

General Terms and Conditions of Purchase



Purchaser's terms and conditions of purchase shall apply exclusively. Supplier's terms and conditions which deviate from Purchaser's conditions of purchase shall not be recognized by Purchaser unless Purchaser expressly consents to their validity.

I. Purchase orders

Purchase orders shall be binding only if they are placed by Purchaser in writing. Documents used by Supplier in business dealings with Purchaser shall indicate: purchase order number, commission order number, plant, place of receipt, ID number, item number, full article text/item description, volumes and volume units as well as VAT ID (for imports from the EU).

II. Prices

The prices are fixed prices. They are inclusive of everything Supplier has to do to fulfil supply obligation.

III. Scope of supply

- As part of the scope of supply
 - Supplier shall transfer to Purchaser ownership of all technical documents (also for subcontractors) and other documents needed for manufacture, maintenance and operation. Said technical documents shall be in German and shall be based on the international SI standard system;
 - Supplier shall have the unconditional authority to carry out or have carried out by third parties repairs and modifications to the purchased object, and also to manufacture spare parts or have them manufactured by third parties.
- If the scope of supply is to differ from that agreed, Supplier shall be entitled to additional claims or schedule changes only if a corresponding supplementary agreement is concluded in writing prior to performance of the order.
- The ordered volumes are binding. In the event of excess supplies, Purchaser shall be entitled to refuse these at the expense of Supplier.

IV. Quality

Supplier shall install and maintain a state-of-the-art, documented quality system of suitable type and scope. Supplier shall prepare records, in particular of quality inspections, and make these available to Purchaser on request. Supplier hereby agrees to quality audits being carried out by Purchaser or Purchaser's representative to assess the efficiency of said quality system.

V. Delivery periods/deadlines

Agreed delivery dates are binding. Supplies made before the agreed delivery dates shall entitle Purchaser to refuse the supply until it is due. Supplier shall advise Purchaser immediately in writing of reasons which will lead to the delivery dates being exceeded.

VI. Delivery and storage

- If a price is agreed "ex works" or "ex warehouse", Purchaser shall bear only the most favorable freight costs in each case.
- The addresses for shipment indicated shall be observed. Delivery to a place of receipt other than that designated by Purchaser shall not constitute transfer of risk for Supplier even if said place of receipt accepts the delivery. Supplier shall bear the additional costs of Purchaser resulting from the delivery being made to an address differing from the agreed place of receipt.
- Part shipments shall be marked as such, delivery notes shall be submitted in triplicate.
- If weighing is necessary, the weight determined on the calibrated scales of Purchaser shall apply.
- Insofar as Supplier has the right to have the packaging needed for shipment returned, this shall be clearly marked on the delivery documents. In the absence of such marking, Purchaser shall dispose of the packaging at the cost of Supplier; in this case Supplier's right to have the packaging return shall expire.
- Items needed for the fulfillment of an order may be stored on the premises of Purchaser in allocated storage areas only. For such items Supplier shall bear the full responsibility and risk until the transfer of risk.
- During transportation the statutory provisions, in particular the provisions of the law on the transportation of hazardous goods and the applicable hazardous goods directives including the respective annexes and appendices shall be observed.
- The declaration of the goods in the consignment notes for shipment by rail shall comply with the valid provisions of the railways. Costs and damages incurred due to incorrect declaration or failure to declare shall be at the expense of Supplier.
- Supplier shall have the receipt of deliveries confirmed in writing by the indicated place of receipt.

VII. Assignment

Supplier shall not be entitled to transfer either the execution of the contract or its contractual claims in whole or in part to third parties without Purchaser's written agreement.

Subcontractors of Supplier shall be named to Purchaser on request.

VIII. Termination

- Purchaser is entitled to terminate the contract in full or in part without stating reasons. In such an event, Purchaser is obligated to pay for all supplies and/or services completed up to then and make appropriate payment for material procured and work performed; in this case Art. 649, 2nd half of sentence 2 of the German Civil Code (BGB) shall additionally apply. Further claims of Supplier are excluded.
- Purchaser is also entitled to terminate the contract among other things if court insolvency proceedings are instigated in respect of the assets of Supplier or Supplier ceases payment. Purchaser has the right to acquire material and/or semi-finished products including any special equipment on reasonable terms and conditions.

IX. Invoicing, payment, setting-off

- Payment shall be made as agreed. Any delivery effected before the agreed date shall not affect the payment period tied to this delivery date.
- Supplier may only offset against uncontested or legally established claims.
- Purchaser is entitled to offset receivables due to Supplier from Purchaser against all receivables due to ThyssenKrupp AG or companies in which ThyssenKrupp AG holds a direct or indirect controlling interest at the time of offsetting (Group subsidiaries Art. 18 Stock Corporation Act (AktG)) from Supplier.
- If no agreement on payment is concluded, the invoice shall be settled at the end of the month following the supply and service and receipt of the invoice.

X. Claims under liability for defects

- Supplier guarantees that his supply/service exhibit the contractually agreed properties and fulfil the intended purpose.
- The limitation period for defect liability claims shall begin with the full supply of the scope of supply and services or, if acceptance testing is agreed, on acceptance.
- The statutory limitation period applies in respect of defect claims. For repaired or replaced parts the period of limitation starts anew. For defects notified within the limitation period, the period shall end no earlier than six months after assertion of the notice of defects. Supplier shall not object on the grounds of delayed notification (Arts 377, 381, par. 2 Commercial Code (HGB)) for all other than obvious defects.
- All defects which are notified within the period of limitation shall be remedied by Supplier without delay at no costs for Purchaser. The costs of remedying goods or of supplying replacements, including all incidental costs (e.g. freight) shall be borne by Supplier. If Supplier does not begin to remedy the defect immediately or fails to perform the service as agreed or in the event of an emergency, Purchaser is entitled to carry out the necessary measures at the expense of Supplier. This shall not affect statutory rights of withdrawal, purchase price reduction or compensation for damages.

XI. Place of fulfilment, legal venue

- Place of fulfilment for all supplies/services shall be the place of receipt indicated by Purchaser.
- Place of jurisdiction shall be the domicile of Purchaser, or at Purchaser's choice Supplier's general place of jurisdiction.

XII. Applicable law

All legal relations between Purchaser and Supplier shall be governed by the prevailing law of the Federal Republic of Germany to the exclusion of the law on the United Nations' convention of April 11, 1980, concerning agreements in respect of the international purchase of goods (CISG) in the currently valid version.

XIII. Prohibition of advertising /secrecy

- The use of Purchaser's inquiries, purchase orders and related correspondence for advertising purposes requires Purchaser's express prior consent in writing.
- Supplier shall maintain secrecy vis-à-vis third parties in respect of all operational events, facilities, plants, documents etc. used at Purchaser's premises or those of his customers which become known to Supplier in connection with his activities for Purchaser, also after submission of the corresponding offers and after completion of the contract. Supplier shall impose corresponding obligations on his agents.

XIV. Severability

Should individual provisions of the conditions become entirely or partly invalid, the remaining provisions shall remain valid.

XV. Data protection

Purchaser points out in accordance with Art. 33 of the Federal Data Protection Act (BDSG) that he will store data relating to Supplier on the basis of the Federal Data Protection Act.

As of July 2002