

**thyssenkrupp Gerlach GmbH General Terms and Conditions of Purchase**

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 text form.
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 text form.  
Verbal agreements – including subsequent amendments and additions to these terms and conditions of purchase – must be confirmed in text form by Purchaser for them to become valid.
2. Quotes/offers shall be prepared free of charge to Purchaser and do not bind Purchaser. 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 supply/service obligation.

**III. Scope of supply/service**

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, maintenance and operation. Said technical documents shall be in German and shall be based on the international SI standard system;
  - Supplier shall provide the supply/service in a way that by the supply/service itself or its use by the Purchaser or its customers any intellectual property rights or copyrights of third parties are not injured;
  - Supplier shall transfer all rights of use needed for the use of the supplies/services by Purchaser or third parties taking into consideration any patents, supplementary protection certificates, brands, registered designs;
  - 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 text form 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. The quality system has to meet the requirements of the international automotive industry. 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. 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 text form without delay, stating the reasons and the expected duration of the delay. In the event that agreed deadlines are not met, statutory provisions shall apply. In particular, Purchaser shall be entitled to claim damages in lieu of performance after the futile expiration of a reasonable extension granted by Purchaser. Purchaser's right to claim performance of the contract shall not expire until after Supplier has paid the damages in full. Without prejudice to the aforesaid, in the case of any delay in delivery for reasons attributable to Supplier, Supplier shall pay Purchaser a penalty equivalent to 0.3 % of the purchase price for each commenced week of delay, up to the aggregate maximum of 5%, unless otherwise agreed. If Purchaser names and Supplier accepts, a specific vessel for the shipment of the

goods, Supplier shall, notwithstanding the aforesaid, bear all charges for demurrage, dead freight, etc., if the goods are for whatever reason shipped not at all or late.

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.
4. The Supplier has to compensate contract penalties, which the Purchaser owes to any third party due to defaults of the Supplier.
5. Changes in delivery and service obligations as well as deadlines have to be agreed upon with the Purchaser. Being negligent of the agreed dates, the Supplier bears all direct and indirect damages.
6. If in cases of force majeure, strike or lockout, performance of our contractual obligations is frustrated or materially impeded, Purchaser may cancel the contract wholly or in part or demand that the contract be performed at a later date, without entitling Supplier to any claims against Purchaser.
7. Supplier may only claim the non-receipt of any documents Purchaser is obligated to furnish if he has not received them even after a written reminder.

**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 and other concluded agreements. Unless otherwise agreed in text form, 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 for Supplier 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.
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 text form by the indicated place of receipt.
10. The Seller shall bear the risk of accidental loss and deterioration until the goods are physically delivered at the place of destination; this includes shipments "delivered free" and "free place of destination".

**VII. Reservation of title and ownership**

1. In respect of Supplier's right to retain title and ownership, a simple retention of title shall apply on condition that title to the goods passes to Purchaser when such goods have been fully paid for. Accordingly the extended form of current account reservation and extended reservation shall not apply.
2. On the basis of the reservation of title and ownership, Supplier may not claim return of the goods unless Supplier has rescinded the contract.

**VIII. Certificates of origin**

The following shall apply in cases where Supplier makes any statements on the origin of the goods sold:

1. Supplier agrees to permit any documentary evidence of origin to be verified by the customs authorities and provide all information and/or confirmations or endorsements that may be required.

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2. Supplier will be obligated to compensate Purchaser for any loss caused by a certificate of origin declared inappropriate or non-verifiable by the local authorities, unless any such consequential loss is beyond the Supplier's control.

3. Supplier shall at his own costs and without undue delay make sure that all documents required for the effectiveness of the order, e.g. export approvals, are on hand and remind valid during the time of the order execution. If Supplier fails to fulfil this obligation, Purchaser shall be entitled to rescind the contract, if need be, and in any case to claim damages from Supplier. The same shall apply to those cases, where, for example, despite Supplier's efforts the required approvals are not granted within a period reasonable for purchaser or are withdrawn or become invalid during the execution of the contract.

## IX. Execution, Subsuppliers, Assignment

1. Supplier shall not be entitled to transfer the execution of the contract in whole or in part to third parties.

2. Supplier is obligated to name his subcontractors to Purchaser on request.

3. 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.

## X. Termination

1. Even in the event that the contract is not a work and services contract, Purchaser is entitled to terminate same in full or in part. In such an event, Purchaser is obligated to pay for all supplies/services completed up to then and make appropriate payment for material procured and work/services 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.

2. Purchaser is also entitled to terminate the contract if court insolvency proceedings are instigated in respect of the assets of Supplier or Supplier ceases payment. The same shall apply if Supplier does not meet the claims of his suppliers. Purchaser has the right to acquire material and/or semi-finished products including any special equipment on reasonable terms and conditions.

## XI. Invoicing, payment, setting-off

1. Payment shall be made as agreed. 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.

3.

Since Purchaser has been authorized accordingly by the companies belonging to Purchaser's group (Art. 18 German Stock Corporation Act- "AktG"), Purchaser is entitled to offset any accounts whatsoever receivable by Purchaser or by these group members against all accounts due to Supplier. This shall also apply if one side has agreed upon cash payment and the other on payment by bill of exchange or other arrangements on account of performance. Where applicable, these agreements shall apply only to the balance. If the receivables fall due for payment on different dates, Purchaser's receivables shall be due by no later than the date at which Purchaser's liability falls due for payment and will be invoiced as of such date.

4. An invoice issued in accordance with Art. 14 German VAT Act (UStG) is a prerequisite for payment.

## XII. Claims under liability for defects and Product Liability

1. Supplier guarantees that his supplies/services exhibit the agreed properties and fulfill the intended purpose. At any time the supplier is free – after consultation with the purchaser, in compliance with any possible non-disclosure agreement - and to the extent the purchaser is actually and legally able to - to examine the intended use (in particular final products) - together with Purchaser - at Purchaser's or at a location named by Purchaser. 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. For newly supplied/performed or repaired parts, the period of limitation starts anew, insofar as the responsible party has not eliminated the defect expressly out of goodwill. Purchaser shall not be obliged to perform any incoming goods inspection that goes beyond the extent described below. In consideration of Supplier's inspections pursuant to the Quality System as described in Sec. IV., Purchaser shall inspect the delivered goods as regards their identity (on the basis of the information provided in the delivery note), the number of units delivered and any transport damage which may be clearly visibly externally on the transport packaging, without performing any individual checks. Purchaser shall immediately notify Supplier of any defects which he discovers in the ordinary course of business. No further obligations shall exist: in this respect. Supplier hereby waives any objections related to any obligations of merchants to examine or complain

4. All defects which are notified within the period of limitation shall be remedied by the Supplier without delay and at no costs for Purchaser. The costs of remedying goods or supplying/performing replacements, including all incidental costs (e.g. freight) shall be borne by Supplier. The expenses incurred for the purpose of subsequent performance shall also be deemed to include any expenses of Purchaser's customers. If Supplier culpably fails to begin remedying the defect immediately or realize the supply/service as contractually agreed, Purchaser is entitled to carry out the necessary measures himself or have same carried out by third parties at the expense and risk of Supplier. In the event of an emergency where, due to particular urgency, it is no longer possible to inform Supplier of the defect and impending claim and set Supplier a deadline for redress, Purchaser shall also be entitled to eliminate the defects himself/have them eliminated or procure replacements at Supplier's expense. This shall not affect statutory rights of withdrawal, purchase price reduction or compensation for damages.

5. In the event of defects of title, Supplier shall hold Purchaser harmless from any claims arising from third parties.

Supplier shall indemnify Purchaser against all liabilities, costs, damages, claims and expenses (including court costs and legal fees, as well as comparative financial statements of such claims and lawsuits), to defend against this, and hold harmless, Purchaser in respect of a claim action brought by a third party against Purchaser arise because the supply/service of Supplier or their use by Purchaser or its customers infringe intellectual property rights or copyrights of a third party.

6. Supplier is liable for measures to prevent damage (eg recall or service action) and other field activities. This measure is based on the inadequacy of the delivery and scope of services of Supplier or any other breach of duty by the supplier.

7. On account of performance of his contractual obligations, Supplier hereby assigns to Purchaser any and all rights and interests he may claim against his pre-suppliers in connection with the provision of defective goods or services. Supplier shall duly furnish us with all documents required by Purchaser to assert any such claims.

## XIII. Place of fulfillment, legal venue

1. Place of fulfillment for all supplies/services shall be the place of receipt indicated by Purchaser.

2. Place of jurisdiction shall be the domicile of Purchaser, or at Purchaser's choice, Supplier's general place of jurisdiction.

## XIV. 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 International Sale of Goods (CISG) in the currently valid version.

## XV. Prohibition of advertising/secretary

1. The use of Purchaser's inquiries, purchase orders and related correspondence for advertising purposes requires Purchaser's express prior consent in text form.

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.

## XVI. Severability

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

## XVII. 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.

## XVIII. 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.

## XIX. Code of Conduct

Supplier recognize the provisions of the Code of Conduct of thyssenkrupp as relevant for itself.

## XX. Minimum labor conditions

Supplier shall comply with the provisions of the following laws: Mindestlohngesetz, (MiLoG), Arbeitnehmerentendengesetz (AEntG), Schwarzarbeitsbekämpfungsgesetz (SchwarzArbG). Supplier shall comply with these laws in respect of his own employees and shall oblige any subcontractor or person providing temporary staff to also comply with these laws in respect of their employees. In particular, Supplier shall pay the minimum wage as requested according to the MiLoG from 01.01.2015 on and comply with the statutory documentation requirements. Supplier must not circumvent the afore-mentioned laws.

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Upon request, Supplier shall provide without undue delay written evidence demonstrating compliance with MiLoG, AEntG and SchwarzArbG by him and any subcontractor/ person providing temporary staff. Supplier shall indemnify and hold harmless Purchaser from any third party claims and obligations vis-à-vis third parties resulting from a breach of the aforementioned laws by him or any subcontractor / person providing temporary staff. In case of a breach of this Sec. XX, Purchaser shall also be entitled to terminate the agreement with Supplier for good cause without observance of any notice period.

Supplier shall, in fulfillment of his contractual obligations vis-à-vis the Purchaser, engage foreign employees only to the extent such employees have valid work permits (residence permits), and shall oblige any

subcontractor to also comply with this requirement. Upon request, Supplier shall provide without undue delay written evidence demonstration compliance with SGBIII/ AufenthG by himself and any subcontractor.

### **XXI. Applicable version**

The German version of these General Terms and Conditions of Purchase shall take precedence.

As of: May 2017