

GESTRA Steam Systems

Standard Terms of Purchase of GESTRA AG

I. General – Scope of Application

- (1) GESTRA's Standard Terms of Purchase shall apply exclusively to all present and future dealings between GESTRA and the Supplier. GESTRA shall not accept any terms of the Supplier which contravene or are inconsistent with GESTRA's terms unless expressly accepted in writing. GESTRA's Standard Terms of Purchase shall also apply where GESTRA accepts the delivery by the Supplier and knows of contravening or inconsistent terms of delivery.
- (2) All agreements between GESTRA and the Supplier shall be in writing.

II. Tenders – Tender Documents

The Supplier shall be obliged to accept GESTRA's order within two weeks. GESTRA reserves all property and intellectual property rights to illustrations, pictures, drawings, calculations and other documents. These must not be made available to third parties without GESTRA's express written consent. They shall be used exclusively for the production on the basis of GESTRA's order and must be returned without request once the order is completed. They shall be kept confidential towards third parties in terms of Para 9 Section 4.

III. Prices – Terms of Payment

- (1) The price quoted in the order shall be binding. Unless otherwise agreed in writing, the price shall include delivery free at GESTRA's premises inclusive of packaging. Return of packaging shall require a special agreement to this effect.
- (2) Value added tax is not included in the prices.
- (3) Invoices will only be processed if they quote GESTRA's order number; the Supplier shall be liable for non-compliance with this duty unless he proves that he is not responsible.
- (4) The purchase price will be paid, unless otherwise agreed in writing, within 14 days after delivery and receipt of invoice at a discount of 3 percent or net within 30 days of receipt of invoice.
- (5) GESTRA may exercise rights of set-offs and retention as prescribed by law.

IV. Time of Delivery

- (1) The time of delivery quoted in the order shall be binding.
- (2) The Supplier shall be obliged to notify GESTRA without delay when circumstances occur or become apparent that the delivery time agreed upon may not be met.
- (3) GESTRA may avail itself of the legal remedies in case of default. GESTRA shall, in particular, have the right to claim damages instead of delivery or resiliation after expiry of an appropriate period of respite. Where GESTRA claims damages, the Supplier may prove that he is not responsible for the violation of his duties.

V. Transfer of Risk – Documents

- (1) Delivery takes place, unless otherwise agreed in writing, at GESTRA's premises and is not subject to any further charges.
- (2) The Supplier shall be obliged to quote GESTRA's order number on all delivery documents; where the Supplier fails to do so, GESTRA shall not be held responsible for any delays in the processing of the order.

VI. Inspection for Defects – Liability for Defects

- (1) GESTRA shall be obliged to inspect the delivery within an appropriate period of time for eventual defects of quality or quantity. A complaint shall be deemed as having been in time, if intimated to the Supplier within 5 working days from receipt of the goods or from discovery in the event of hidden defects.
- (2) GESTRA may avail itself of the legal remedies in case of defects. GESTRA shall in any event be authorised to request repair or replacement delivery at GESTRA's choice. The right to damages, in particular to damages instead of delivery, is expressly reserved.
- (3) GESTRA shall be authorised to effect repairs at the Supplier's expense where loss is imminent or urgent repair is necessary.
- (4) Liability for defects shall prescribe within 36 months calculated from of transfer of risk.

VII. Product Liability – Indemnity - Insurance

- (1) Where the Supplier is responsible for a product defect he shall be obliged to indemnify GESTRA from claims in damages made by third parties upon first demand, where the cause of the defect lies within his sphere and he is liable towards the third party himself.
- (2) Within the framework of his liability for damage in terms of section (1) the Supplier shall also be obliged to reimburse GESTRA for any expenses according to para 683, 670 BGB as well as according to para 830, 840, 426 BGB which occur in connection with a recall initiated by GESTRA. Terms and scope of a recall shall be – as far as possible and acceptable – communicated to the Supplier in order to give him the opportunity to make observations. Other remedies in law shall remain unaffected.
- (3) The Supplier shall be obliged to maintain a product liability insurance with coverage of ten million Euro per each individual event leading to personal or material damage; exceeding claims and damages of GESTRA shall remain unaffected.

VIII. Intellectual Property Rights

- (1) The Supplier warrants that no third party rights are affected in connection with his delivery in the Federal Republic of Germany.
- (2) Where GESTRA is confronted by third parties in this respect, the Supplier shall be obliged to indemnify GESTRA on first demand. GESTRA shall not be authorised to enter into any agreements, in particular into a settlement with a third party without the consent of the Supplier.
- (3) The Supplier's duty to indemnify shall include all expenses arising out or in connection with a third party demand upon GESTRA.
- (4) The prescription period shall be ten years from the date as from the date of conclusion of the contract.

IX. Reservation of Title – Contribution – Tools - Confidentiality

- (1) Where GESTRA contributes parts to Suppliers, GESTRA reserves its title thereto. Processing and alterations shall be deemed to be on GESTRA's behalf. Where property of GESTRA is processed with other items, GESTRA shall acquire co-ownership in the new item in the proportion to the value of GESTRA's

property (purchase price plus value added tax) to the other items at the time of processing.

- (2) Where contributed goods are inseparably mixed with other goods, GESTRA shall acquire co-ownership in the new property in proportion to the value of GESTRA's property (purchase price plus value added tax) to the other items at the time of processing. Where the mixing leads to the item of the Supplier be regarded as the main item it shall be agreed that the Supplier transfers proportional co-ownership to GESTRA; the Supplier shall in this case hold the property or co-property for GESTRA.
- (3) GESTRA reserves title to property in tools provided by GESTRA. The Supplier shall be obliged to use the tools exclusively for the production of goods ordered by GESTRA. The Supplier shall be obliged to insure GESTRA's tools at his own cost against fire, water and theft at replacement value. At the same time the Supplier shall assign all claims out of this insurance to GESTRA with GESTRA accepting such assignation. The Supplier shall be obliged to maintain, inspect and repair GESTRA's tools in time at his own cost. The Supplier shall be obliged to inform GESTRA of all negative incidents and shall remain liable in damages where he fails to do so.
- (4) The Supplier shall be obliged to keep confidential all drawings, designs, calculations and other documents and information. These may only be disclosed towards third parties with GESTRA's express consent. The duty of confidentiality shall remain after expiry of this contract; this duty shall cease where the know-how has become public domain.
- (5) Where GESTRA's securities according to Section (1) and/or Section (2) exceed the purchase price of all GESTRA's reserved good by more than 10 percent, GESTRA shall be obliged to release securities at GESTRA's choice.

X. Applicable Law, Jurisdiction, Place of Performance, Partial Invalidity

- (1) The Law of the Federal Republic of Germany shall govern the relation between GESTRA and the supplier. The Provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG) are excluded.
- (2) Jurisdiction shall be Bremen. GESTRA shall, however, also be entitled to call upon the Court having its jurisdiction at the Supplier's registered seat or place of business.
- (3) Unless otherwise agreed upon, place of performance shall be Bremen.
- (4) Where any single provision of these terms of purchase is found invalid, the validity of the other provisions shall remain unaffected.

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