 AktG)*, we are entitled to offset all claims against us or our group companies by the vendor, irrespective of legal grounds. This also applies if one party on account of performance has agreed to cash payment and the other to payment in bills of exchange or by other means of payment. Where appropriate, these arrangements only apply to the balance. If different due dates apply to such claims, our claims shall become due at the latest when our liability becomes due and shall be settled on the value date.
8. Without our prior written agreement, which may not be refused unjustly, the vendor shall not be entitled to assign his claims or to have them collected by others. If, contrary to the first sentence, the vendor assigns his claim without our consent to a third party, the assignment shall become effective nevertheless. However, we shall be at liberty to render payment to the vendor or to the third party with debt-discharging effect.

IV. Delivery times/delivery delays/passing of risk

1. The delivery dates arranged with us must be adhered to without fail. Part-deliveries are only to be effected subject to our written approval. We must be notified of imminent delivery delays immediately in writing. At the same time suitable countermeasures designed to mitigate the consequences must be suggested. Surplus or short shipments are permissible only as in normal trading practice.
2. The delivery period commences on the date of the legally binding order unless agreed otherwise in writing.
3. All shipping papers, operating instructions and other certificates which form part of the vendor's agreed delivery are to be sent to us on the date of consignment. Should delivery delays on the part of the vendor, including late transmission of the aforementioned documents, cause payment protection to lapse, payment shall only be made by us after we receive payment from our customer.
4. If the vendor delays delivery, we shall then be entitled to the corresponding statutory rights. In particular we are entitled to claim damages in place of the delivery or service once an appropriate extra time limit set by us has lapsed without success. Our claim to delivery will only lapse after the vendor has paid damages.
5. In the event of a delivery delay at the fault of the customer, regardless of the above a contractual penalty shall be payable to us which in the absence of a deviating agreement shall amount to 0.5% of the purchase price for each week or part of a week of delay up to a maximum of 5%. If we nominate a ship to transport the material and this ship is accepted by the vendor, then irrespective of the above the vendor shall bear the costs of demurrage, dead freight, etc. if, regardless of the reason, the material is not shipped or is not shipped at the envisaged time.
6. Early shipment without our approval shall not affect the payment term which is tied to the scheduled original delivery date.
7. If it becomes impossible or substantially more difficult for us to fulfill our contractual obligations in cases of force majeure, strikes or lockouts, we may either rescind the contract in part or entirely or may specify its performance with a later deadline, but this will not give cause for any claims on us by the vendor.
8. The vendor may only have recourse to a failure to produce necessary documents by us if he does not receive the documents after sending a written reminder.
9. The vendor shall bear the risk of accidental destruction or accidental deterioration, even in the case of "franco" and "free place of destination" deliveries, until handover of the goods at the destination.
10. The vendor bears the transport risk. The vendor or his agent must obtain a certificate from the place of receipt for correct receipt of all the goods. The delivery to a different place of receipt than that designated by us shall not effect the passing of risk for the vendor even if said place accepts the delivery. In the case of delivery free place of receipt, the vendor shall be responsible for the follow-up charges of shipment and receipt as well as ancillary charges and other expenses. The vendor is obliged to choose the cheapest freight transport route. In the case of deliveries that are not carriage-free, all the costs of consignment as far as the loading station, in particular expenses and carriage, are to be borne by the vendor. In the event of delivery by truck, a delivery note must always be included. Any demurrage, shunting charges and other costs incurred through any type of refusal shall be borne by the supplier. The vendor must observe our shipment rules.

V. Retention of title

1. Concerning the rights of the vendor to retain title to the goods, a simple retention of title applies on condition that ownership of the goods passes to us on payment for said goods and, accordingly, the extended form of the so-called current account reservation and of the extended retention of title shall not apply.
2. The vendor may only claim surrender of the goods based on retention of title if he has rescinded the contract.

VI. Explanations concerning origin

In the event that the vendor delivers explanations as to the origins of the goods being sold, the following shall apply:

1. The vendor undertakes to facilitate verification of the origins by the customs authorities and to provide the required information as well as to deliver any confirmation required.
2. The vendor is obliged to replace any loss arising through the fact that the declared origin is not recognized as a result of a false certificate or lack of possibility of verification by the competent authority unless he is not responsible for these consequences.

VII. Liability for defects

1. The vendor must provide us with goods and services which are free of physical defects and deficiency in title.
2. The vendor is obliged to supply only those goods to us which are free of all indications of ionizing radiation. All costs and damage or losses caused by infringement of this obligation are to be borne by the vendor.
3. The vendor has no recourse to the defense of delayed complaint (§ 377 /HGB).
4. If the goods or services bear a defect, we shall have entitlement to claim under the statutory rights at our discretion. The necessary expenses for the purpose of subsequent performance shall include the expenses of our customer. The guarantee period starts anew for goods which have been repaired or replaced.
5. If a claim is made against us in respect of goods we have resold to third parties, the vendor shall indemnify us for all damage or loss arising therefrom. In addition to this, the vendor undertakes to treat any guarantee claims addressed to us by our customer as if they were addressed to him.
6. The limitation period for our defect claims commences on delivery of the goods or acceptance of the service. The vendor's liability for defects ends two years after delivery of the goods for claims arising because of or in connection with the delivery of goods. Claims arising because of or in connection with the delivery of goods which are used for a structure corresponding to their normal purpose shall expire five years after delivery has been effected. The statutory time limits shall otherwise apply.
7. On account of performance, the vendor assigns to us as of now all claims to which he is entitled against his own suppliers because of or in connection with the delivery or rendering of defective goods or services. In such instance he shall provide us with all the necessary documents for the assertion of such claims.

VIII. Place of performance, place of jurisdiction and applicable law, miscellaneous

1. Unless agreed otherwise, the place of performance for the delivery shall be our plant.
2. The place of jurisdiction is the registered office of our main branch. We may also sue the vendor at his place of jurisdiction as well as at the place of jurisdiction of our registered branch office with which the contract was concluded.
3. All legal relations between us and the vendor shall be governed solely by the law applicable at the address of our registered office which applies to legal relationships between domestic parties, to the exclusion of foreign legislation. The provisions of the UN Convention on Contracts for the International Sale of Goods (CISG) are excluded.
4. The vendor shall ensure at his cost and without delay that all the requirements for effectiveness necessary for the contract in the country of the vendor, e.g. export permits, are present and remain valid during the performance of the contract. If the vendor does not comply with this obligation, the purchaser shall have the right to rescind the contract if necessary and in any case to demand compensation from the vendor. The same applies in case, for example, necessary permits are not granted within a period reasonable for the purchaser despite the efforts of the vendor or are cancelled or become invalid during performance of the contract.

5. If performance of the contract requires the deployment of employees, the vendor undertakes always to duly comply with his obligations towards the tax authorities, social security institutions and health insurance funds, to observe all other statutory and collectively agreed rules and not to employ or assign any staff who do not possess a valid work permit. If the vendor for his part subcontracts the contract in part or in its entirety, he shall ensure that this obligation is fulfilled by his subcontractors.
6. Should a provision of these General Conditions of Purchase be or become invalid, this shall not affect the validity of the remaining conditions.
7. These General Conditions of Purchase shall also apply correspondingly to contracts of other types, in particular contracts for work and for work performance.

- *) This includes in particular:
ThyssenKrupp Steel Europe AG, Duisburg
Thyssen Krupp Materials International GmbH, Essen
ThyssenKrupp Mannex GmbH, Essen
ThyssenKrupp Nirosta GmbH, Krefeld
Jakob Bek GmbH, Ulm
Freiburger Stahlhandel GmbH, Freiburg
ThyssenKrupp Schulte, Essen
Hövelmann & Co. Eisengrosshandlung GmbH, Gelsenkirchen
Otto Wolff Handelsgesellschaft mbH, Essen

Translation: The German version has priority