

- Rico-Werk Eiserlo & Emmrich GmbH, Tempelsweg 12-14, 47918 Tönisvorst, Germany
- Rico Druckluftanlagenbau GmbH, Willicher Str. 22, 47918 Tönisvorst, Germany

### **1. Order basis**

1.1 These Terms and Conditions of Purchase shall apply to all contracts concluded by Rico-Werk Eiserlo & Emmrich GmbH or Rico Druckluftanlagenbau GmbH (hereinafter referred to as Client) with its suppliers (hereinafter referred to as Contractor), to which the provisions on purchase under the German Civil Code (BGB) and the German Commercial Code (HGB) apply. These Terms and Conditions of Purchase shall also apply to all future orders. They shall also apply in addition to special conditions agreed upon in individual cases.

1.2 Deviating or conflicting general terms and conditions / terms of delivery shall not become part of the contract without our approval in writing.

1.3 Only written orders are binding (written form clause). Orders placed orally or by telephone require subsequent written confirmation to be legally valid. The same applies to oral collateral agreements and amendments to the contract. Orders, delivery schedules as well as their changes and additions may, after prior written agreement, also be made by remote data transmission or by machine-readable data carriers. Any change to the written form requirement must be made in writing.

1.4 Offers to the Client must be made free of charge and binding with a minimum binding period of 120 days.

1.5 The Contractor guarantees that all deliveries or services comply with the latest state of the art, the relevant legal provisions and the regulations and guidelines of authorities, professional associations and trade associations. If deviations from these regulations are necessary in individual cases, the Contractor must obtain the written consent of the Client. The Contractor's warranty obligation shall not be limited by this consent. If the Contractor has any objections to the type of execution requested by the Client, the Contractor must notify the Client of these objections in writing without delay.

### **2. Prices**

2.1 The agreed prices are fixed prices and exclude subsequent claims of any kind. The applicable sales tax rate (VAT) shall be charged (currently 19% in Germany).

2.2 Unless otherwise agreed, the shipping and/or packaging costs shall be borne by the Contractor. In the case of pricing ex works or ex sales warehouse of the Contractor, the goods are to be shipped at the lowest cost in each case, unless the Client has prescribed a specific mode of transport. Additional costs due to non-compliance with shipping instructions shall be borne by the Contractor. If the price is "free recipient", the Client can also determine the mode of transport.

### **3. Breach of duty**

3.1 The statutory claims for breach of duty shall apply, unless otherwise or additionally regulated below.

3.2 Delays in performance. The agreed delivery dates must be strictly adhered to. Culpable failure to comply with agreed delivery dates shall, without further reminder, oblige to pay compensation in addition to performance in accordance with § 286 (1) in conjunction with (2) no. 1 and 2 BGB (German Civil Code), §§ 280 ff (§ 280 (2) in conjunction with § 286 in the case of compensation for delay). We expressly reserve the right to make further claims for breach of duty. If the agreed delivery date is not met due to a circumstance for which the Contractor is responsible, the Client is entitled, after the fruitless expiry of a period of grace set by the Client, to demand compensation for non-performance or to obtain a replacement from a third party at no cost to the Client or to withdraw from the contract. Further statutory rights shall remain unaffected. The Contractor must inform the Client immediately in writing, stating reasons, if a delay in performance occurs or may occur. If the delay in performance is due to the fact that necessary information was not provided by the Client or was provided too late, the Contractor may only invoke this if it has sent a written reminder to the Client and has not received the documents within a reasonable period of time.

### **4. Deficiency in service / performance**

4.1 The Client inspects the goods at the place of destination within the scope of the course of business. The receiving inspection is limited to obvious defects. Notices of defects shall be deemed to be on time if they are notified in writing within 5 working days after discovery of the defect. Payments shall not constitute a waiver of the right to complain. The Client accepts objected goods only at the expense and risk of the Contractor and stores them in its name. Storage shall not be deemed to be approval of the delivery.

4.2 In the event of deficiency in service / performance, the Contractor shall also be liable for damages incurred by the Client in the ordinary course of business prior to the processing of the goods due to undetected defects in the delivered goods. In this case, the Contractor shall indemnify the Client against claims for damages by third parties.

### **5. Tools, products, samples, drawings etc.**

5.1 Any tools, moulds, samples, models, profiles, drawings, standard sheets provided by the Client, as well as any items manufactured on the basis thereof, may not be passed on to third parties or used for purposes other than the contractual purposes without the Client's written consent. They shall be stored free of charge, secured against unauthorised inspection or use, maintained and insured against damage and loss. Subject to further rights, Client may demand their return if the Contractor violates the aforementioned obligations.

### **6. Warranty periods**

6.1 The statutory warranty periods shall apply. The warranty period is extended to 10 years if the Contractor has fraudulently concealed a defect (§202 BGB).

### **7. Transport and packaging**

7.1 Transport is carried out without exception at the risk of the Contractor, the risk is transferred upon handover to the Client.

7.2 The goods shall be packed in such a way that damage during transport is avoided.

7.3 Packaging materials shall only be used to the extent necessary to achieve this purpose. Only environmentally friendly packaging materials may be used. The Contractor's obligation to take back packaging shall be governed by the statutory provisions.

### **8. Confidentiality clause**

8.1 The Contractor must treat the conclusion of the contract as confidential and may only refer to business relations with the Client in advertising materials after the Client has consented in writing.

8.2 The Contractor undertakes to treat as business secrets all commercial or technical details which are not public knowledge and which become known to it through the business relations. Subcontractors shall be obligated accordingly.

## **9. Amendment clause and correction effort**

9.1 The Client may demand changes to the delivery item or the agreed performance or capacities even after conclusion of the contract, provided that this is reasonable for the Contractor. In the event of such a contract amendment, the effects on both parties, in particular with regard to additional or reduced costs and delivery dates, shall be taken into account appropriately.

## **10. Framework agreement**

10.1 A framework agreement shall not constitute a purchase obligation for the Client. The planned quantities, services or capacities are only stated for the purpose of preliminary planning and do not contain any obligation on the part of the Client to purchase specific quantities, services or capacities during the term of the contract. The framework agreement shall not constitute an obligation for the Client for a minimum order value or a minimum purchase quantity. The Contractor undertakes to provide the agreed deliveries, services or capacities at the agreed conditions and to be able to deliver on call.

## **11. Invoices**

11.1 Invoices are to be submitted separately and in the proper form to the Client with all associated documents and data after delivery / service has been effected. Upon request, proof of delivery shall be presented to the Client within 48 hours up to 6 months after delivery.

11.2 Incorrectly submitted invoices shall only be deemed to have been received by the Client as of the time of their correctness. An invoice is considered to be correct if it is free of errors for the Client according to the German Commercial Code (HGB) and verifiable, i.e. it must contain at least the order number, as well as the article number and an article description of the Client and, if indicated by the Client on the order, the project number as well as an exact description of services.

## **12. Payments**

12.1 The payment period for invoices begins after delivery and performance and delivery of the agreed certificates and documents and after receipt of a proper, correct and verifiable invoice.

12.2 Insofar as certificates of material tests, factory certificates or similar have been agreed upon, these form an essential part of the delivery and service and are to be sent to the Client together with the invoice.

12.3 Unless otherwise agreed, payments shall be made within 90 days less 3% discount or within 30 days net, calculated after delivery and performance and presentation of a proper, error-free and verifiable invoice.

12.4 In the event of defective delivery and performance, the Client shall be entitled to withhold payment proportionate to the value of the goods and services until proper performance.

12.5 Payments do not constitute recognition of the deliveries and services as being in accordance with the contract.

## **13. Contractual penalty**

13.1 In the event of delay, the Client is entitled to demand 1% per calendar week in relation to the amount of the goods delivered late as a penalty. The total amount of the penalty is limited to a maximum of 5% of the respective total order value of the delayed goods.

13.2 Even if the Client accepts late deliveries from the Contractor, the Client may still demand the penalty.

13.3 The deduction of the penalty for delay shall not release the Contractor from its obligation to deliver and/or perform, nor does it exclude claims for damages exceeding the penalty claim.

13.5 The penalty shall be charged directly to the supplier after the invoice has been issued.

## **14. Retention of title and other security interests**

14.1 As a matter of principle, the Client does not recognise any rights of retention of title and other security rights, regardless of their form, content, effect and scope, and hereby expressly objects to them.

## **15. Technical properties**

15.1 All requirement documents handed over by the Client to the Contractor in the ordering process, such as specifications, data sheets, technical data sheets, etc. shall be deemed to be contractually guaranteed characteristics of the object of delivery and performance.

## **16. Technical documentation**

16.1 Unless otherwise agreed and applicable to the product or service ordered, the Client shall receive free of charge with the delivery:

- binding dimensional drawings and complete technical data,
- Installation, operating and maintenance instructions,
- Spare parts lists and drawings,
- Test reports and works certificates, documentation,
- CE documentation according to EU
- Machinery Directive

## **17. Property rights**

17.1 The Contractor guarantees that all deliveries and services are free of third party industrial property rights and, in particular that patents, licences or other industrial property rights of third parties are not infringed by the delivery and use of the delivery/ service items.

17.2 The Contractor shall indemnify the Client and its customers against claims of third parties arising from any infringement of industrial property rights and shall bear all costs incurred by the Client in this connection.

## **18. Law, place of jurisdiction, place of performance**

18.1 If the Contractor is a registered trader, the local court or the regional court of Krefeld shall be the place of jurisdiction for all disputes including actions on bills of exchange and cheques; however, the Client shall be entitled to sue the Contractor at its place of business.

18.2 Unless expressly agreed otherwise, the place of performance for the delivery obligations shall be the shipping address or place of use requested by the Client; for all other obligations of both parties, the Client's place of business.

18.3 German law shall be deemed agreed.

## **19. Data storage**

19.1 The Contractor acknowledges that due to the concluded contractual relationship the Client stores data of the Contractor (offer, order confirmation etc.) for the purpose of automatic processing. The Client may therefore refrain from a separate notification according to §26 (1) of the Federal Data Protection Act (BDSG).

**20. Severability clause**

20.1 Should individual parts of these provisions be legally invalid, this shall not affect the validity of the remaining provisions. The invalid provision shall be replaced such permissible provision which comes closest to the economic and legal sense according to law and jurisdiction.