I. Purchase orders
1. Purchase orders shall be binding only if they are placed by Purchaser in writing. Verbal agreements – without 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 time in which such estimates shall be valid for 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 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. Agreement of 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.

IV. Delivery/performance and storage
1. Insofar as Supplier and Purchaser agree valid of one of the “Incoterms” of the International Chamber of Commerce, the currently valid version thereof shall apply. They shall apply only insofar as they do not contradist the provisions of these general terms and conditions of purchase and other concluded agreements. Unless otherwise agreed in writing, the Incoterms shall apply in the meaning of “Delivered Duty Paid” (DDP) to the place of delivery/performance or use indicated in the purchase order.

2. Supplier/service shall have to observe the conditions indicated in the purchase order.

3. 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.

4. 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.

5. If weighing is necessary, the weight determined on the calibrated scales of Purchaser shall apply.

6. 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 not be liable for any costs or damages incurred for incorrect packaging.

7. The declaration of the goods in the consignment notes for shipment by rail shall comply with the valid provisions of the respective railway contract and damages incurred due to incorrect declaration or failure to declare shall be at the expense of Supplier.

8. Supplier shall have the receipt of deliveries confirmed in writing by the indicated place of receipt.

VII. Execution, subcontractors, assignment
1. Supplier shall not be entitled to transfer the execution of the contract in whole or in part to third parties without Purchaser’s consent or under work and labor contracts.

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.

VIII. Termination
1. Supplier shall be entitled to terminate the contract in full or in part. In such an event, Purchaser is obliged to pay for all supplies/services completed up to that point and make appropriate provisions for material procured and services rendered.

2. In the event that Supplier terminates the contract in full or in part, the termination shall effect no later than three months after Agreement of 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. Supplier/service shall have to observe the conditions indicated in the purchase order.

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8. Supplier shall have the receipt of deliveries confirmed in writing by the indicated place of receipt.

IX. Payment, offsetting
1. An invoice issued in accordance with § 14 German Sales Tax Act (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.

X. Claim for 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 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 as far as the said defect or the consequences of inadequate repairs are concerned, remediation would involve a wider scope of work as a result 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 Supplier has counter-assumed the remedies for defects notified after the limitation period has expired has been declared null and void.

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 re-placements, 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 obligations within an appropriate period of time, he shall be in default of performance and Supplier shall be entitled to terminate the contract in full or in part, in which case Supplier’s right to claim for compensation for work and labor costs or for any compensation for damages.

XI. Guarantees/indemnification
1. Insofar as Supplier or for the benefit of Purchaser. In this case Supplier’s right to claim for compensation for work and labor costs or for any compensation for damages.

2. 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.

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VII. Execution, subcontractors, assignment
1. Insofar as Supplier’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 Supplier presents them 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.

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

2. Supplier shall be entitled to assign his contractual claims vis-à-vis Purchaser to third parties, in particular claims pursuant to § 13 MiLoG.

XIII. 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 its currently valid version.

XIV. Prohibition of advertising/specify
1. The use of the thyssenkrupp logo/logotype and any mention of the thyssenkrupp Group, thyssenkrupp AG or individual Group companies as reference customers of Supplier requires the express prior consent in writing of thyssenkrupp AG in each individual case.

2. Supplier shall maintain secrecy vis-à-vis third parties in respect of all operational events, facilities, products, documents, etc. at all times. Supplier shall not inform 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.

XV. Severability/written form
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.

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

As at: January 2017

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