

## HERCO Wassertechnik GmbH Terms and Conditions of Purchase

*The English translation is provided for information purposes only. In the event of any discrepancy between the German and the English versions the German version shall prevail.*

1. These terms and conditions of purchase form a constituent part of the order. HERCO will not recognise or acknowledge terms and conditions of supply of the supplier which differ from or conflict with its own unless it expressly consents to this in writing.

2. Unless otherwise agreed, orders placed by HERCO shall be executed subject to fixed prices and shipped free to the stipulated address. The risk of shipping and transport shall be borne by the supplier. Any correspondence shall state the order details.

3. The supplier must confirm orders in writing. If the supplier changes the scope of the order HERCO shall have the right to refuse the shipment and withdraw from the contract. Invoicing shall be based on the quantities, weights and dimensions verified by HERCO after receipt.

4. Invoices shall state the net prices of the goods, stipulating value-added tax and the applicable rate(s). The wording, the sequence of the text and the prices must be the same as on the order. Invoices shall be sent separately from the shipment and shall not arrive before the goods. They must not be attached to shipments. Payments will be made subject to verification and acknowledgement that the order has been executed in accordance with the contract. Unless otherwise agreed in writing, payment will be made within 14 days less 3 % discount or within 30 days less 2 % discount or 90 days net at HERCO's discretion. Such periods begin on receipt of the invoice provided that the obligation to render goods/services has been fulfilled by that date. Where goods/services are not rendered until after the invoice is received, such periods will begin on the date on which goods/services are rendered.

5. The term of delivery begins on the date of order. If the supplier cannot fulfil by the date or within the period agreed, the supplier shall be liable as provided for by statute. This has no effect on any contractual penalty for late delivery which may have been agreed, provided such contractual penalty is consistent with § 340 (2) German Civil Code (Bürgerliches Gesetzbuch). As soon as the supplier realises that it will be unable to render some or all the services/goods by the date/within the period agreed, it shall notify HERCO without undue delay in writing, stating the reasons for and the length of the delay. This has no effect on its liability for losses caused by such default.

6. The Supplier warrants that the goods/services to be supplied do not contain any defects which impair their value or fitness for purpose and that they are consistent with the quality specified or agreed and that they have the attributes promised, conform to generally accepted engineering practice and the most current official regulations, the German Product Safety Act (Produktsicherheitsgesetz), applicable requirements on technical safety and on safety and accident prevention at the workplace. The supplier shall carry out and maintain effective quality assurance and provide HERCO

with evidence of this on request. HERCO may verify the supplier's quality assurance measures at any time. If the services/goods do not conform to the contractually agreed quality, quantity and/or class, HERCO may assert its statutory rights at its discretion. HERCO reserves the right to formally report defects for up to two months from receipt of goods or from discovery of a latent defect, excluding § 377 German Commercial Code (Handelsgesetzbuch). Unless otherwise agreed, the limitation period for asserting claims is two years after HERCO has received the services/goods. Unless otherwise agreed, it ends no more than 2 ½ years after complete delivery of the entire scope of supply of the specific order/contract. The limitation period for goods which are customarily used in a structure is five years from when the materials are incorporated in the structure but no more than 5 ½ years after the materials have been delivered. Where defects have been formally reported, the limitation period will be extended by the period between such formal report and remedy of the defect. If the good supplied is replaced, the limitation period shall start again from zero. Where not all of the good(s) supplied is(are) replaced, this shall apply to the part replaced. If the defect can only be identified by means of analyses, etc., HERCO may charge the supplier all costs of researching the loss if such research shows that the loss is attributable to the supplier. Besides, once the supplier has received HERCO's formal defect report § 203 German Civil Code shall apply. Subsequent performance shall be deemed to have failed after the first failed subsequent performance attempt. The parts which are the subject of a complaint owing to the defect limitation period shall remain at HERCO's disposal until replacement has been provided. In urgent cases, where the supplier has omitted to provide or failed in its attempt at subsequent performance, HERCO may remedy the defects at the supplier's cost. In all other respects, the supplier's liability shall be as provided for by statute. §§ 439 (4), 635 (4) German Civil Code shall not apply.

7. Rights and duties under this order and execution of this order may not be transferred without HERCO'S written consent. Claims which the supplier has against HERCO may not be assigned without HERCO's written consent. Liability for supply and use of the goods/services rendered not infringing third-party patents, licences and property rights shall lie with the supplier. HERCO's order documents and the resultant findings and experience shall be kept strictly confidential.

8. The supplier shall bear the material and labour costs associated with any tests which are to be carried out in respect of the goods/service. The supplier shall notify HERCO that it is ready to carry out test in writing at least one week before shipment and arrange a testing date with HERCO. If the tests have to be repeated or if additional testing is necessary because a testing date is missed or because defects are detected, the supplier shall bear any material and labour costs including administrative costs and other costs incurred by HERCO.

9. The delivery note and packing slip must accompany the shipment. The supplier must pack, label and ship hazardous products in accordance with applicable national/international regulations. Accompanying documentation shall

be issued accordingly. The supplier shall be liable for any losses and for costs resulting from failure to comply with these requirements. It is also responsible for ensuring that its sub-contractors comply with the shipping requirements.

10. HERCO remains the owner of all drawings, directives, copyright in instructions for use and maintenance and other documents which HERCO makes available to the supplier in order to produce the service/good. The supplier may not use or copy them or make them available to third parties for any other purpose. All documents including any copies must be released to HERCO without undue delay on request.

11. HERCO will only process personal information of the supplier in compliance with the German Data Protection Act (Datenschutzgesetz).

12. The place of performance for all goods and services shall be the place of delivery stipulated in the order. The sole place of jurisdiction is the domicile of HERCO Wassertechnik GmbH in 71691 Freiberg, Germany. The contract is governed by German law excluding the United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG).

13. By accepting this contract/order the supplier accepts the above terms and conditions without reserve. HERCO expressly states that it will not accept terms and conditions of sale, payment and/or supply which differ from its own.

Last amended: January 2016