

General Terms of Purchase

1. Scope

1.1. These terms and conditions constitute a part of all contracts between supplier and us even if we do not expressly refer thereto. Any conflicting, deviating or additional general terms and conditions of supplier are not binding for us unless accepted in writing, even if we do not expressly object. These terms and conditions are also binding even if we are aware of conflicting, deviating or additional general terms and conditions of the supplier.

1.2. These terms and conditions are only binding for entrepreneurs within the meaning of section 14 of German Civil Code (*Bürgerliches Gesetzbuch*). An entrepreneur is an individual, legal entity or partnership with legal personality who or which, when entering into a legal transaction, acts in exercise of his or its trade, business or profession.

1.3. To the extent that INCOTERMS clauses apply, they shall apply in their current version as amended from time to time (currently in the 2010 version).

2. Order

Orders and other declarations are only binding if they are submitted or confirmed by us in writing, by fax or e-mail.

3. Prices

The stated prices are principally fixed prices. Unless agreed otherwise, the prices are FCA (INCOTERMS 2010).

4. Delivery Dates

4.1. Delivery dates are binding. If not agreed otherwise, delivery terms begin upon conclusion of the contract.

4.2. Supplier must inform us immediately in writing if it reasonably determines that the delivery date will be exceeded. Supplier must also inform us about the reason and the expected duration of the delay in delivery.

4.3. We are not obliged to accept partial delivery or delivery before the delivery date.

5. Shipment

5.1. Unless agreed otherwise, supplier must hand over the goods to the freight carrier at the place indicated in the order/order confirmation.

5.2. The supplier undertakes to inform us on the date upon which the goods are shipped still by means of a dispatch advice including the details of our contract number, about the quantity and the exact designation of the goods and makes available in full all accompanying documents needed vis-à-vis public authorities, in particular customs documents.

5.3. An over-delivery or shortfall in delivery is not permitted without our written consent.

5.4. The weight determined on the calibrated scales of our house is decisive. Supplier is entitled to prove that we have determined the weight incorrectly; if applicable, according to the guidelines on procedure for the weighing and sampling of Ferro Molybdenum by the International Molybdenum Association (IMOA).

6. Invoice and Payment

6.1. The supplier shall submit a written invoice to us after delivery. This invoice must contain the order number, picking no., receiving centre, full article text/object designation, quantities and quantity units as well as, in case of import from an EU country, the value added tax ID no. In the event of exemption from taxes or customs duties, reference shall be made thereto in the invoice.

6.2. In case of premature deliveries we reserve the right to pay the invoices on the date which would have applied as per contract in case of timely delivery.

6.3. Should no agreement have been reached with regard to the payment date, the invoice is due and payable 30 days after delivery as well as receipt of invoice (whichever occurs later).

7. Assignment, Offsetting, Rescission

7.1. The supplier is not entitled to assign his/its contractual claims directed against us either in whole or in part to third parties without our written consent. Section 354a of the German Commercial Code (*Handelsgesetzbuch*) shall remain unaffected.

7.2. Supplier shall only be entitled to set off against our claims with claims which are undisputed or have been declared final and non-appealable by a court. This does not affect our right to set off against supplier's existing claims against us with all our claims.

7.3. If we have rescinded the contract for defects, the supplier is obliged to immediately reimburse us for any payments we have already made under this contract including interest which supplier has or should have gathered from the payed sums. To the extent these payments are not made we shall be entitled to retain the goods until receipt of the repayment.

7.4. We are entitled to rescind the contract in case of a substantial deterioration of supplier's financial situation or if such case impends and if supplier's fulfilment of its contractual obligation is jeopardized.

8. Warranty, Acceptance of Goods and Report of Defects

8.1. We are entitled to all statutory warranty remedies in case of any defects of the goods (including wrong and short delivery, inadequate installation, defective manuals for installation, use and maintenance (if any) as well as any other breach of duty by supplier to the extent this section 8 does not provide otherwise.

8.2. We are entitled to assert warranty remedies without restrictions even if we have not become aware of the defect as a result of gross negligence upon conclusion of the contract.

8.3. Our statutory obligation to inspect the goods and notify defects shall be as follows: The inspection duty is limited to obvious defects that can be detected by visual inspection (including the delivery documents) and with spot checks (e.g. transport damage, wrong or incomplete deliveries). Apart from that, it depends on the circumstances of the individual case to what extent an inspection is practicable in the due course of business. Our statutory duty to notify any defects discovered later shall remain unaffected.

8.4. The costs incurred by supplier for the purpose of testing and remedying an alleged defect (including expenses in connection with dismantling and assembly) shall be borne by supplier even if it turns out that there was no defect. Our liability to pay damages in case of unjustified warranty claims shall remain unaffected provided, however, that we shall only be liable if we were aware that there was no defect or failed to be aware of this due to gross negligence.

8.5. If supplier replaces or repairs the defective good or otherwise remedies the defect, the warranty period shall start anew for the replaced, repaired or remedied good, unless it was obvious from supplier's conduct that replacement, repair or remedy was a mere gesture of goodwill or it was otherwise apparent that supplier did this without acknowledging an obligation to do so.

8.6. The warranty period for defects is three years, insofar as statutory provisions do not provide for longer periods. Upon receipt of a written notification of a defect by the supplier, the statutory limitation period of our warranty claims is suspended until the supplier finally rejects the claims, notifies us that the defect has been remedied or refuses to continue the negotiations regarding our claims.

8.7. If action is taken against us under product liability based on domestic or foreign law, supplier shall indemnify us from all third party damage claims as far as it is responsible for the defect that triggered our liability. Supplier's obligation to indemnify us shall include the reimbursement of those expenses incurred by us from or in connection with a recall action conducted by us or our customers or other defect-removing or preventative measures taken at our or our customer's discretion.

9. Liability

9.1. Our liability – irrespective of its legal basis – shall be limited to damages caused by wilful intent or gross negligence. However, we are liable for simple negligence in case of damages which result from the breach of material contractual obligations (i.e. an obligation which is material for the performance of the contract and compliance with which the other party regularly expects and may expect) whereas, in this case, our liability shall be limited to typical damages which we could have foreseen as a possible consequence of such breach at the time of entering into the contract.

9.2. The limitations of liability pursuant to section 9.1 of these terms and conditions do not apply

- a) in case of damages to life, body or health,
- b) if and to the extent we have maliciously deceived (*arglistig verschwiegen*) a defect,
- c) if and to the extent we have assumed a guaranty for the quality of goods, or
- d) for claims of the Customers under the German Product Liability Act (*Produkthaftungsgesetz*).

10. Export License

10.1. Unless agreed otherwise, Supplier ensures on its own responsibility that the goods or parts thereof are not subject to national or international export restrictions. If the goods or parts thereof are subject to export restrictions, supplier shall, at its own expenses, procure the required export licenses for worldwide export.

10.2. Supplier is obliged to inform us in writing about possible approval requirements for (re)export of goods pursuant to German, European and US export and customs regulations as well as export and custom regulation of the country of origin of the goods.

10.3. Supplier shall respect all applicable laws, regulations, rules and provisions regarding production and sales of the goods.

11. Place of Performance and Place of Jurisdiction

11.1. Place of performance for the supplier is the respective receiving centre named by us.

11.2. The competent courts at our registered seat shall have exclusive jurisdiction for any dispute arising out of or in connection with the contract or its subject matter or formation (including non-contractual disputes or claims). However, we may also take legal action against the Supplier at the Supplier's registered seat.



11.3. The contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the laws of the Federal Republic of Germany excluding the UN Convention on Contracts for the International Sale of Goods (CISG).

12. Final Provision

If individual provisions of the contract including these terms and conditions are or become invalid, either in whole or in part, this shall have no effect on the validity of the remaining provisions.

A list of the companies using these General Terms and Conditions of Business in the CRONIMET Mining Group and the latest version of the General Terms and Conditions of Business can be found on the CRONIMET Mining website at www.cronimet-mining.com.