

## General Terms and Conditions of Purchase

of

**thyssenkrupp nucera AG & Co. KGaA**  
(convenience translation)



1. 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 in writing.
2. The terms and conditions of purchase shall also apply exclusively if Purchaser accepts or pays for supplies/services in full awareness of contradictory or varying terms and conditions of Supplier.

### I. Purchase orders

1. Purchaser orders shall be binding only if they are placed by Purchaser in writing. Verbal agreements – including subsequent amendments and additions to these terms and conditions of purchase – must be confirmed in writing by Purchaser for them to become valid.
2. For the period of their validity, cost estimates shall form a binding basis for resultant orders. They shall not be remunerated unless expressly agreed otherwise.
3. Documents used by Supplier in business dealings with Purchaser shall indicate at least: purchase order number, commission order number, plant, place of receipt, 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 fulfill his supply/service obligation.

### III. Scope of supply/service; ownership; usage rights

1. As part of the scope of supply/service
  - Supplier shall transfer to Purchaser ownership of all technical documents (also for subcontractors) and other documents needed for manufacture of new articles, maintenance and operation. Said technical documents shall be in German and shall be based on the international SI standard system
  - Supplier shall grant Purchaser non-exclusive and irrevocable usage rights that are unrestricted in terms of location, time and content to all protectable supplies/services for all known and as yet unknown types of use; in particular Purchaser shall be entitled without restriction to duplicate, edit, disseminate in unaltered and altered form and publish via wire-based or wireless technology all supplies/services, and to transfer all contractually granted usage rights to third parties with or without charge.
  - Supplier shall grant Purchaser exclusive usage and utilization rights in the scope described above to those supplies/services he produces specifically for Purchaser
  - Supplier pledges to strictly observe the provisions of the Employee Inventions Act and file claims to the corresponding inventions in due form and time. This shall also apply insofar as Supplier does not employ his own staff, but rather commissions third parties in the framework of the permitted employment of temporary workers
  - Purchaser shall have the unconditional authority to carry out or have carried out by third parties repairs and modifications to the purchased supplies/services, and also to manufacture spare parts or have them manufactured by third parties
2. If the scope of supply/service 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 with Purchaser prior to performance of the order.
3. The ordered volumes are binding. In the event of excess supplies/services, Purchaser shall be entitled to refuse these at the expense and cost 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. Supply and service periods/deadlines

1. Agreed delivery dates are binding. In the event that agreed deadlines are not met, statutory provisions shall apply. Supplies/services provided before the agreed delivery dates shall entitle Purchaser to refuse supply/service until it is due.
2. If Supplier becomes aware that an agreed deadline cannot be met, he must inform Purchaser in writing without delay, stating the reasons and the expected duration of the delay.
3. Unreserved acceptance of the delayed supplies/services may not be construed as relinquishment of any compensation to which Purchaser is entitled; this shall apply until full payment of the fee owed by Purchaser for the supply/service concerned has been made.

### VI. Delivery/performance and storage

1. Insofar as Supplier and Purchaser agree validity of one of the "Incoterms" of the International Chamber of Commerce (ICC) for the contract, the currently valid version thereof shall apply. They shall apply only insofar as they do not contradict the provisions of these general terms and conditions of purchase and other concluded agreements. Unless otherwise agreed in writing, the supply/service shall be "delivered duty paid" (Incoterms: DDP) to the place of delivery/performance or use indicated in the purchase order.
2. Supplies/services must be shipped to the addresses indicated. Delivery to/performance at a place of receipt other than that designated by Purchaser shall not constitute transfer of risk to Purchaser even if said place of receipt accepts the delivery/service. Supplier shall bear the additional costs of Purchaser resulting from the delivery being made to/service performed at an address differing from the agreed place of receipt.
3. Part supplies/services are not permitted unless Purchaser has expressly consented thereto. Part supplies/services are to be marked as such, delivery/service notes shall be submitted in triplicate, unless otherwise specified by Customer.
4. If weighing is necessary, the weight determined on the calibrated scales of Purchaser shall apply.

5. Insofar as Supplier has the right to have the packaging needed for shipment/services returned, this shall be clearly marked on the delivery/service 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 returned shall expire.
6. 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 of the entire order until the transfer of risk.
7. 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 must be complied with.
8. 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.
9. Supplier shall have the receipt of deliveries confirmed in writing by the indicated place of receipt.

### VII. Obligations of Supplier as external company

Insofar as the Supplier does not owe the mere delivery of goods, the following applies:

1. The Supplier ensures compliance with all labour (arbeitsrechtliche), tariff (tarifrechtliche) and other statutory regulations. In particular, he assures that he will not use employees in violation of legal regulations, that he will pay all contributions to social security institutions (Sozialversicherungsträger) and social security funds (Sozialkassen) properly, that he will comply with the applicable provisions on minimum wages.
2. The Supplier undertakes to comply – if applicable – with the provisions of the German Employee Posting Act (AEntG) and the German Residence Act (AufenthG). He shall only deploy employees/external assistants if they have the necessary permits and approvals. The Supplier undertakes to check regularly and unsolicitedly the submission and validity of the required documents and, if necessary, to keep track of them and to keep a copy of the documents in paper or electronic form for the duration of the employment (§ 4a (5) AufenthG).
3. Within this context, the Purchaser reserves the right to carry out own checks of the personnel deployed by the supplier.
4. Supplier shall hold the Purchaser harmless from any claims filed against the Purchaser resulting from the contract, for example from the guarantor liability (Bürghaftung) according to §§ 13 German Minimum Wage Act (MiLoG), § 14 German Employee Posting Act (AEntG) and/or §§ 28e (3a) German Social Security Code IV (SGB IV) and/or § 150 (3) German Social Security Code VII (SGB VII).
5. In the event that the Supplier violates one of the aforementioned obligations, the Purchaser is entitled - in addition to other reasons that lead to a right to terminate the contract - to terminate the respective contract for good cause without observing a notice period with immediate effect.

### VIII. Service provision by the Supplier and by personnel deployed by the Supplier

Insofar as the Supplier does not owe the mere delivery of goods, the following applies:

1. The Supplier acts as an independent entrepreneur and at its own entrepreneurial risk; an own business facility is available. Neither a (temporary) employment leasing nor an employment relationship is established by this contract. The Supplier will not be integrated in the Purchaser's operations, not even remote. Rather, the Supplier acts free of instructions and in addition is, in exercising his personnel sovereignty, free to select the employees to fulfil the contract. The Supplier is not obliged to fulfil the contract in person.
2. Purchaser and Supplier shall, prior to the start of the service provision, each appoint a contact person who shall be responsible for monitoring the due performance of the contract and all associated matters. Additions or changes to the scope of services must be addressed by the contact person of one party to the contact person of the other party.
3. The Supplier and the persons employed by the Supplier or at the Supplier's instigation to perform the services shall not be subject to any right of instruction by the Purchaser with regard to the time, duration, place and manner of service provision and shall not be integrated in the Purchaser's operations.
4. The Supplier must take appropriate measures to ensure that its personnel can always be identified as external resources (e.g. through appropriate name tags, labelling of premises, external telephone numbers and corresponding information in the e-mail signatures). Unless otherwise agreed in the contract, the necessary work equipment shall be provided by the Supplier.
5. The Supplier must obligate the deployed personnel prior to their deployment in accordance with the applicable regulations in this Section VIII and instruct them comprehensively with regard to the laws and standards applicable at the Purchaser in accordance with the regulations of the contract. This also includes that the Supplier sensitizes the deployed personnel to refrain from typical employee behavior towards the Purchaser and his employees (in particular, no participation in Purchaser's department meetings, no sick leave or vacation requests addressed to the Purchaser).

### IX. Sub-suppliers/Subcontractors

1. Insofar as the Supplier owes the mere delivery of goods, the following applies: Supplier is obligated to name his sub-suppliers/subcontractors to Purchaser on request.
2. Insofar as the Supplier does not owe the mere delivery of goods, the following applies:
  - Supplier is entitled to transfer the execution of the services owed to sub-suppliers/subcontractors. Prerequisite for this is the prior written consent of the Purchaser. Affiliated companies in the meaning of §§ 15 ff. German Stock Corporation Act (AktG) and investee companies of Supplier are deemed to be subcontractors/external assistants in the meaning of this agreement. Purchaser is entitled to withdraw its consent at any time for objective reasons.
  - The use of sub-suppliers/subcontractors or external assistants in accordance with these provisions does not release Supplier from its contractual obligations, in particular from its sole responsibility for the use of sub-suppliers/subcontractors and external assistants. Supplier shall be held in breach of contract for infringements by sub-suppliers/subcontractors or external assistants to the same extent as for fault on its own part in accordance with § 278 German Civil Code (BGB).

- Supplier shall contractually oblige sub-suppliers/subcontractors to comply with the obligations arising from the contract, in particular VII and VIII and shall provide Purchaser with evidence, at least in textual form, of this at any time on request. Supplier shall allow Purchaser to inspect the sub-suppliers/subcontractor's proofs and certifications on request.

#### **X. Termination**

1. Purchaser shall be entitled to terminate the contract in full or in part. In such an event, Purchaser is obligated to pay for all supplies/services completed up to that point and make appropriate payment for material procured and work/services performed; in this case § 648, Sentence 2 of the German Civil Code (BGB) shall apply. Further claims of Supplier are excluded.
2. Purchaser is entitled to terminate the contract with immediate effect for good cause in particular where a material deterioration in the financial situation of Supplier occurs or threatens to occur and thus endangers the fulfillment of commitments vis-à-vis Purchaser. In this case Purchaser has the right to acquire material and/or semi-finished products including any special equipment on reasonable terms and conditions.

#### **XI. Invoicing, payment, offsetting**

1. An invoice issued in accordance with § 14 German Sales Tax Law (UStG) is a prerequisite for payment. The invoice shall be paid within 30 days of delivery/service and receipt. Any delivery/service effected before the agreed date shall not affect the payment period tied to this delivery date.
2. Supplier may only offset against uncontested or legally established claims.

#### **XII. Assignment**

Supplier shall not be entitled to assign his contractual claims vis-à-vis Purchaser to third parties or permit third parties to collect same. This shall not apply for legally established or uncontested claims.

#### **XIII. Claims under liability for defects**

1. Supplier guarantees on a fault basis that his supplies/services exhibit the agreed properties and fulfill the intended purpose. In the event that Purchaser incurs costs such as transport/travel, working and material costs or contractual penalties as a consequence of defective supplies/services, Supplier shall bear said costs.
2. The limitation period for defect liability claims shall begin with the full supply/performance of the scope of supply/service or, if acceptance testing is agreed, on acceptance.
3. The limitation period for defect claims is 36 months; longer statutory limitation periods shall remain unaffected by this. The limitation period shall start anew for newly supplied/performed parts, but for repaired parts only insofar as the same defect or the consequences of inadequate remediation are concerned, remediation would involve a wider scope, a significant amount of time or higher costs, and Supplier has not remedied the defect expressly only out of goodwill, to avoid disputes or in the interests of continuing the supply relationship. Purchaser shall provide prompt notification of defects. At all events the notification is deemed to be in good time insofar as it arrives at Supplier within a period of three working days of receipt of goods and a longer period has not been agreed in the individual case, or – for hidden defects – from the time of discovery. 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 (§§ 377, 381, (2) German Commercial Code (HGB)) for all other than obvious defects.
4. All defects which are notified within the period of limitation shall be remedied by Supplier without delay and at no cost to Purchaser. The costs of remedying goods or supplying/performing replacements, including all incidental costs (e.g. freight), shall be borne by Supplier in accordance with the statutory provisions. In the event that Supplier does not meet his remediation obligation within an appropriate period defined by Purchaser, Purchaser shall be entitled to eliminate the defects himself and demand reimbursement of the required expense or a corresponding advance from Supplier. This shall not affect statutory rights of withdrawal, purchase price reduction or compensation for damages.

#### **XIV. Guarantees/indemnification**

1. In the event that existing compensation claims by third parties can be asserted vis-à-vis Purchaser due to supplies/services of Supplier, Supplier shall on first demand indemnify Purchaser against the full amount of such claims and pledge to cover reasonable legal and court fees of Purchaser.
2. Supplier further pledges that goods produced, stored and transported on behalf of Purchaser, supplied to Purchaser or accepted by same shall be produced, stored,

processed and loaded at secure operating and handling facilities, and protected from unauthorized access during production, storage, processing, loading and transportation. Supplier pledges that the employees involved in the production, storage, processing, loading, transportation and acceptance of such goods are reliable and that they have been checked against the currently valid EU sanction lists. Supplier further pledges that all business partners acting on his behalf have been informed that they also need to take measures to secure the aforementioned supply chain. Supplier agrees to his data being checked against the currently valid versions of the EU sanction lists.

#### **XV. Place of fulfillment, legal venue**

1. Place of fulfillment for all supplies/services shall be the place of receipt indicated by Purchaser.
2. The legal venue shall be the domicile of Purchaser, or at Purchaser's choice, Supplier's general legal venue.

#### **XVI. Applicable law**

All legal relations between Purchaser and Supplier shall be governed by the prevailing substantive law of the Federal Republic of Germany to the exclusion of the United Nations' Convention of April 11, 1980 on the Contracts for the International Sale of Goods (CISG) in the currently valid version.

#### **XVII. Prohibition of advertising/secretary**

1. The use of the thyssenkrupp logo/logotype and any mention of the thyssenkrupp Group, thyssenkrupp AG, thyssenkrupp nucera AG & Co. KGaA, or individual Group companies as reference customers of Supplier requires the express prior consent in writing of thyssenkrupp AG or thyssenkrupp nucera AG & Co. KGaA respectively in each individual case.
2. 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.

#### **XVIII. Severability**

Should individual provisions of these conditions become entirely or partly invalid, the remaining provisions shall remain valid. The same shall apply for the corresponding contract.

#### **XIX. Written form**

Insofar as these General Terms and Conditions of Purchase demand declarations by the contractual parties to be made in writing, simple text form shall be sufficient.

#### **XX. Data protection**

1. If the Purchaser processes personal data of the employees of the Supplier or other third parties commissioned by the Supplier in connection with the performance of the contract, the Supplier undertakes to provide the data protection information of the Purchaser to the respective data subjects at the request of the Purchaser.
2. The Supplier is obliged to process all data, in particular personal data, in connection with the performance of the contract in accordance with the relevant statutory provisions. The Supplier shall also be obliged to take appropriate and state-of-the-art technical and organizational measures to ensure the security of the data and to maintain such measures for the duration of the contract.
3. Insofar as the Supplier processes personal data on behalf of the Purchaser in connection with the performance of the Contract, the Supplier undertakes to conclude a contract for the processing of personal data on behalf of the Purchaser on the basis of a template provided by the Purchaser which complies with the requirements of Article 28 GDPR.

#### **XXI. REACH clause**

Supplier must fulfill all specifications and measures resulting from the REACH directive for all materials, prepared materials and products supplied/provided to Purchaser.

#### **XXII. Applicable version**

Insofar as these General Terms and Conditions of Purchase are made available in another language, the German version shall take precedence.

As at: October 2022