



General Terms and Conditions of Purchase

thyssenkrupp Marine Systems GmbH,
ATLAS ELEKTRONIK GmbH,
Hagenuk Marinekommunikation GmbH

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I. General

1. These General Terms and Conditions of Purchase shall apply exclusively to any purchase orders and contracts by thyssenkrupp Marine Systems GmbH, ATLAS ELEKTRONIK GmbH and Hagenuk Marinekommunikation GmbH (hereinafter each referred to as the 'Employer' as the case may be) with a third party (hereinafter referred to as the 'Contractor'). The Employer does not accept and shall under no circumstances be deemed to have accepted any deviating terms and conditions of the Contractor, unless the Employer has expressly confirmed their validity and applicability in writing.
2. These General Terms and Conditions of Purchase shall also apply exclusively if the Employer accepts deliveries/services, or pays for such, without reservation in the knowledge of the existence of contradictory or deviating terms and conditions usually applied by the Contractor.
3. These General Terms and Conditions of Purchase shall also apply to all future transactions between an Employer and the Contractor.

II. Conclusion of contract

1. Orders are only binding if they are placed by the Employer in writing. Verbal agreements – including subsequent amendments and supplements to these General Terms and Conditions of Purchase – require the written confirmation of the Employer in order to be effective.
2. The Employer may revoke an order if the Contractor does not accept it in writing within 14 working days of receipt.
3. Cost estimates are a binding basis for subsequent orders for the period of their validity. Cost estimates shall not be remunerated unless expressly agreed otherwise.

III. Prices

All prices are fixed prices. Prices include everything that the Contractor has to do in order to fulfil its delivery/service obligation, especially but not limited to, any required certificates, drawings and assessments, as well as packaging, delivery, insurance and customs.

IV. Scope of delivery/service; ownership, rights of use, confidentiality

1. The Contractor shall transfer to the Employer ownership of all technical documents created within the scope of delivery/service, including those of its subcontractors, and ownership of other documents required for reproduction, maintenance and operation of the deliveries and services. These documents shall be written in German or English and in accordance with the International System of Units (SI). The Contractor shall provide brand new supplies and services of reasonable type and quality.
2. The Contractor shall grant the Employer the non-exclusive and irrevocable right of use, with no restrictions in terms of space, time and content, for all known and unknown kinds of use, to all deliveries/services eligible for protection by industrial property rights, the latest upon full payment of the agreed price, which are required for the use of the deliveries and services by the Employer or by third parties, taking into account any patents, supplementary protection certificates, trademarks, utility models, etc., which may exist.
3. The deliveries and services to be provided by the Contractor shall be free from rights of the Contractor and third parties and shall be transferred for the free use of the Employer. This includes the authority of the Employer to carry out repairs and changes to the deliveries and services itself or to have them carried out by third parties and to manufacture spare parts for them itself or to have them manufactured by third parties. The Contractor shall hold the Employer harmless from all claims of third parties due to any infringements of property rights.
4. An approval by the Employer or a classification society of drawings and technical documents submitted by the Contractor does not constitute 'acceptance' of such drawings or documents in the contractual meaning.
5. Where the scope of delivery/service foresees the processing or transformation of goods or items, such shall be carried out at any time and at any stage of manufacture on behalf of the Employer as manufacturer within the meaning of Section 950 German Civil Code (BGB). Acquisition of ownership by the Contractor is excluded.
6. If the agreed scope of delivery/service is to be deviated from, the Parties shall sign a corresponding supplementary agreement prior to performance. For the avoidance of doubt, the Contractor shall only be entitled to additional remuneration or changes to contractual deadlines if and to the extent a corresponding written supplementary agreement has been concluded. If the Parties fail to find an agreement on a deviations, any premature performances shall be at the risk and cost of the Contractor.
7. The risk of accidental loss or deterioration shall pass to the Employer only after delivery and acceptance of the scope of delivery/service. Until such time, the Contractor bears all risk.
8. If contracts (also) include software and consulting services, and in case of amendments to such contracts, the Contractor shall immediately agree a requirements specification with the Employer in which the deliveries and/or services to be provided by the Contractor are specified in detail. The contracting parties shall clarify, before conclusion of the contract, whether the respective requirements specification is to be prepared by the Contractor before or after the conclusion of the contract.
9. The Contractor undertakes to hand over all software documentation, in particular the source code, if the software has been specially developed for the Employer.
10. The documents, drawings, models, data, tools and other documents or items provided by the Employer ('Employer's Documentation') shall be treated confidentially, kept safe and protected from access by third parties. They may only be made accessible to third parties with the prior written consent of the Employer, shall remain the property of the Employer and must only be used for the preparation of offers and for the performance of the ordered delivery/service. The same applies to any existing property rights. If the Contractor identifies potential improvements during the performance of the contract, it shall notify the Employer thereof without undue delay. The Employer has the exclusive right to apply for property rights for such improvements and to exploit them commercially.

The deliveries manufactured according to information, drawings, samples, models or other documents or specifications of the Employer may only be delivered to the Employer and must not be made accessible to third parties without the prior written consent of the Employer.

After acceptance of the delivery/service by the Employer, the Employer's Documentation – including all copies or duplicates – as well as other documents, drawings, samples and models must be returned to the Employer without delay and without being requested to do so or – at the Employer's discretion – must be destroyed and proof of such destruction provided on request. Furthermore, the Contractor shall be liable for the loss of and damage to the documents, data and items provided and shall notify the Employer thereof without delay.

11. The Contractor undertakes not to upload or cache orders and any documents and communication in connection with an order to public cloud solutions of any kind; in particular, it shall not use public cloud services for storage, eSigning (DocuSign etc.), translation or other services provided via public cloud solutions.

V. EU Declaration of Conformity, CE mark

The Contractor shall demonstrate compliance with the safety requirements of the German Product Safety Act (ProdSG) and its product safety ordinances (ProdSV) by providing EU Declarations of Conformity and affixing CE marks. In case of products intended for military purposes only (not dual use!), the Contractor shall still provide documentation corresponding to the EU Declaration of Conformity, only CE marks shall not be applied.

By providing the EU Declaration of Conformity and, if applicable, the CE mark, the Contractor confirms that all fundamental requirements of the EU directives have been observed. In conjunction with the EU Declaration of Conformity, the Contractor shall certify the national requirements that exceed the fundamental requirements of the EU directives, as well as any contract-specific or end-customer-specific requirements, as the case may be. Any deviations from before mentioned requirements must be duly documented and duly justified.

VI. Hazardous substances (REACH)

1. If the scope of delivery/service includes hazardous substances, the Contractor shall provide the Employer, together with the order confirmation, with the completed safety data sheets (EC) in accordance with Article 31 in conjunction with Annex II of Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH). If the safety data sheets are not required by law, the Contractor undertakes to provide information in accordance with Article 32 of the above Regulation.
2. The Contractor undertakes to inform the Employer if the scope of delivery/service includes substances listed in Regulation (EC) No 1907/2006 (REACH) – Annex XIV, Annex XVII or in the Candidate List of Substances of Very High Concern (SVHC) as soon as it becomes aware thereof.

VII. Value/cost reduction analysis / technology change

1. If the Contractor manufactures products according to the Employer's production documents/specifications, the following apply:
The Contractor undertakes to cooperate with the Employer at reasonable intervals in a value analysis for parts/assemblies specified by the Employer. The aim of such an analysis is to reduce the price.
2. The Contractor shall inform the Employer of the nature and scope of a technology change and/or process improvement in writing within a reasonable time in advance so that the Employer can decide whether a new first article inspection is to be carried out. In this respect, the Employer is also entitled to inspect the relevant business documents of the Contractor and to inspect the changes or improvements at the Contractor's premises. If a new first article inspection is to be carried out, the Contractor may only start production after the written approval of the new samples by the Employer.

VIII. Quality and energy management

The Contractor shall establish and maintain a documented quality management system which is suitable in terms of type and scope and which corresponds to the state of the art, e.g. in accordance with ISO 9001. It must keep records, in particular of its quality inspections, and make them available to the Employer upon request.

The Contractor hereby consents to audits by the Employer or by a person appointed by the Employer to assess the effectiveness of its quality management system.

The Contractor commits itself to energy efficiency in its products, to avoid unnecessary waste of energy and to orientate itself as far as possible to the current state of the art in energy efficiency.

IX. Inspections during the performance of the contract

1. The Employer has the right to inspect the Contractor's performance of the contract. For this purpose, the Employer is entitled to enter the Contractor's premises during normal operating hours and after prior notification, and to inspect the quality of the material used for the performance of the contract, as well as the accuracy in quantity and quality of the manufactured parts and compliance with other regulations.
2. The Employer reserves the right to a final inspection of the completed part at the Contractor's premises by the Contractor itself or by third parties appointed by it. The costs for a final inspection – with the exception of personnel costs of the Employer – are borne by the Contractor.
3. Where the Contractor uses subcontractors for any performance under an order, it shall ensure that the Employer's rights under sub-clauses 1 and 2 are also applicable to plants/premises of such subcontractors.
4. The contractual or statutory rights of the Employer shall not be affected by such inspections.

X. Fixed dates and delay

1. The dates specified in the order are binding. Performance before the agreed dates shall entitle the Employer to reject the delivery/acceptance until it is due.
2. The Contractor shall immediately notify the Employer in writing of any reasons leading to a delay and the expected duration of such delay. Delays may lead to considerable damage for the Employer due to its own obligations towards its customers.
3. In the event of delay on the part of the Contractor, the Employer is entitled, in case of imminent danger, urgency or in order to avoid further damage, without setting a grace period, to have the delivery/service not yet performed by the Contractor carried out by a third party at the risk and cost of the Contractor.
4. In the event of delay, the Employer is entitled to a contractual penalty from the Contractor of 0.2% of the contract price per calendar day on which the Contractor is delayed, but not more than 5% of the contract price in total.
5. The right to claim for contractual penalty remains effective until final payment, even if this was not expressly reserved at the time of acceptance of the respective (delayed) delivery or service. This shall not affect other rights and claims of the Employer.

XI. Force majeure

1. Force majeure shall be an external, unforeseeable and unusual event, not attributable to a party, which constitutes a serious impediment or makes it impossible to comply with the contractual obligations even with the utmost care which could reasonably be expected under the circumstances. This is particularly the case in the event of natural disasters or other events outside the control of a party such as wars, riots, terrorist attacks or epidemics. However, a case of force majeure only exists if the impediment to performance is unavoidable, i.e. it cannot be eliminated with reasonable measures. For the avoidance of doubt, where the impediment can be removed by investing reasonable additional funds, such shall not constitute an event of force majeure and the affected party shall make any such investments.



2. A party affected by an event of force majeure shall not be deemed in default due to the (late) performance, provided that it has notified the other party in writing and in detail of the impending performance difficulties in due time. The affected party may be released from the obligation to perform for the duration and to the extent of the impact. Immediately after notification and acknowledgement of an event of force majeure in accordance with the contract, the parties shall consult how performance can be ensured.

XII. Delivery and storage

1. Unless otherwise agreed in writing, the delivery/service must be delivered/performed) at the place of delivery/service or use specified in the order and duty paid (DAP [named place] Incoterms 2020. This only applies insofar as this does not conflict with provisions of these Terms and Conditions of Purchase and the agreements otherwise made.
2. The deliveries/services are to be made to the shipping address stated in the order. Delivery to any other premise of the Employer than the place of receipt indicated by the Employer does not cause a transfer of risk for the Contractor, even delivery is accepted there. The Contractor bears the Employer's additional costs resulting from delivery to a place of receipt other than the agreed place of receipt.
3. Delivery notes must be handed over in triplicate upon delivery. The following details must be included: (1) Employer's order number, (2) supplier number, (3) material number according to the order, (4) item number from the order as well as other additional notes requested in the order. On the day of dispatch of the goods, an electronic dispatch note must be sent to the Employer with the same details as appearing on the delivery notes, and separately for each order.
4. Partial deliveries must be marked as such. Ordered material inspection certificates and other inspection documents must be delivered at the same time as the delivery item.
5. Insofar as the return of the packaging material is contractually agreed, a corresponding and clear note must be included in all delivery documents. If there is no mark, the Employer disposes of the packaging at the Contractor's cost; in this case, the Contractor's claim to the return of the packaging shall lapse.
6. Items of the Contractor required for the performance of services may only be stored on the Employer's premises in the allocated storage areas. The Contractor bears full responsibility and risk for these items.
7. The delivery/service provider shall have the receipt of consignments confirmed in writing by the specified place of receipt.

XIII. Performance, subcontractors, assignment

1. The Contractor is not entitled to transfer performance of the contract in whole or in part to a third party without the prior written consent of the Employer. If the Employer gives its consent, the Contractor remains jointly and severally liable for the performance of the contract. Subcontractors of the Contractor shall be named at the request of the Employer.
2. The Contractor is not entitled to assign claims arising from this contract without the prior written consent of the Employer. This does not apply to claims that have been legally established or that are undisputed.

XIV. Termination

1. The Employer has the right to terminate the contract in whole or in part. In such a case, it is obliged to pay for all deliveries/services rendered up to that point, and to adequately remunerate procured material and work delivered/performed; in addition, section 648 sentence 2 second half-sentence of the German Civil Code (BGB) shall apply in this case. Further claims of the Contractor are excluded.
2. The Employer has the right to terminate the contract with immediate effect for good cause, in particular if a significant deterioration in the financial situation of the Contractor arises or threatens to arise, and as a result the fulfillment of liabilities towards the Employer is at risk. In this case, the Employer has the right to acquire materials and/or semi-finished products, including any special operating resources, on reasonable terms.

XV. Invoicing, payment, set-off and retention

1. Payment requires an invoice complying with section 14 of the Value Added Tax Act (UStG). Invoices should preferably be sent by e-mail to the address of the Employer provided for this purpose.
2. The invoice shall be paid 30 days after delivery/service and receipt of the corresponding invoice. If the delivery/service is performed before the contractually agreed date, the payment period shall be calculated from the contractually agreed date.
3. The same information as on the delivery note shall be stated in the invoice and in all correspondence. The invoice must also include the following information: (1) the date of delivery or performance, (2) the price of the delivery or services, and (3) the amount of tax due on the consideration, (4) the order number, if applicable.
4. Payments are only made after delivery and performance have been completed in full and a proper invoice has been received. The Employer is not in default with the obligation to make payment unless it has received a warning notice setting a time for payment.
5. The Employer is entitled to set off any claim to which the Contractor is entitled against the Employer, against all claims which the Employer or the companies belonging to the group of thyssenkrupp Marine Systems GmbH have against the Contractor.
6. The Contractor may only set off undisputed or legally established claims.
7. The Contractor may only assert rights of retention and rights to refuse performance if its counterclaim is also based on the same contractual relationship.

XVI. Liability for defects and product liability

1. The Contractor warrants without limitation that its deliveries and services have the agreed quality, correspond to the state of the art of science and technology, and that they are free from any circumstances that nullify or reduce the value or suitability for the customary use or the use assumed under the contract. The Contractor shall check the correctness of any materials provided by the Employer prior to the start of production and shall immediately notify the Employer in writing of any errors or incompleteness prior to the start of performance.
2. The defects notification period for claims for defects starts with the complete delivery/performance of the scope of delivery/service or, if acceptance has been agreed, with acceptance.
3. The defects notification period shall be 36 months; longer statutory periods shall prevail. The defects notification period shall restart for newly delivered and exchanged parts; in case of repaired parts, the defects notification period shall restart for (i) liability for the same defect, (ii) liability for the consequences of a defective repair, and/or (iii) if the supplementary performance is characterised by a larger scope, long duration or higher costs and the Contractor does not expressly remedy the defect only as a gesture of goodwill, to avoid disputes or in the interest of the continuation of the contractual relationship.
4. The Employer's obligation to inspect upon reception is limited to defects that can be identified by visual inspection of the outer packaging including the delivery papers (transport damage, identity, completeness). Where an acceptance has been agreed, the Employer shall not be obliged to make an inspection upon delivery. Any notice of defect or deviation shall be deemed to be in time if it is received by the Contractor within a period of seven working days, unless a longer period is appropriate in individual cases, calculated from the receipt of the goods.
5. All defects raised within the defects notification period shall be remedied by the Contractor without delay in such a way that the Employer does not incur any costs. The costs for remedying defects or the replacement delivery/service including all ancillary costs are borne by the Contractor in accordance with the statutory provisions. The Employer shall receive an appropriate processing

fee for each notice of defects. If the Employer incurs additional costs as a result of defective delivery/service, e.g. transport, travel, labour, material costs, contractual penalties, the Contractor shall bear these costs.

6. If the Contractor fails to remedy the defect or deliver replacements within a reasonable period set by the Employer, the Employer may remedy the defect itself and demand reimbursement from the Contractor for the expenses required for this and, where appropriate, demand a corresponding advance payment. The statutory rights of rescission, reduction or compensation of damages remain unaffected.
7. Where the Contractor is responsible for product damage, it undertakes to hold the Employer harmless from claims for damages by third parties upon first request insofar as the cause lies within its sphere of control and organisation and it is itself liable in relation to third parties.

XVII. Spare parts, supply readiness

1. The Contractor undertakes to supply spare parts to the Employer on reasonable terms for the period of the usual technical service life, in any case for a period not less than ten years after the last delivery.
2. If the Contractor intends to discontinue delivery of the delivery item after expiry of the period set out in paragraph (1) or during this period, it shall inform the Employer in good time and in writing of the discontinuation of the product with reference to the order number and give the Employer the opportunity to place a final order.

XVIII. Data protection

1. The Employer processes personal data which it has obtained in the course of the business relationship with the Contractor or from publicly accessible sources.
2. Relevant personal data are names, address data and telecommunications data. In addition, this may also include enquiry, offer and order data, data from the fulfilment of the Employer's contractual obligations, product data, documentation data, as well as other data comparable with the aforementioned categories.
3. The Contractor's personal data is processed (as defined in Article 4(2) GDPR) in accordance with the provisions of the General Data Protection Regulation (GDPR) and the German Federal Data Protection Act for the following purposes: For the fulfilment of contractual obligations (as defined in Article 6(1)(b) GDPR), as required for the implementation and organisation of the business relationship. Furthermore, the Employer shall, if applicable, use this data for additional purposes in the context of the business relationship with the Contractor.
4. The Employer shall use the personal data only for its own purposes in the course of the business relationship. If third parties are involved in work processes that would require the Contractor's data to be temporarily disclosed for processing solely for this purpose, the Employer shall apply the same high standards and oblige the third party to comply with the data protection provisions as part of an order data processing agreement pursuant to Article 28 GDPR.
5. The Employer processes and stores the Contractor's personal data for the duration of the business relationship and in accordance with the statutory retention periods.
6. Every data subject has the right to information under Article 15 GDPR, the right to rectification under Article 16 GDPR, the right to erasure under Article 17 GDPR, the right to restriction of processing under Article 18 GDPR, and the right to data portability under Article 20 GDPR. With regard to the right to information and the right of deletion, the restrictions according to Sections 34 and 35 German Federal Data Act (BDSG) apply. In addition, there is the right to file a complaint with a data protection authority (Article 77 GDPR in conjunction with Section 19 BDSG).

XIX. Code of Conduct

The Contractor undertakes to comply with the "Supplier Code of Conduct" of thyssenkrupp AG (available at: <https://www.thyssenkrupp.com/en/company/procurement/for-suppliers/purchase-downloads.html>).

XX. Compliance

1. The Contractor is contractually obliged to fully comply with the national and international legal requirements applicable to it in each case, in particular with regard to commercial criminal law, competition law, occupational health and safety, and environmental protection. The Contractor shall pass on this obligation to its approved subcontractors and upstream suppliers involved in the provision of the supplies and services under this contract. The Contractor undertakes immediately to provide written evidence of compliance at the Employer's request, including compliance by any subcontractors or sub-suppliers.
2. The Contractor warrants that at the time of the conclusion of this contract it is not aware of any investigation proceedings against it or an affiliated company (in the meaning of Sections 15 et seq. of the German Stock Corporation Act (AktG)). Should the Contractor become aware of such proceedings after the entry into force of this contract, it shall inform the Employer thereof without delay.
3. A breach of any one of the above obligations shall entitle the Employer to terminate any order for good cause with immediate effect. In the event of such termination, the Contractor shall not be entitled to any kind of compensation or damages. The Employer reserves the right to assert claims for damages.

XXI. Export control law

The Contractor undertakes to inform the Employer of all relevant export conditions, restrictions and regulations relating to its deliveries and services, in particular those of the USA, Germany and the EU.

XXII. Place of performance, severability, place of jurisdiction, applicable law

1. The place of performance for the Contractor's deliveries and services is the place of receipt indicated by the Employer in the order. The exclusive place of jurisdiction, unless there is a mandatory statutory place of jurisdiction, is the general place of jurisdiction of the Employer or, at the Employer's choice, the general place of jurisdiction of the Contractor.
2. Should any provision of these General Terms and Conditions of Purchase or of any further agreements be or become invalid or unenforceable, this shall not affect the validity of the remainder of the contract. The parties agree to replace the invalid and unenforceable provision with a valid provision that most closely reflects the economic intent of the parties. All legal relations between the Employer and the Contractor are governed exclusively by the law of the Federal Republic of Germany, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980, as amended.