

### 1. Scope of application

Unless otherwise agreed in writing, this and all future orders or letters of appointment shall be exclusively governed by these Purchasing Terms and Conditions. STEAG shall not be bound by contrary or additional General Terms and Conditions of the contractor even if STEAG does not expressly object to those Terms and Conditions or accepts delivery of the goods or services without reservations.

### 2. Bids, orders and correspondence

- 2.1 Bids from the contractor are to be submitted free of charge. Remuneration will only be paid for cost estimates if agreed in writing in advance.
- 2.2 The bidder is to follow the specification and wording of the enquiry precisely in his bid. Attention is to be expressly drawn to any deviations.
- 2.3 Supplementary oral agreements to the order or letter of appointment shall only be effective when confirmed by STEAG in writing.
- 2.4 Should insolvency proceedings be initiated against the contractor, STEAG shall be entitled to withdraw from the contract, or, in the case of continuing obligations, to terminate the contractual relationship without notice.
- 2.5 All correspondence from the contractor must state the order number, the date of the order or appointment and the material designation and number allocated and/or advised by STEAG.

### 3. Performance: Quality, subcontractors and works regulations

- 3.1 In the supply of the goods or performance of the services, the contractor is to take all the necessary care which an experienced contractor would take in relation to the specific work and circumstances to avoid any delay (even in parts of the work) and to minimize risks and hazards in relation to property, life and limb and the environment. He is also to ensure that STEAG and third parties do not suffer any additional difficulties in fulfilling their contracts, these being especially, but not limited to, costs or delays, on account of his performance, and is to take all reasonable action to enable operations and workflows at STEAG to be maintained in the usual scope.
- 3.2 The contractor is obliged to provide STEAG with all information which serves the objectives set out in clause 3.1 promptly and, at STEAG's request, to assist actively in the planning and coordination of work when adjustments to the sequence and scope of work are necessary, and to exercise the necessary flexibility in the performance of his order.
- 3.3 Materials for pressure-retaining components shall, if not otherwise specified, be supplied in accordance with VGB Guideline R109, "Material specification for components under pressure in fossil-fired power plants".
- 3.4 The contractor must maintain a verifiable and auditable Quality Management System (e.g. to ISO 9000 ff.) suitable for the goods and services, an Environmental Management System (e.g. to ISO 14001) and an Occupational Health and Safety Management System (e.g. to OHSAS 18000). STEAG shall be entitled to review the system, its application and compliance with it, in quality audits.
- 3.5 To the extent that waste, as defined by the German law on waste, is created by the contractor's supplies or works, he shall recycle or dispose of that waste as stipulated in waste law – subject to any deviating written agreement – at his own cost. Ownership, risk and responsibility under waste law shall be transferred to the contractor at such time as the waste is created.
- 3.6 Involvement of subcontractors for significant parts of the works shall require the prior written consent of STEAG. The contractor is to impose all obligations vis-à-vis STEAG concerning the work he has taken on on the subcontractors and ensure compliance with them.
- 3.7 The contractor is to familiarize himself with the works regulations applicable at the relevant site (e.g. safety regulations) and to comply with them.

### 4. Information and planning documents

- 4.1 All information, including drawings and other documents, which STEAG requires for the storage or further processing, installation, maintenance, testing or repair of the materials supplied, such as information on composition and durability, safety data sheets, instructions on processing and marking specifications, etc., is to be provided to STEAG by the contractor in due time, unbidden and at no charge.
- 4.2 Machinery and technical work equipment which is covered by the Ordinance on the Equipment and Product Safety Act (GPSG) and the Machinery Directive is to be supplied with operating and maintenance instructions, an EC declaration of conformity, CE marking and all other relevant documents required. If a test mark has not been issued, the contractor is to demonstrate compliance with the regulations stated above.
- 4.3 Operating and maintenance instructions for machinery and technical work equipment which is destined for power plants are, unless otherwise agreed, to be supplied in accordance with VGB Guideline R171, "Provision of technical documentation for power plants".
- 4.4 The handling and marking of the materials supplied are to take place strictly in accordance with the applicable provisions of the EC Directive on the marketing and use of dangerous substances and preparations and the national Hazardous Substances Ordinance.
- 4.5 Drawings, designs, etc. produced by the contractor in response to special information from STEAG shall pass into the unrestricted ownership of STEAG without any additional remuneration, irrespectively of whether they remain in the possession of the contractor or not. Contrary statements by the contractor, for instance on documents provided to STEAG, shall not be binding.

### 5. Despatch

- 5.1 Prices shall be carriage paid to consignee, and where applicable including duties, charges, insurance and packaging.
- 5.2 Even when INCOTERMS or phrases such as "ex-works" or similar are used, the contractor shall be obliged to obtain and hand over to STEAG the licences, approvals, certificates of origin, movement and preference, other certificates or other documents necessary for free export, transit and import and for the obtaining of concessions on charges in the European Union. The contractor warrants that these are genuine documents with legal validity.
- 5.3 The contractor is to observe the address for shipment stated in the order or letter of appointment. The relevant tariff, transport and packing regulations for rail, road, sea or air transport are to be complied with.

- 5.4 The transport documents are to state not only the address for shipment but also the order data (order number, date of order, delivery point, and where appropriate the name of the consignee and the material designation and number assigned or advised by STEAG). Where subcontractors are involved, they are to name the contractor as their customer in correspondence and freight documents, always stating the order data.
- 5.5 Unit load devices (1 t and above) are to be clearly and durably marked with the unit weight and the position of the centre of gravity.
- 5.6 The contractor shall only be entitled to make partial deliveries or supply partial services with the consent of STEAG.

## 6. Delivery dates and delays

- 6.1 The delivery date for the goods or services stated by STEAG in the order is binding. The contractor is obliged to inform STEAG immediately if circumstances occur and come to his notice which preclude the stipulated delivery date for the goods or services from being achieved.
- 6.2 The contractor may only claim that delays are due to the absence of documents and information to be supplied by STEAG if he has not received these within a reasonable period after issuing a written reminder.

## 7. Place of performance, inspection and demonstrations of performance

- 7.1 The place of performance for the contractor's goods or services shall be the shipment address or receiving point stated in the order or letter of appointment.
- 7.2 Any contractually stipulated demonstrations of performance and acceptance inspection shall be performed at no cost to STEAG and records of these shall be compiled in writing by both parties.
- 7.3 Incoming inspection of goods by STEAG only covers externally visible (transport) damage and externally visible deviations in identity and quantity. STEAG will notify the contractor of such defects immediately after delivery. For the rest, STEAG will notify the contractor of defects without delay as soon as these have been found in the course of normal business operations.

## 8. Prices, invoices and payments

- 8.1 The price stated in the order or letter of appointment shall be a fixed price.
- 8.2 Invoices must comply with the valid and applicable statutory requirements and contain all details in full so that STEAG can check the legitimacy of the invoice and settle it and claim the deduction of input tax. The invoice is to be submitted without copies and once only (unless STEAG requests the contractor to resubmit the invoice) and separately to the invoice address stated in the order or letter of appointment. Incorrectly submitted invoices will only be considered received by STEAG from the time at which they have been corrected.
- 8.3 The payment period shall begin on the day of receipt of the correct invoice at the invoice address stated in the order or letter of appointment, or on the day of receipt of the defect-free goods, acceptance of the services or acceptance of the documentation if it has been contractually agreed that this should be supplied, if these latter dates are later.

## 9. Claims based on defects, contractor's liability and limitations

- 9.1 The contractor warrants that his goods or services have the individually guaranteed characteristics and the contractually agreed quality, are suitable for the use intended by the contract, are free of impairments to their value and serviceability, are in accordance with the generally accepted rules of good engineering practice and the current legal and official regulations, have been produced with the necessary care and will remain free from defects during the warranty period of, unless otherwise agreed, 24 months.
- 9.2 Should the goods or services not comply with the requirements of clause 9.1 or should they be defective or deficient for other reasons, STEAG may – in addition to the rights and entitlements set down in law – require the contractor to make supplementary performance at no cost to STEAG and without delay and to reimburse STEAG for all expenditure which STEAG has incurred as a result of the supplementary performance. In urgent cases, or when the contractor is in default with supplementary performance, STEAG may rectify the defects immediately itself or have them rectified by third parties at the contractor's cost. If the contractor has issued a guarantee for the quality or durability of the goods or services, STEAG may also pursue claims under that guarantee without it being prejudiced by the action taken to rectify the defects.
- 9.3 The contractor shall be liable for defects of title as provided for by law, and in particular for infringement by the goods or services or by their use as contractually agreed of patents or other property rights of third parties in the agreed destination country. If a third party makes claims on STEAG in this respect, the contractor shall be obliged to indemnify and hold STEAG harmless at first written request from and against all claims (including court costs and legal fees) which STEAG incurs from or in connection with the claim by the third party.
- 9.4 STEAG or third parties appointed by STEAG may perform repairs on the materials supplied even if there are industrial property rights of the contractor.
- 9.5 The legal and/or contractually agreed rights and entitlements in the case of defects of quality and defects of title shall lapse by limitation as stipulated by law.
- 9.6 Apart from the cases of suspension of the period of limitation provided for in law, limitation of rights and entitlements arising from defects shall also be suspended during the time between the notice of defects and rectification of the defects. The limitation period shall start anew for goods or services which have been newly delivered, replaced or repaired in whole or in part.
- 9.7 The contractor's liability shall for the rest be governed exclusively by the provisions of law. If claims are made against STEAG by third parties, the contractor shall be obliged to indemnify and hold STEAG harmless at first written request from and against all claims (including court costs and legal fees) which STEAG incurs from or in connection with the claim by the third party to the extent that the contractor or his supplier has caused and is responsible for the defect giving rise to the liability. STEAG shall not be entitled – without the contractor's consent – to enter into any agreements with the third party to the detriment of the contractor.
- 9.8 STEAG and the legal representatives and employees of STEAG shall only be liable, on whatever legal grounds, for gross negligence, malicious intent or when the obligation infringed is of material importance to the achievement of the purpose of the contract (cardinal duties). In the case of infringement of cardinal duties by simple negligence, STEAG's liability shall be limited to compensation for damages and costs for the damage or loss which is typical of and foreseeable in connection with the contract. This shall not apply to the extent that STEAG is compulsorily liable in cases of fatality, injury or damage to health or for damage to privately used objects.

## 10. Intercompany offsetting and prohibition of assignment

- 10.1 All the companies affiliated with STEAG shall have an entitlement as joint and several creditors to accounts receivable from the contractor which STEAG and the companies affiliated with STEAG acquire. These accounts receivable may consequently be offset against accounts receivable by the contractor from any company affiliated with STEAG. This shall apply accordingly to rights of retention or other objections.
- 10.2 When the accounts owing to STEAG exceed those owing to the contractor, the contractor shall not object to STEAG's decision on how the accounts to be offset are to be handled.
- 10.3 The contractor shall make no assignments outside the scope of application of Section 354a of the German Commercial Code (HGB). Exceptional cases shall only be effective with the written consent of STEAG.

## 11. Insurance

- 11.1 The contractor must maintain third party liability insurance cover with conditions usual in the industry but with a sum insured of at least 2 million euros per claim for the duration of the contractual relationship including the guarantee and limitation periods. The contractor must demonstrate this to STEAG on request; lower sums insured may be agreed with STEAG in individual cases.
- 11.2 All domestic consignments and freight sent directly to STEAG (e.g. deliveries resulting purchase contracts, contracts for work and materials, maintenance orders or orders for custom-built items, but not material deliveries for work contracts which the contractor performs at STEAG's plants) are insured during transport by STEAG. STEAG waives the requirement for liability insurance as set out in ADSp (General German Terms and Conditions for Forwarding Agents), Section 29.1.

## 12. Confidentiality

The contractor undertakes to preserve the confidentiality of all information, knowledge and documents received from STEAG or of which he has become aware in any other manner from STEAG or the companies affiliated to STEAG, e.g. technical and other data, measured values, technology, operating experience, company secrets, know-how, drawings and other documentation (hereinafter referred to as information), not to divulge such information to third parties and only to use it for the purpose of performing the relevant order or appointment. The contractor undertakes to return all physically provided information such as documents, samples, specimens or similar to STEAG thereafter when requested to do so, without retaining any copies or records, and to destroy his own records, compilations and evaluations which contain information without delay on request by STEAG and to confirm this to STEAG in writing. STEAG remains the owner of and holds all industrial property rights to information from STEAG.

## 13. Advertising material

Reference may only be made to the business link with STEAG in information and/or advertising material with the prior, express and written consent of STEAG.

## 14. Compliance

- 14.1 STEAG draws attention to the Code of Conduct applicable to STEAG and companies affiliated to STEAG, which is posted on the internet (<http://www.STEAG.com/compliance.html>). The contractor is expected to observe this Code of Conduct and the codes on "Minimum Standards of the UN Global Compact" and "Core Labour Standards of the International Labour Organization (ILO)".
- 14.2 The contractor is obliged not to take any actions or make any omissions which could lead to him becoming liable to criminal prosecution, and to comply with all laws and regulations concerning him and the business relationship with STEAG. On violation, for example, of the Act to Combat Moonlighting and Illegal Employment, in the case of fraud or breach of trust or crimes against fair competition, granting undue advantages or corruption, STEAG shall, without prejudice to all further claims, have the right to withdraw from or terminate all transactions and contracts with the contractor without notice.

## 15. Compliance with minimum working conditions / Minimum wages / Law on Compliance with Collective Bargaining Rates and Award of Public Contracts (TVgG NRW)

- 15.1 Compliance with labour law provisions / Minimum wages  
The contractor undertakes to comply with all labour law provisions and regulations applicable to the supply of the goods or performance of the services (in particular, but not limited to, applicable minimum working conditions, statutory minimum wages and health and safety regulations).  
In particular and as applicable to the supply of goods or performance of services in the specific case, the contractor undertakes  
(1) for services whose provision is subject to the terms of the Act on the Secondment of Employees, to grant his employees (not counting trainees) performing the work at least the same minimum working conditions including minimum wages as those which are stipulated as mandatory for the relevant work by a collective bargaining agreement which has been declared as generally binding or by an ordinance issued under the terms of Sections 7 or 11 of the Act on the Secondment of Employees. This shall apply accordingly to minimum wages which have been set on the basis of the provisions of the Act on Minimum Working Conditions in the revised version published in the Federal Law Gazette, Part III, No. 802-2 or later version as applicable to the industry concerned;  
(2) for services whose provision is not subject to the terms of the Act on the Secondment of Employees, to pay his employees (not counting trainees) performing the work at least the applicable minimum hourly wage (especially under Section 1, paragraph 2 of the Minimum Wage Act (MiLoG)), provided that the contractor is not a preferred enterprise under the terms of Section 141 sentence 1 and Section 143 of the Ninth Volume of the German Social Security Code (SGB IX);  
(3) where the conditions of more than one of the stipulations set out in (1) and (2) are fulfilled, to apply the stipulation which is most favourable to his employees;  
(4) to ensure that agency workers as defined by the Temporary Employment Act who are performing the work are paid the same as his regular employees for the same work.
- 15.2 Subcontractors  
The contractor undertakes  
(1) to select his subcontractors and temporary employment agencies with care,  
(2) to obligate his subcontractors and temporary employment agencies to likewise comply with the legal regulations on minimum wages and minimum working conditions as set out in clause 15.1, and to check the bids of subcontractors and temporary employment agencies to ascertain whether they could have been calculated on the basis of the applicable minimum wages and minimum working conditions,

(3) to submit the undertakings issued by the subcontractors and temporary employment agencies in accordance with Section 4 TVgG NRW to STEAG,

(4) in the case of contractual terms of more than three years, to require from the subcontractors and temporary employment agencies every three years from conclusion of the contract a separate declaration stating whether the conditions of the undertaking issued in accordance with Section 4 TVgG NRW are still being fulfilled and to submit these declarations for himself and for the subcontractors and temporary employment agencies involved to STEAG,

(5) not to impose any less favourable conditions, in particular with regard to form of payment, on the subcontractors than those agreed between the contractor and STEAG.

15.3 Inspection

The contractor undertakes

(1) to submit payroll documents, the documents on the payment of taxes, levies and contributions as set out in Section 7 TVgG NRW and the contracts concluded by and between the contractor and subcontractors to STEAG during inspections for the purpose of verifying compliance with TVgG NRW,

(2) to inform his employees of the possibility of such inspections,

(3) to grant STEAG a right to obtain information and conduct inspections as set out in Section 11 TVgG NRW when appointing subcontractors and temporary employment agencies,

(4) to maintain complete and auditable documents for verification of compliance with the requirements of Section 4 TVgG NRW and to submit and explain them to STEAG on request and to ensure contractually that the appointed subcontractors and temporary employment agencies and workers comply with those obligations.

15.4 Sanctions

Culpable non-fulfilment of the obligations resulting from this clause 15 or from an undertaking under the terms of Section 4 TVgG NRW by the contractor, his subcontractors and temporary employment agencies and culpable infringements of the contractor's obligations resulting from Section 9, paragraph 1, TVgG NRW shall entitle STEAG to terminate the contract with immediate effect.

The contractor shall indemnify and hold STEAG harmless from any and all losses and claims and actions resulting from or in connection with the culpable non-fulfilment of his obligations under this clause 15. The contractor's obligation to indemnify STEAG from any liability under Section 14 of the Act on the Secondment of Employees and/or under Section 13 MiLoG, as the case may be, shall not be subject to any limitation of liability.

**16. Venue for disputes and applicable law**

16.1 When the contractor is a company, partnership or trader, any disputes between the parties shall be settled before a competent court at the location of STEAG's registered office. STEAG is however also entitled to file actions at the court responsible for the location of the contractor's registered office.

16.2 All legal relationships between the contractor and STEAG shall be governed by the law of the Federal Republic of Germany, excluding the conflict of laws rules of international private law. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.