

## GENERAL PURCHASE CONDITIONS

### 通用采购条件

#### 1. Orders

##### 订单

- 1.1. The acceptance of the Purchase Order (“Order”) issued by **THYSSENKRUPP ENGINE COMPONENTS (China) LTD. (“BUYER”)**, shall subject the Supplier to comply with all clauses and conditions mentioned below (“**General Purchase Conditions**”), which are integral part of the Order.

一经接受蒂森克虏伯发动机零部件（中国）有限公司（“**买方**”）发出的采购订单（“**订单**”），供应商即应遵循以下所述全部条款与条件的规定（“**通用采购条件**”），这些条款与条件是订单整体的一部分。

- 1.2. The Order and the General Purchase Conditions shall prevail over the Supplier’s ones. Any and all terms and provisions unilaterally specified by the Supplier which may, in any way, change, modify or supplement the Order or the General Purchase Conditions, are null and void and of no binding effect. In particular, in case of conflicting language, the provisions of the Order and the General Purchase Conditions shall override any disclaimer, limitation of warranty, limitation of liability or any other provisions contained in the documents of the Supplier.

订单及通用采购条件应优先于供应商提出的条件。任何供应商单方提出的条款与规定，如果以任何形式对订单或通用采购条件造成改变、修正或补充，都将被视为无效与无约束力的。特别是，如有语言冲突，订单和通用采购条件的规定应优先于包含在供应商文件中的任何免责声明、担保限制、责任限制或任何其他约定。

- 1.3. Supplier may not assign or transfer the rights and obligations arising out of the Order and the General Purchase Conditions without the prior written consent of BUYER.

供应商在没有获得买方事先书面同意之前，不得转让或转移因订单和通用采购条件产生的权利与义务。

- 1.4. The Order includes the reference of the Goods, the quantity ordered by reference, unit price, delivery date, payment terms, specifications and other contents which BUYER thinks necessary.

订单中包括货品规格，每种规格的订货数量，单价，交货日期，付款条件及规范，以及其他买方认为必要的内容。

- 1.5. Once BUYER sends out its order to the Supplier, BUYER shall receive a written acceptance or refusal from the Supplier within 2 working days after the order sending date. Otherwise, the order shall be considered to be tacitly accepted by the Supplier. Once it accepts the order from the BUYER, the Supplier cannot cancel it due to any reason unless Force Majeure affair happens.

买方向供应商下达的订单一经发出，买方即应在该订单发出日期后的 2 个工作日内收到供应商发出的书面接受或拒绝。否则，该订单应视同被供应商默认接受。供应商一经接受买方下达的订单，除非因不可抗力原因，任何情况下供应商均不得取消该订单。

- 1.6. Any modification applied by the Supplier to an order, whatever form the modification might take, must be approved in writing by the BUYER, failing which said modification shall be considered null and void.

供应商对订单作出的任何修改，无论是以何种形式进行的修改，均应经买方书面同意，否则，该修改应视为无效。

- 1.7. The BUYER can modify an order at anytime. The procedure of the acceptance or refusal of the modified order shall refer to 1.5.

买方可在任何时候对订单进行修改。对经过修改的订单的接受或拒绝程序参见本条第 1.5 款的约定。

- 1.8. The BUYER specifically reserves the right to cancel any order for which it has not yet received acknowledgement and written acceptance from the Supplier.

买方特别保留其取消任何尚未收到供应商表示知悉和书面接受的订单的权利。

## 2. Prices

### 价格

- 2.1. The Price shall be referred to the signed Frame Agreement or Purchase Order by the Parties. The price contained in the Frame Agreement or Order is fixed and determined and may only be changed upon the written consent of the BUYER.

采购价格以双方确定的框架合同或者订单中的价格为准。框架合同或者订单中的价格是固定的并且已决定过的，只有在获得买方书面同意的情况下才可更改。

- 2.2. The BUYER may require a price reduction, provided a reduction in any of the items that compose this price is proven.

如组成该价格的任何一项经确认有所减少，买方有权要求减价。

- 2.3. In case there is a request for price adjustment from the Supplier, the BUYER is entitled to terminate the Order, in case it is not to its satisfaction.

如供应商提出价格调整请求，如若此请求无法令买方满意，买方有权终止订单。

## 3. Supply

### 供应

- 3.1. For the delivery of the products and services, the Supplier shall meet the quality requirements, standards and stipulations set forth in the Order or in a writing documents issued by the BUYER.

有关产品与服务的交付，供应商应遵循订单中所要求的规范或买方发出的书面文件中设定的质量条款中规定的技术标准和/或规范。

3.2. The terms and quantities established in the Order shall be strictly observed by the Supplier.

供应商应严格遵守订单中确定的期限与数量。

3.3. The Supplier undertakes to immediately notify the Buyer once he becomes aware of any delivery which is running late.

供应商必须立即提前告知买方任何其意识到的延迟交付或可能发生的延迟交付。

If the Supplier fails to deliver the Goods on time, even if on the same order part-deliveries have already been made within the agreed deadlines, BUYER may, without prejudice to any damages in compensation for the prejudice caused to BUYER by this delay,

如果供应商未能按时交付货品，即使在经同意的最后期限之前货品已部分交付，买方仍然可以在不影响任何其他违约损害赔偿的前提下，就该延迟交付：

demand compulsory execution of the corresponding delivery, with a penalty of 5% of the order price to be paid by the Supplier at the start of each week of delay, limited to a total of 10% of the pre-tax amount shown on the relevant purchase and/or manufacturing orders or,

要求强制执行相关的货品交付并追索违约金。供应商交货每推迟一周，应相应赔偿买方订单总额 2% 的违约金，赔偿上限为该采购和/或生产订单税前总额的 10%；或者

immediately cancel or nullify the order or the balance of the order, without notice and without payment of any indemnity whatsoever to the Supplier if the delay has lasted for 30 days; the termination or cancellation of the Order shall not prejudice the Buyer's right to require for delay penalty from the Supplier or,

延迟交货超过 30 天，在不经通知的情况下立即取消或终止整个订单或订单的未执行部分，且不对供应商予以任何补偿，订单的终止或取消并不影响买方根据合同约定要求供应商支付延期履行违约金的权利；或

have the order executed by a third party, in which case the Supplier shall immediately reimburse BUYER for all excess costs incurred.

将订单转由第三方执行，在此情况下，供应商应立即补偿买方由此产生的所有超额成本。

3.4. In case of modification of delivery date by BUYER, Supplier must take into consideration the new date mentioned on the order or firm delivery program. In that case and after agreement between both parties, an amendment would be done on the order or delivery program and send by BUYER to the Supplier.

如果由买方做出交货期更改，供应商必须考虑订单或装运计划上的新日期。在此情况下，经双方同意，买方将把修正后的订单或装运计划重新发送给供应商。

3.5. Any advanced delivery will not be accepted without BUYER's agreement.

供应商不得未经买方同意而单方面提前交货。

3.6. The BUYER is ensured the right of rejecting or of returning quantities shipped by the Supplier in excess or out of term, or even of terminating this Order, without prejudice to the right of requesting the Supplier compensate for the respective resulting damages and/or losses.

买方有权拒收或返还供应商运到的超量的或未在约定交货期交付的产品，甚至有权因此终止此订单，且以上权利的行使并不妨碍买方要求供应商赔偿就由此产生的损害和/或损失的权利。

#### 4. Inspection and testing

##### 检查与测试

4.1. Before dispatching the products the Supplier shall carefully inspect and test them for compliance with the specifications in the Order or as notified by the Buyer. The specifications shall be no less than the standard generally applied within the industry, and shall be to the satisfaction of the BUYER in a reasonable manner. The Supplier shall, if requested by the BUYER, give the BUYER reasonable notice of such tests and the BUYER shall be entitled to be represented thereat. Supplier shall also, at the request of BUYER, supply to the BUYER a copy of Supplier's test sheets certified by Supplier to be a true copy.

在发送产品之前，供应商应仔细检查与测试产品，以确保其符合订单约定的或买方通知的技术规范，技术规范应不低于行业通用的标准，且应以合理方式令买方满意。如买方要求，供应商应向买方提供此类测试的合理通知，并且买方有权派代表出席。如买方要求，供应商还应向买方提供经供应商证明为真实副本的测试单副本。

4.2. If it is expressly agreed by the Parties, the BUYER is entitled to inspect and test the products during manufacture, processing, or storage. If BUYER exercises this right, the Supplier shall, at its own cost, provide or shall procure the provision of all such facilities as may reasonable be required by the BUYER therefore.

如双方一致同意，买方有权在产品制造、加工或存储过程中对产品进行检查与测试。如果买方行使此权利，应买方合理要求，供应商应自担费用提供或获得所有此类检测设备。

4.3. If as a result of any inspection or test under items 4.1 or 4.2 of this clause the BUYER is of the reasonable opinion that the products do not comply with the Order, or are unlikely on completion of manufacture or processing so to comply he shall inform the Supplier accordingly in writing and the Supplier shall take such steps as may be necessary to ensure such compliance.

如果作为本条第 4.1 或第 4.2 项所进行的任何检查或测试的结果，买方合理地认为产品与订单不符，或认为产品在生产加工完成后很可能与订单不符，则其应当据此书面告知供应商，且供应商必须采取必要措施以保证产品符合要求。

## 5. Warranty and Liability

### 保证与责任

- 5.1. The Supplier warrants that the products and services shall be produced and delivered strictly under the Order and relevant specifications, in perfect usage conditions and without any defects or failures.

供应商保证产品与服务将严格按照订单及相关技术规范生产与交付，保持完好的使用状态并且无任何瑕疵或故障。

- 5.2. The payment of the price by the BUYER shall not imply an acceptance of the products and services.

买方对价款的支付并不代表其对产品与服务的接受。

- 5.3. The BUYER may at its sole discretion choose to require the Supplier to repair or replace or reject and return the products and services that do not meet the Order and relevant specifications or that present any failures or bad performance.

如果产品与服务不符合订单或相关技术规范，或者出现任何故障或不好的状况，则买方有权根据自身需要选择要求供应商修理、更换或拒绝并退回产品与服务。

- 5.4. The Supplier shall be liable for all expenses and risks arising out of the repair, replace and return of products and/or services. In case these expenses are born by the BUYER, the Parties agree that they will be charged to the Supplier and may be deducted through compensation in any payment to be made by the BUYER to the Supplier.

供应商应承担因产品和/或服务的修理、更换和退回而产生的所有费用和 risk。如果这些费用由买方承担的，则双方同意该费用应由供应商进行补偿，买方可以通过直接扣减买方应向供应商支付的任何一笔费用的方式进行补偿。

- 5.5. In case of late shipment of the products or services, the Supplier shall be liable for all costs resulting from extraordinary arrangements that may be necessary to mitigate the consequences thereof, such as overtime, special freights, use of special products and services, etc.

如果产品运送或服务迟到，供应商必须承担为了减轻因此产生的后果而采取的必要的额外安排而产生的全部费用，如超时工作、特殊货运、特殊产品与服务的使用等。

- 5.6. The Supplier shall be liable for the damages its default causes to the BUYER and shall indemnify the BUYER for damages arising out of losses and impairments to components delivered to it for execution of a repair or warranty, such indemnification comprising the respective cost for replacement, in addition to tax and administrative charges.

供应商应对其违约所造成的买方损失负责，并应补偿买方因其违约而产生的为交付零部件用以修理或保修而产生的损失。除税与管理费用以外，此补偿还应包括更换的相关成本。

- 5.7. In case the BUYER becomes liable before third parties for bad quality of the products and services, it shall have the right of recourse against the Supplier accordingly,

如果买方因产品与服务的质量问题而须对第三方承担责任，则买方有权相应向供应商追索。

5.8. The Supplier shall indemnify and hold BUYER harmless with respect to the costs of property damage, personal injury, recall campaigns and other corrective service actions, as well as the costs associated with shut down of production lines.

供应商应补偿买方与财产损失、人身伤害，召回活动和其他纠正性服务措施，以及因关闭生产线而产生的相关费用，并保证买方不受损害。

5.9. The Supplier will be liable to BUYER for any and all damages incurred by BUYER, including without limitation, direct, incidental, special and consequential damages arising out of any default, breach of contract/Order, breach of warranty or repudiation by the Supplier.

供应商应对买方产生的包括但不限于以下全部损失负责，包括但不限于因供应商的任何违约、违背合同/订单、违背或否认其保证而导致的买方的直接的、偶然的、特殊的与间接的损失。

## 6. Packaging, Transportation and Risks

### 包装、运输与风险

6.1. With respect to international purchase, unless otherwise agreed by the parties, the responsibility for the packaging, packing and transportation expenses shall be based on rules that govern the INCOTERMS 2010.

就国际采购而言，除非双方另有约定，包装与运输成本的责任应依据《2010年国际贸易术语解释通则》的规定。

For the PO with DAP INCOTERM, hereby agreed that the supplier should overtake the transportation insurance, and cover all the risks before the equipment arrived TKECC plant.

对于DAP条款，在此特别约定，供应商需要承担运输保险，并且承担货物到达买方工厂前的所有风险。

6.2. With respect to domestic purchase, unless otherwise agreed by the parties, the responsibility for the packaging, packing and transportation expenses shall be born by the Supplier.

就国内采购而言，除非双方另有约定，包装与运输成本的责任应由供应商承担。

## 7. Property Rights

### 所有权

7.1. Unless otherwise agreed by the parties, the ownership of the products will be transferred to the BUYER upon delivery.

除非双方另有约定，产品的所有权自交付时转让给买方。

7.2. Any and all materials delivered to the Supplier for execution of the Order are the sole property of the BUYER and shall be returned to it after the performance of such Order or upon BUYER's request.

任何及所有为履行订单而交付给供应商的材料均属于买方的财产，并应在订单履行完毕后或在买方要求下退还买方。

## 8. Environment

### 环境

8.1. The Supplier warrants that the supplied products and services will be produced or rendered under the applicable laws, rules and regulations that govern the environment protection.

供应商保证其所供应的产品与服务的生产或实施应符合相关环境保护的适用法律、法规和规章。

## 9. Patents and Trademarks

### 专利与商标

9.1. The Supplier represents it holds all rights in connection with trademarks, patents, drawings or utility models on the products that are the subject-matter hereof and that, consequently, will be liable for all claims filed by third parties.

供应商声明其拥有与产品有关的商标、专利、制图或实用模型的所有合法权利，并对第三方因此提出的所有索赔负责。

9.2. The Supplier shall fully indemnify the BUYER against any action, claim, demand, costs, charges, and expenses arising from or incurred by reason of any infringement or alleged infringement of any letters patent, registered design, trademark, or protected trade name by the use or sale of the products and against all costs and damages the BUYER may incur in any action for such infringement or for which the BUYER may become liable in such action.

供应商应使买方完全免于因使用或销售产品而产生的任何对专利证书、注册图案、商标或受保护的商号的侵权或被声明的侵权而导致的任何行为、主张、要求、费用和控诉，并应全额赔偿买方因任何上述侵权行为而可能产生的费用和损失或买方可能因上述行为承担的责任。

9.3. In the event of any claim being made or action brought against the BUYER arising out of the matters referred to in this clause, the Supplier shall be promptly notified thereof and may at his own expense conduct all negotiations for the settlement of the same, and any litigation that may arise there from.

如果出现本条款中提及的事项而导致买方受到任何索赔或产生任何针对买方的行为，供应商应被立即通知，并可自费进行协商以解决上述问题，并参与任何由此产生的诉讼。

## 10. Documents

### 单证

10.1 The products shall be followed by the documents required by the Order, other written requests from the BUYER and relevant Chinese laws plus the following: (i) Original Commercial Invoice, (ii) Original Packing List and (iii) Original AWB/BL. (if applicable)

产品必须附带按照订单要求、买方的其他书面要求以及中国法律所要求的单证，以及：(i) 原始商业发票，(ii) 原始包装单 (iii) 原始空运提单/海运提单。（如适用）

10.2. BUYER may refuse the products and/or services whose documentation presents irregularities and the Supplier shall be liable for the losses resulting thereof.

如产品和/或服务所配备的单证不齐全，买方有权拒收产品和/或服务，且供应商应对由此产生的损失负责。

## 11. Extra Charges, Taxes

### 额外费用，税收

11.1.No extra charges will be allowed to the Supplier including, without limitation, charges for packing, crating, cartage or storage unless stated herein or mutually agreed by the Parties in writing. Supplier assumes full liability for, and shall pay before delinquency all sales, use, customs, excise or other taxes or government impositions of any kind now or hereafter imposed on the products sold or services rendered hereunder, and Supplier shall indemnify and hold BUYER harmless from any liability and expense thereon.

供应商不得主张任何额外费用，包括但不限于包装、装箱、货车运输或存储费用，除非是在此约定的或双方一致书面同意的。供应商应对如下税费承担全部责任，并且应在产生债务拖欠之前支付，包括销售税、使用税、关税、消费税或其他税收或任何其他政府税收或此后就产品销售或提供服务征收的税收。供应商应对买方进行补偿并且应确保买方不因此类责任与费用受到任何损害。

## 12. Termination

### 终止

12.1. The BUYER may terminate the Order without liability or charges in the following events:

买方在以下事件中有权终止此订单，并且不负担任何责任或费用：

- a) Force majeure events, such as strike, fire, revolutions, suspensions of the manufacturing or assembly services etc, which make it impossible for the BUYER to proceed with its regular production;

不可抗力事件，如罢工、火灾、革命、生产或装配服务的中止等，导致买方可能无法进行正常生产。

- b) Reorganization or bankruptcy of the Supplier, as well as insolvency evidenced by the protest of notes/securities of any nature.

供应商重组或破产，以及由任何性质的票据/有价证券的拒付证书证明的资不抵债。

- c) Supplier violates any of the clauses or conditions contained in the Order, if it gives cause to successive product returns, or upon the occurrence of any of the termination events provided for by law.

供应商违反订单中包含的任何条款或条件，如果继而导致产品召回，或发生任何法律规定的终止事件。

- d) The Supplier requests for price adjustment, which is not to BUYER's satisfaction.

供应商提出价格调整请求，且未令买方满意。

### 13. Inexistence of Links

#### 不存在连结

13.1.The Supplier assumes full liability for any act of its employees, representatives and/or agents, representing, furthermore, that there is no labor relationship between such personnel and the BUYER. Therefore the Supplier will immediately bear and take full responsibility for any labor claim filed by such personnel.

供应商就其雇员、代表和/或代理人、代表人的任何行为承担全部责任，且此类人员与买方之间不存在任何劳动关系。因此供应商应立即全责承担此类人员提出的任何劳动索赔。

### 14. Ethics

#### 道德规范

14.1The Supplier commits itself (i) not to hire child labor or irregular labor of adolescents, (ii) not to use any forced labor, (iii) to respect the freedom of association and freedom of collective bargaining, (iv) not to tolerate harassment or discrimination, (v) to preserve workers' health and safety, (vi) to comply with applicable law regarding working hours and (vii) to pay competitive wages and benefits.

供应商应承诺其(i)不雇佣童工或不合格的青少年劳工，(ii)不进行任何强制性劳动，(iii) 尊重协会的自由与集体谈判的自由，(iv)不能忍受骚扰或歧视，(v)保护工人的健康与安全，(vi)遵守有关工作时间的适用法律与(vii)支付竞争性工资与福利。

### 15. Confidentiality

#### 保密

15.1.Supplier commits itself to keep confidential the information received from BUYER as a result of the Order, including without limitation, existence and content of the Order and the General Purchase Conditions, specifications, technical data, commercial data and others, not disclosing them in any way, under any pretense, otherwise than to its employees that need the information for the performance of the Order, under penalty of being liable for damages, with no prejudice of the criminal responsibility of its legal representatives and employees, if any.

供应商承诺对因为订单而从买方所获得的信息保密，包括但不限于订单及通用采购条件的存在与内容、技术规范、技术数据、商务数据与其他信息等，除了向因履行订单而需要获知信息的供应商雇员披露外，不得用任何借口以任何方式披露该等信息。如有违反，供应商应就其造成的损害接受处罚，且该处罚不影响供应商的法定代表人与其雇员承担相应的刑事责任（如有）。

## 16. Invalidity of Clauses

### 条款的无效

16.1. The invalidity enforceability of one or more clauses of the Order and the General Purchase Conditions shall not involve the invalidity, enforceability or termination of the Order and the General Purchase Conditions as a whole, and the Parties undertake to replace any invalid or ineffective clauses in good faith with other clauses which as far as possible have the same effect.

一条或更多条款的无效不应导致订单及通用采购条件整体的无效、或影响订单及通用采购条件整体的执行力或导致订单及通用采购条件整体的终止，并且双方承诺，在采取替代任何无效条款的措施时，应同其他条款相一致并且尽可能的达到同样的效果。

## 17. Governing Law and Arbitration

### 适用法律与仲裁

17.1. The interpretation and performance of the Order and of all matters related hereto shall be governed by the laws of People's Republic of China. All disputes claims, controversies or differences which may arise between the BUYER and the Supplier out of or in relation to or in connection with the Order or of the breach thereof shall in the first place be amicably settled by and between both Parties. If both Parties fail to amicably settle such dispute within 30 days, the dispute then shall be finally settled in [Shanghai] by arbitration in the [Shanghai Sub-commission] of China International Economic and Trade Arbitration Commission under its rules then effective . The arbitration language shall be [Chinese].

订单的解释与履行以及所有相关事宜都应由中华人民共和国法律管辖。所有买方与供应商之间由于或有关或同订单相联系的或者违反订单而导致的争议主张、争论或分歧，均应由双方首先友好协商解决。如果双方不能在 30 天内友好解决该争议，则该争议最终应提交中国国际经济贸易仲裁委员会[上海分会]并根据其届时有效的仲裁规则在[上海]进行仲裁。仲裁语言为[中文]。

## 18. Language and Counterparts

### 语言和文本

18.1 This General Purchase Conditions are executed in both English and Chinese. If there are any discrepancies between these two languages, Chinese shall prevail. The signed contract on scan copy shall have the same binding legal validity.

本通用采购条件以中英文签署如遇中英文间含义差异，应以中文为准。以扫描件签署的合同文本具有同等法律效力。

## 19. Effective Date

19.1 The General Purchase Conditions shall become effective on the same date the Frame agreement or the Order becomes effective.

本通用采购条件应和框架协议或者订单同日生效。

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以下无正文。

EXECUTION PAGE

签字页

**BUYER: THYSSENKRUPP ENGINE  
COMPONENTS (China) LTD.**

买方：蒂森克虏伯发动机零部件（中国）有限公司

By 由：

Name 姓名：

Title 职务：

Date 日期：

**SUPPLIER:**

供应商：

By 由：

Name 姓名：

Title 职务：

Date 日期：