

General Terms of Delivery and Payment of thyssenkrupp Materials Trading GmbH

I. Applicability/offers

1. These General Terms of Delivery and Payment shall apply to all - including future - contracts concerning deliveries and other performances, concluded between thyssenkrupp Materials Trading GmbH and any enterprise, legal person, public-law legal entity and public-law fund (hereinafter "Purchaser"). We expressly object to any conflicting terms and conditions of purchase or other general terms and conditions. They shall not become part of the contract even if we do not expressly object to them again after we have received them.
2. Our offers are subject to confirmation and non-binding. Any oral agreements, promises, undertakings and guarantees made by our staff in connection with the conclusion of any contract shall only become binding when confirmed by us in writing.
3. In case of doubt, the latest version of the Incoterms shall be decisive for any interpretation of terms of trade.
4. All information, such as dimensions, weights, illustrations, descriptions, assembly sketches and drawings indicated in our publications are only approximate, but determined to the best of our ability and are non-binding for us in this respect. The same applies to information provided by our suppliers and manufacturers. Models and drawings remain our property.
5. As far as contracts for work and services are concerned, "Purchaser" within the meaning of these Terms shall also be the "Orderer".

II. Prices

1. If charges or other external costs included in the agreed price change later than four weeks after the conclusion of the contract or if they arise for the first time, we shall be entitled to amend the price accordingly.
2. We reserve the right to increase the agreed price for quantities not yet delivered if due to a change in the raw material and/or economic situation circumstances arise which make the production and/or the purchase of the product concerned significantly more expensive as compared with the time the prices were agreed. Furthermore, we shall be entitled to increase the agreed price if a delivery deadline is extended for any of the reasons stated under Section IV. 4., or if delivery is delayed for reasons for which we are not responsible. In such cases, the Purchaser is entitled to withdraw from individual contracts or to terminate framework contracts within two weeks of the date of notification of the price increase, to the exclusion of any further rights.

III. Payment and set-off

1. Unless otherwise agreed or indicated in our invoices, the purchase price shall be due immediately upon delivery without any deduction and payable in such a way that we can dispose of the amount on its due date. The Purchaser shall bear any payment transactions fees. The Purchaser shall only have a right of retention and is only entitled to set-off insofar as its counterclaims are undisputed or have been confirmed by a final and non-appealable judgment.
2. If delivery cannot be made due to missing instructions or documents or if delivery is delayed for other reasons for which we are not responsible, the full invoice amount shall be due on the 15th of the month following the month of the originally agreed delivery. In cases where a letter of credit has been opened, the Purchaser is obliged to amend the terms of the letter of credit accordingly.
3. The Purchaser shall be in default at the latest ten days after the due date and receipt of the invoice/payment schedule or after receipt of the services.
4. In case of delay, we shall charge interest at a rate of 9 percentage points above the statutory base interest rate in accordance with section 247 German Civil Code (*Bürgerliches Gesetzbuch*; "BGB"), unless other interest rates have been agreed. The right to claim further damages shall remain reserved.
5. As we have been authorized accordingly by the companies belonging to our group (section 18 German Stock Corporation Act (*Aktiengesetz*);*), we are entitled to set off [payments] against any and all claims Purchaser is entitled against us or any such group company, irrespective of their legal ground. Offsetting shall also be admissible if payment in cash has been agreed on the one side and payment by bills of exchange or other methods on account of performance has been agreed on the other side. As applicable, these agreements may only refer to the balance amount. If the claims provide for different due dates, our claims in that respect shall become payable no later than on the date our liability falls due and shall be settled on a value date basis.
6. If it becomes apparent after conclusion of the contract that our payment claim is at risk due to Purchaser's lack of ability to perform, e.g. a reduction or cancellation of credit insurance, we are entitled to the rights under section 321 BGB (defense of uncertainty). In such a case, we are also entitled to call due all outstanding claims arising from the current business relationship with the Purchaser. In all other cases, the defense of uncertainty shall extend to all other outstanding deliveries and services from the business relationship with the Purchaser.
7. Any cash discount requires the complete settlement of all due liabilities of the Purchaser at the time of cash discounting.

IV. Execution of deliveries, delivery periods and dates

1. Our duty to deliver is subject to the condition that our suppliers deliver correctly and in time, unless we have caused the incorrect or late delivery. In this case we are entitled to withdraw from the delivery contract. If it becomes apparent that we ourselves will not be supplied correctly or on time, we will inform the buyer accordingly.
2. Details of delivery times/delivery dates are non-binding and shall be deemed to have been agreed only approximately, unless they have been expressly designated by us as binding. Delivery periods shall only apply on condition that all commercial and technical details of the order are clarified in good time and that all obligations of the Purchaser are fulfilled in good time, e.g. provision of all official certificates, letters of credit and guarantees or advance payments.

V. Reservation of title

1. We shall retain title in all goods delivered (goods subject to a reservation of title) until all payment claims have been fulfilled, including without limitation the respective balance claims that we are entitled to within the scope of the business relationship (overall reservation of title)

and the claims unilaterally established by the insolvency administrator through his/her choice of performance. This shall also apply to future and conditional claims, e.g. under acceptor's bills of exchange, and to such cases where payments are to be made on specifically designated claims. As soon as all claims outstanding at the time of payment and covered by such overall reservation of title have been settled in full, the overall reservation of title shall become extinct.

2. Any reworking and processing of the goods subject to a reservation of title shall be done for us as the manufacturers in accordance with section 950 BGB, without establishing any obligation on our part. The reworked and processed goods shall be deemed goods subject to a reservation of title within the meaning of Section V. 1. Where Purchaser processes, combines and blends goods subject to a reservation of title with other goods, we are entitled to a co-ownership in the new item in proportion of the invoice value of the goods subject to a reservation of title to the invoice value of the other goods used [in said process.] If our title has become extinct as a result of combining or blending, Purchaser shall hereby transfer to us its title to the new inventory or item in proportion to the invoice value of the goods subject to a reservation of title, and shall keep it in custody for us free of charge. Our co-ownership rights shall be deemed goods subject to a reservation of title within the meaning of Section V. 1.

3. Purchaser may only sell the goods subject to a reservation of title within the ordinary course of business at its regular terms and conditions and as long as it has not entered into default, provided that the claims arising from the resale will be assigned to us pursuant to of Sections V. 4 through V.6. Purchaser is not entitled to dispose of the goods subject to a reservation of title in any other manner.

4. The claims arising from the resale of the goods subject to a reservation of title are hereby assigned to us together with any and all collateral securities that Purchaser has acquired for such claims. They shall serve the purpose of securing to the same extent as do the goods subject to a reservation of title. If the Purchaser sells the goods subject to a reservation of title together with other goods that we have not sold, the claim arising from the resale shall be assigned to us in proportion of the invoice value of the goods subject to a reservation of title to the invoice value of the other goods sold. In cases where goods to which we have a co-ownership pursuant to Section V.2 are sold, a portion corresponding to our co-ownership share will be assigned to us. If Purchaser uses the goods subject to a reservation of title for the purpose of performing a contact for work and services, the claim arising from the contact for work and services will be assigned to us to the same extent beforehand.

5. Purchaser is entitled to collect claims arising from the resale. Such collection authorization will terminate once we revoke it, at the latest, however, upon default in payment, upon failure to honor a bill of exchange or upon filing for the institution of insolvency proceedings. We shall use our revocation right only in case that it becomes apparent after conclusion of the contract that our payment claims under this or other contracts concluded with Purchaser are at risk due to the latter's lacking ability to perform. Upon our request, Purchaser is obliged to immediately inform its customers of its assignment to us and to provide us with the documents necessary for collection.

6. It shall not be admissible to make assignments of claims arising from the resale, unless such assignments are done by way of genuine factoring that is notified to us and where the proceeds from such factoring exceed the value of our secured claims. Upon crediting of the proceeds from such factoring, our claims fall due immediately.

7. Purchaser is obliged to inform us of any attachment or other impairment by third parties without undue delay. Purchaser shall bear all costs for the lifting of the attachment or for returning the goods subject to a reservation of title, unless reimbursed by third parties.

8. We are entitled to take back the goods subject to a reservation of title and, for that purpose, access Purchaser's business, as applicable, if Purchaser is in default of payment or fails to honor a bill of exchange when due. The same applies if it becomes apparent after conclusion of the contract that our payment claims under this or other contracts entered into with Purchaser are at risk due to the latter's lacking ability to perform. Taking back the goods subject to a reservation of title shall not constitute a rescission from the contract. The provisions of the German Insolvency Code (*Insolvenzordnung*) shall remain unaffected.

9. Where the invoice value of the existing collateral securities exceeds the secured claims including ancillary claims (interest, costs, and the like) by more than 50 percent in the aggregate, we are insofar obliged to release collateral securities of our choice upon Purchaser's request.

VI. Varieties, grades, dimensions and weights

1. Varieties, grades and dimensions shall be determined in accordance with the standards agreed, absent such agreement in accordance with the standards applicable upon conclusion of the contract, absent such standards in accordance with the standards in conformity with trade practice.

2. Unless otherwise agreed, the weighing performed by us or our supplier shall be decisive for the weights. We are entitled to determine the weight without weighing in accordance with the standards (theoretical/rated weight) plus 2.5% (trade weight). We may also determine the weights theoretically, without weighing, on the basis of the length and/or the surface area of the products, and in doing so, we may establish the measurements in accordance with acknowledged statistical methods. Where goods are calculated on the basis of weight, the numbers of units, bundles and the like as indicated in the dispatch notice are non-binding. Unless individual weighing is customary, the weight shall be determined on the basis of the overall weight of the consignment. Any deviation as compared to the calculational individual weights shall be distributed to them proportionately.

3. References to standards, such as DIN/EN or their components, such as material specification sheets, test certificates or test standards as well as information on varieties, grades, dimensions and weights and usability are no representations or guarantees nor are declarations of conformity, manufacturer's declarations and corresponding labels, such as CE and GS.

VII. Delivery changes, packaging, partial delivery

1. If, without our fault, the transportation on the intended route or to the intended destination has become impossible or considerably more difficult within the intended period of time, we are entitled to deliver via an alternative route or to an alternative destination; any additional costs incurred in this context shall be borne by the Purchaser. The Purchaser shall be given the opportunity to comment beforehand.

2. If customary in the trade, we deliver packed. Otherwise the goods shall be delivered unpacked and without protection against corrosion. We provide packaging, protective and / or transportation aids at Purchaser's expense on the basis of our experience. These items shall be taken back in our warehouse. We shall not assume expenses incurred by the Purchaser for returning the packaging or for disposing of it on its own.

3. We are entitled to make partial delivery to a reasonable extent. We are entitled to reasonably exceed and fall short of the agreed delivery quantities. Unless otherwise agreed, we shall be entitled to an excess/shortfall delivery and a corresponding calculation of up to 10 percent of the quantities.

VIII. Call-off orders / Continuous deliveries

1. Where call-off orders have been placed, goods notified as ready for dispatch are to be called off without undue delay; otherwise, we shall be entitled to invoice them immediately after a reminder and at our discretion to dispatch them at the expense and risk of the Purchaser or to store them.
2. In cases of contracts for continuous delivery, we shall be notified about call-offs and the division into the different types of grades for roughly equal monthly quantities; otherwise, we are entitled to make the determinations ourselves, at our reasonable discretion.
3. If, in the aggregate, the individual call-offs exceed the contractually agreed quantity, we are entitled, however, not obliged, to deliver the excess quantity. We may invoice the excess quantity at the prices agreed for the original quantity.

IX. Warranty

1. Defects in the goods shall be notified in writing without undue delay, at the latest seven days after delivery. Defects that cannot be detected within that period of time despite most careful inspection must be notified in writing immediately after discovery, however, at the latest before the expiry of the agreed or statutory statute of limitation, with immediate cessation of any reworking and processing. If the goods have already been resold, processed or transformed, the Purchaser shall only be entitled to reduce the purchase price.
2. After Purchaser has carried out the agreed acceptance of the goods, any complaint in respect of defects in quality that were detectable in the agreed type of acceptance shall be excluded.
3. In case of a justified notice of defects given in good time, we may elect to either remove the defect or deliver an item that is free from defects (remedial action). Where the remedial action fails or is refused, the Purchaser can reduce the purchase price or repudiate the contract after granting, and fruitless expiry of, a reasonable grace period. If the defect is not material, it shall only be entitled to reduce the purchase price.
4. All rights arising from a defect shall lapse if the Purchaser fails to immediately provide us with the opportunity to assure ourselves of the defect; this applies in particular where the Purchaser fails to immediately provide us with the rejected goods or samples thereof upon request.
5. Where goods are sold as downgraded material – e.g. so-called class IIa materials – the Purchaser shall not have any rights in respect of defects in quality in relation to the reasons for the downgrading indicated and in respect of those defects in quality that it would normally have to expect. In the case of sale of class IIa- material, rights of the Purchaser due to defects in quality are excluded.
6. We shall only assume expenses in connection with any remedial action insofar as they are reasonable in the individual case, in particular in relation to the purchase price of the goods, but in no case more than 150% of the value of the goods in a defect free condition. We do not assume expenses incurred because the sold good are shipped to a place other than the place of delivery, unless this would correspond to their contractual use.
7. Costs relating to the installation and removal of the defective item as well as costs incurred by the Purchaser for removing the defect on its own without the statutory requirements for this having been met shall be excluded.
8. Purchaser's rights of recourse pursuant to sections 445a and 478 BGB shall remain unaffected.
9. We shall not warrant the suitability or fitness of the goods for an intended purpose, unless otherwise expressly laid down in writing; in all other respects, the risk of use and usage lies exclusively with the Purchaser.

X. General limitation of liability

1. We shall only be liable for breaches of contractual and extra-contractual duties, in particular for impossibility of performance, default, culpa in contrahendo and tort – including for our officers, employees and vicarious agents – in cases of intent and gross negligence, however, in the latter case limited to the damage typical for that type of contract as foreseeable at the time of conclusion of the contract.
2. These limitations shall neither apply in cases of culpable violation of material contractual duties where the achievement of the purpose of the contract is at risk, nor in cases of mandatory liability under the German Product Liability Act (*Produkthaftungsgesetz*), nor in cases of damage resulting from injury to life, limb or health nor if and to the extent that we have concealed defects of the item in bad faith or have guaranteed their absence. The rules on the burden of proof shall remain unaffected hereby.
3. Unless otherwise agreed, any contractual claims the Purchaser has against us due to or in connection with the delivery of the goods shall become statute-barred one year as from the delivery of the goods, unless such claims are based on the compensation for an injury to body and health or a foreseeable damage typical for that type of contract or on intent or gross negligence on our part. The limitation of actions for statutory recourse claims shall remain unaffected hereby. Where remedial action is taken, the limitation period does not begin to run again.

XI. Force Majeure

We shall not be liable for the non-fulfilment of one of our obligations - even in the event of delay - if the non-fulfilment is due to an event of force majeure. We shall also not be obliged to deliver if and to the extent that one of our upstream suppliers is affected by an event of force majeure and is thereby prevented from fulfilling its delivery obligation towards us.

An event of force majeure is an event beyond our control which makes the fulfilment of our contractual obligations significantly more difficult or impossible for us and the occurrence of which could not have been foreseen by us at the time of the conclusion of the contract. These include, for example, the following events: War and military conflicts, political unrest, riots or revolutions, terrorist attacks, monetary, trade and other sovereign measures, embargoes, delays in import or customs clearance, strikes, lawful lockouts or other operational disruptions for which we are not responsible (such as machine breakdown, cyber attacks), shortages of labour, energy or raw materials, obstruction of transport routes, earthquakes, tsunamis and other natural disasters, epidemics or pandemics and restrictions caused thereby.

We will notify the Purchaser without undue delay of the occurrence and cessation of a force majeure event. If the impairment caused by an event of force majeure ends, a reasonable start-up time shall be taken into account when agreeing new delivery dates. If we are prevented from fulfilling our contractual obligations for more than 90 days by an event of force majeure, both we and the Purchaser may withdraw from the affected individual contract and/or terminate the affected framework contract.

XII. Governing law and venue

1. German substantive law shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
2. Essen is agreed as the exclusive place of jurisdiction for all legal disputes. However, we are also entitled to assert claims at the Purchaser's general place of jurisdiction.

XIII. Miscellaneous

1. If a Purchaser resident outside the Federal Republic of Germany (foreign buyer) or its representative collects goods or if such Purchaser or representative ships or dispatches them abroad, such Purchaser shall provide us with the proof of exportation necessary for tax purposes. If the Purchaser fails to provide such proof, it shall be liable to pay the value added tax applicable within the Federal Republic of Germany on the invoice amount.
2. In cases of deliveries from the Federal Republic of Germany to another EU members state, the Purchaser shall provide us with its VAT ID number under which it handles the acquisition taxation within the EU, prior to delivery. Otherwise, it shall be liable to pay the value added tax amount we owe under statutory law in addition to the agreed purchase price.
3. For each tax-exempt intra-Community delivery from the Federal Republic of Germany to another EU member state, the Purchaser of the goods is obliged pursuant to sections 17a and 17c of the Community Value Added Tax Implementing Regulation to provide us with a proof of the actual entry of the goods (Entry Certificate). Such proof shall be furnished on a form provided by us. If the Purchaser fails to provide such proof, it shall be liable to pay the value added tax that is applicable within the Federal Republic of Germany on the current (net) invoice amount.
4. If any provision of these General Terms of Delivery and Payment is or becomes invalid, this shall not affect the validity of the remaining provisions.

(Last update: January 2023)

- *) This includes in particular, but is not limited to:
- thyssenkrupp Steel Europe AG
 - thyssenkrupp Materials Services GmbH
 - thyssenkrupp Materials Processing Europe GmbH
 - thyssenkrupp Schulte GmbH
 - thyssenkrupp Materials Trading UK Ltd.
 - thyssenkrupp Materials Trading Asia Pte. Ltd.