



General Terms and Conditions of Rösler Oberflächentechnik

1. Conclusion of the contract

- 1.1. The customer is bound to his order for four weeks. The sales contract is effective when Rösler has confirmed the order of the customer within four weeks after receipt in writing or has made the delivery within that period.
- 1.2. Rösler offers are subject to change and may be withdrawn by Rösler at any time until such time as the contract is concluded.
- 1.3. If order and order confirmation differ from one another, then the scope of the order confirmation by Rösler is binding if the customer does not object in writing within ten days after receipt of the order confirmation.
- 1.4. Features of the contractual object or the contract performance shall only be assured by Rösler if they are expressly designated as warranted characteristics. Rösler reserves copy and proprietary rights to all contractual documents, such as quotations, cost estimates, drawings and other tender documents. Title to the above contract documents will only be transferred to the customer, if this is agreed in writing. The customer shall return the contract documents to Rösler immediately, if requested to do so by Rösler during the contract negotiations or if a contract is not concluded. The right of the customer to retention or the right to refuse performance in this contract documentation is hereby expressly excluded. The customer is not entitled to pass the entrusted contract documents on to third parties.
- 1.5. If the financial circumstances of the customer deteriorate after conclusion of the contract, Rösler has the right to request from the customer under a time limit of 14 days the provision of security pursuant to §§ 232 et seqq. of the German Civil Code (BGB). If the customer does not comply with this request, Rösler may rescind the contract and claim compensation.

2. Content of the contract

- 2.1. In respect of the content of the contractual relationship between Rösler and the customer, the following are authoritative in the following order:
 - 2.1.1. the written agreements,
 - 2.1.2. the oral agreements, if they are confirmed in writing by Rösler,
 - 2.1.3. the order confirmation by Rösler,
 - 2.1.4. these terms and conditions,
 - 2.1.5. only the law of the Federal Republic of Germany, but with the restriction and supplementation pursuant to para 3) below.
- 2.2. These general terms and conditions of Rösler apply exclusively to the relationship between Rösler and the customer, even if the content (also only partially) of the general terms and conditions of the customer have not been expressly contradicted by Rösler. Terms and conditions of the customer are thus without obligation for Rösler and will only then become substantive matter if they are recognised by Rösler in writing.



These General Terms and Conditions of Rösler shall also apply in particular in the context of the future business relationship between the same parties, even if they have not been explicitly agreed upon.

3. Import and export control:

- 3.1. Relevant provisions of the import and export control for the purposes of this section are specifically (but not exclusively): the Foreign Trade and Payments Act (AWG), the Foreign Trade Regulations (AWVO), the so-called EC Dual-use Regulation (currently Regulation (EC) No 428/2009 of the Council of 05.05.2009), the existing countries and people embargo including the embargo measures to combat terrorism (so-called anti-terrorist lists), the War Weapons Control Act (KrWaffKontrG), and the Act Implementing the Chemical Weapons Convention (CWÜAG), all in the applicable current versions with all annexes, implementing regulations and other supplementary regulations.
- 3.2. In executing the legal transaction and particular if the goods purchased from Rösler are resold, the customer guarantees to note and adhere to all relevant regulations of the import and export control and where appropriate, to obtain all necessary import or export licenses. The customer undertakes to indemnify Rösler from all claims asserted by third parties against Rösler due to its own infringement of the relevant provisions of import and export control and compensate Rösler for the damage resulting from such claims.
- 3.3. The customer undertakes to notify Rösler immediately in a separate letter of any and all known prohibitions or reservations on approval in accordance with the relevant regulations of import and export control concerning the delivery of the goods and facilities to be performed by Rösler.
- 3.4. If the delivery of the ordered goods and facilities is subject to a reservation on approval, the customer undertakes to cooperate to best of its ability in the granting of the permission and in particular, to provide Rösler with all the information and documents required for that purpose.
- 3.5. If the customer violates any of the above provisions and claims are therefore raised against Rösler by third parties or the delivery of the ordered goods is therefore no longer feasible, Rösler is entitled to rescind the contract. The right to assert claims for damages shall remain unaffected thereby.
- 3.6. If Rösler is unable to deliver the ordered goods and facilities as a result of a restriction on exports that comes into force after conclusion of the contract (e.g. due to an embargo or tightening of an embargo), Rösler is entitled to rescind the contract.



4. Delivery dates and deadlines

- 4.1. Delivery and other deadlines specified by Rösler are categorically not binding, unless they are agreed or confirmed in writing as binding (fixed date).
- 4.2. The beginning of the period for the calculation of deadlines and dates is the conclusion of the contract in accordance with the para. 1) above, but in any case not before receipt of all documents necessary for the execution of the service by Rösler which the customer shall provide as stipulated in the contract.
 - 4.2.1. If one of the deadlines which Rösler has designated as binding is exceeded, the customer is obliged to allot Rösler a reasonable grace period for delivery / performance of, at least three weeks duration. If this grace period expires to no avail, the customer may rescind the contract and claim damages. However, an obligation to compensate on the part of Rösler applies only if Rösler or one of its representatives or vicarious agents is guilty of a deliberate or grossly negligent breach of duty or if explicit assurances given by Rösler are not adhered to. The amount of the damages shall be limited to the damage typically accruing to the customer. Irrespective of the above limitation of liability, Rösler shall be liable for any case of injury to life, limb or health in accordance with the mandatory statutory laws of the Federal Republic of Germany.
 - 4.2.2. If Rösler exceeds a non-binding deadline, the customer is required to allot Rösler a reasonable grace period which must be six weeks at the minimum. If that grace period expires to no avail, para. 4.2.1 above shall apply mutatis mutandis.
 - 4.2.3. Default damage suffered by the customer to be compensated by Rösler in accordance with these arrangements shall be limited to a maximum amount of 0.5% for each full week of delay, even in cases of intent and gross negligence, but not exceed 5% of the contractually agreed remuneration or partial remuneration for that portion of the outstanding total delivery
- 4.3. If the failure to meet deadlines or dates by Rösler is due to the fact that suppliers or subcontractors engaged by Rösler, through no fault of Rösler, do not fulfil their performance obligations on time, either party may rescind the contract provided the agreed binding date (fixed date) is exceeded by more than four months. In this case there are no reciprocal claims.
- 4.4. In the case of force majeure, strikes, fire or other hindrances to performance for which Rösler is not to blame, the delivery/performance period for Rösler shall be extended by the duration of the hindrance. However, the customer is entitled to rescind the contract six months after the originally agreed upon period (fixed date). In such case, the customer shall not be entitled to claim for damages, regardless of the legal grounds.
- 4.5. If an agreed delivery or performance date is under threat for which the customer is responsible such as the untimely delivery of material, drawings, plans, sketches or patterns, Rösler may rescind the contract after setting a grace period of two weeks and demand compensation from the customer, in any case minimal damages in the amount of 15% of the contract sum. Rösler reserves the right to request a higher level of compensation upon production of documentary



evidence, the customer is free to provide Rösler with documentary evidence of the origination of lesser or even no damage.

- 4.6. If amendments to the contract are agreed after conclusion of the contract, which affect the agreed delivery date or dates agreed upon, the parties shall agree a new delivery date. Previous appointments shall then no longer be valid.

5. Scope of services

- 5.1. The scope of services is determined by the content of the contract in accordance with para 2) above.
- 5.2. The performance of the service shall expressly take place ex works at Rösler. The customer is obliged to notify Rösler of the exact ship-to address.
- 5.3. Construction and other changes to the performance by Rösler shall be reserved if these changes are reasonable for the customer, especially if they are for technical reasons and do not have an adverse effect on the general customary or contractually agreed use of the service.
- 5.4. Documents submitted by Rösler, such as illustrations, drawings, weights, sizes, dimensions and specifications are to be regarded as approximate as they are not expressly specified as binding by Rösler in writing.
- 5.5. The packaging material shall be withdrawn by Rösler in accordance with legal requirements.
- 5.6. If shipment is carried out using parcels or rail containers, the rent for these containers, as per the rental price list compiled by Rösler, shall be borne by the customer.

6. Shipment of the deliverable

- 6.1. The risk of the deliverable shall pass to the customer once the deliverable has been handed over to the transporter of the goods, even if Rösler transports the deliverable using its own means of transport. This also applies to postage-free deliveries, FOB, CIF or delivery postage-free and pre-installed.
- 6.2. The risk to the deliverable shall also pass to the customer once Rösler has sent the customer a notification of completion requesting it to collect the deliverable and the appropriate time period set by Rösler to collect the deliverable has elapsed to no avail.
- 6.3. The cost of transport of the deliverable shall be borne by the customer, unless Rösler has agreed in writing to assume the costs of transportation.
- 6.4. Rösler is not obliged to insure the deliverable to be shipped against theft, breakage, transport and fire damage, unless Rösler has agreed to do so in writing. In this case, the cost of insurance shall be borne by the customer.



7. Prices and payment terms

- 7.1. The agreed prices are always ex works, excluding packaging; ancillary service is additional. The prices quoted are exclusive of the statutory value-added tax incurred (VAT). This is therefore calculated separately.
- 7.2. The customer shall bear the costs of the packaging of the deliverable, which are calculated by Rösler at cost price.
- 7.3. Unless otherwise agreed, payments shall be made as follows:
 - 7.3.1. For consumables: immediately without deductions, inbound within one week of delivery of the goods and billing,
 - 7.3.2. For machinery and equipment: 30% of the contractual amount after order confirmation, a further 60% after a readiness for dispatch notification; remaining 10% 30 days after delivery and - if agreed - acceptance,
 - 7.3.3. For service and work performance (Eco-Pacs, repairs): immediately without deductions, inbound within one week after the service and billing.
- 7.4. Timely payment is defined in each case as the time of receipt of payment by Rösler.
- 7.5. The price agreed between the parties shall remain valid if the contractual performance occurs within four months after receipt of the order confirmation by Rösler. If this period of four months is exceeded, Rösler reserves the right to make a reasonable price increase if production or material costs increase. In the event of such a price increase, the customer may rescind the contract if the price increase exceeds 10%. The rescission shall be declared by the customer within two weeks of receiving written notice of the price increase. In this case there are no reciprocal claims.
- 7.6. In case of non-compliance with the above terms of payment, the customer shall be in default without further notice. In case of default, the customer shall pay default interest to Rösler at a rate of eight percentage points above the base rate of the ECB Any further loss of interest, which is proved by Rösler, is not excluded. For each reminder Rösler may require a dunning cost fee of € 5.00.
- 7.7. If partial payments are agreed, the entire residual debt of the customer is immediately payable if the customer defaults on payment of an instalment for a period longer than two weeks, suspends its payments or applies for or institutes insolvency proceedings in respect of its assets.
- 7.8. Rösler shall only accept money orders, cheques and bills of exchange by special arrangement and only on account by charging all resulting expenses to the customer.
- 7.9. If the customer is in default of payment, Rösler may rescind the contract without prejudice to the following provisions contained in para. 11), after setting a grace period of 14 days and claim damages.



8. Acceptance

- 8.1. The customer is obliged to accept the goods supplied within 14 days, provided they are delivered immediately. In case of non-acceptance, Rösler grants the customer a grace period of eight days. After expiry of this period Rösler may rescind the contract and claim damages. The setting of a grace period is not required if the customer has previously refused to perform the contract finally and conclusively. With regard to the amount of damages to which is Rösler entitled, paragraph 4.5. above shall apply mutatis mutandis.
- 8.2. In case of non-acceptance of service, Rösler is further entitled to charge demurrage for the storage of goods delivered, which is determined by the claimed storage space (in square meters) on the basis of a price per square meter of € 4.00 for each month.
- 8.3. If, upon acceptance of the goods, the customer finds a quantity deviation or a defect, it shall serve a prompt notice of default in respect of the said quantity deviation or defect to Rösler within eight calendar days at the latest. In order to remedy the quantity deviation or defect, the customer shall give Rösler an appropriate period of at least three weeks. If Rösler lets this period pass to no avail, the customer may rescind the contract and claim damages. The obligation to compensate on the part of Rösler only applies, however, if Rösler or a company representative or a vicarious are guilty of intent or grossly negligent breach of duty or a warranted characteristic was not complied with by Rösler. The above limitation on the obligation to compensate does not apply in the case of injury to life, limb or health: in this case is any flagrant breach of duty including those by representatives or vicarious agents shall incur liability.
- 8.4. If Rösler claims for damages in accordance with the para. 8.1 above for non-acceptance of the service by the customer, then Rösler is entitled to dispose freely of the contractual object, in particular to exploit such contractual object at the expense of the customer by way of a resale of goods in replacement. The proceeds from that sale shall be credited to the customer after deducting the utilization costs.

9. Warranty

- 9.1. Rösler guarantees that the contractual performance shall be in accordance with the agreements and the current state of the art, and is also suitable for the agreed or customary use.
- 9.2. The warranty period is limited to one year (statute of limitations). The warranty period begins with the delivery, acceptance or notification of availability.
- 9.3. In case of defects, the client shall initially only be entitled to supplementary performance by Rösler. With respect to supplementary performance, the customer shall first set Rösler a reasonable period of at least three weeks. If Rösler fails to execute the supplementary performance within this period or if it ultimately fails, which is the case after three unsuccessful attempts to rectify the



defects, the customer may invoke further statutory warranty rights. However, the customer may only claim damages if Rösler, one of its representative or vicarious agents are guilty of intent or gross negligence or if the warranted characteristics are lacking. This limitation on the obligation to compensate shall not apply in the case of injury to life, limb or health.

- 9.4. In case of any obligation to compensate on the part of Rösler, the compensation for damages shall be limited to the damage typically accruing to the customer. Rösler shall therefore not be held liable for remote damages, not even for damages that were not foreseeable by the party and not for damages which the customer could have avoided.
- 9.5. The liability of Rösler is excluded if a defect is due to the fact that the customer or the customer's representative or a vicarious agent of the customer provided defective material, tools, equipment or faulty plans or gave explicit instructions which caused the defect.
- 9.6. If the customer or third parties make changes to the deliverable, any warranty claim against Rösler shall be voided.
- 9.7. Rösler shall be liable towards the customer in respect of default of the contract performance based on supplied parts, to the extent that the upstream supplier or subcontractor is liable towards Rösler. In all other respects, the regulation relating to para. 9.3 above applies.
- 9.8. The warranty period is not extended by the supplementary performance.
- 9.9. Items replaced during supplementary performance shall become the property of Rösler.
- 9.10. The cost of supplementary performance, in particular transportation costs, road expenses and tolls, labour and material costs, shall be borne by Rösler.

10. Liability

- 10.1. Notwithstanding the foregoing agreements, Rösler shall be liable only for damages caused by intent or grossly negligent breach of duty by Rösler, its representatives or its vicarious agents. No liability arises from simple negligence.

Such limitation of liability does not apply to damage that occurred due to injury to life, limb or health. Furthermore, the limitation of liability does not apply if expressly warranted characteristics are not ensured.

- 10.2. Claims of the customer or third parties arising from the provisions of the Product Liability Act remain unaffected.
- 10.3. The customer is obliged to notify Rösler of any damages and losses immediately in writing stating the reason and the amount. If the Customer breaches this obligation, it shall be liable to Rösler for damages.



11. Retention of title

- 11.1.1. Rösler shall reserve ownership of the delivered contractual object until its claims under the concluded contract against the customer are settled. The retention of title also applies to all claims which Rösler is entitled to vis-a-vis the customer in connection with the concluded contract, for example resulting from repairs, additions and / or replacements, ancillary service, etc.
- 11.1.2. If the contractual object is resold by the customer, the customer shall assign to Rösler its claim from the resale in the amount of the claim to which Rösler is entitled with immediate effect. Rösler shall accept this assignment.
- 11.1.3. If the customer is a body corporate organized under public law, a separate estate under public law or a merchant, in which case the contract forms part of a commercial enterprise, the retention of title shall also apply to all claims to which Rösler is entitled vis-a-vis the customer arising from the current business relationship.
- 11.2. As long as the retention of title is in favour of Rösler, the customer may pledge, use as security, rent / lease or otherwise, dispose of the contractual object in any other way in conflict with the interests of Rösler only with the prior written approval of Rösler. This does not affect the right of customers in the ordinary course of business to continue treating the contractual object or to resell it. If the customer does not meet its payment obligations towards Rösler under the contract, Rösler may disclose the above assignment of claims (para. 11.1.2.) and collect the claim of its own accord after having notified the customer accordingly. In such case, Rösler may disclose the extended retention of title pursuant to para. 11.1.3. above and assert consequential claims directly.
- 11.3. The contractual object may only be used by the customer until full payment of the price to Rösler. The passing of the contractual object shall require the prior written consent of Rösler. The customer is obliged to disclose the particular location of the contractual object. In the case of violations of this provision, Rösler is entitled to demand return of the contractual object earlier than the scheduled date; a right of retention on the part the customer is hereby expressly excluded.
- 11.4. If third parties access the contractual object during the period of retention of title, in particular by way of pledging, the customer shall immediately notify Rösler and advise third parties of the right of ownership of Rösler. The customer shall bear all costs accruing to Rösler in the event of access as well as the replacement of the contractual object, insofar as these costs cannot be recovered from third parties.
- 11.5. For the period of retention of title, a loan arrangement is agreed between the parties, on the basis of which the customer is entitled to possession and use of the contractual object as long as it fulfils its obligations under the contract. If the customer fails to meet its obligations towards Rösler, in particular payment obligations, Rösler may request return of the contractual object after the unsuccessful expiry of an appropriate period for supplementary performance set by Rösler for the customer. A right of retention of the customer is hereby



expressly excluded, unless the customer has a right of retention under the contract relating to the contractual object.

- 11.6. If the contractual object delivered by Rösler is combined or mixed pursuant to section 947 et seq. BGB (German Civil Code), Rösler shall be entitled to a share of co-ownership in the uniform item corresponding to the value of its claim under the contract. The parties are already in agreement at his time with respect to the transfer of ownership and further agree that for the duration of the co-ownership of the parties the customer shall retain possession to the share of co-ownership by way of loan. The same applies to the treatment or processing of the contractual object pursuant to section 950 BGB
- 11.7. If the contractual object is combined, mixed or modified by a third party with the consent of the customer within the meaning of the provisions set forth in sections 947 et seq. BGB, and the customer has agreed with the third party to acquire a right of co-ownership, the customer shall transfer its share of ownership to Rösler with immediate effect. The parties already agree at this time to transfer ownership, whereby the customer shall also in such case retain possession to the share of co-ownership by way of loan and provide Rösler with possession thereof pursuant to section 930 BGB.
- 11.8. If the value of the collateral in accordance with the above provisions applicable to Rösler exceeds, due to simple, prolonged or extended retention of title, the total claim of Rösler by more than 20% not just temporarily, Rösler agrees at the request of the customer to release the excessive collateral for the benefit of the customer. The value of the collateral is determined by the practical value of the collateral.

12. Installation of machinery and equipment

- 12.1. Rösler recommends that the customer arranges for the machinery and equipment to be installed by experienced assemblers employed by the company. In addition to travel expenses, freight costs, and tools, Rösler charges cost rates fixed by it under appropriate conditions for the engagement of an assembler.
- 12.2. If the installation or commissioning (acceptance) is delayed due to circumstances that are attributable to the customer, in other words not due to Rösler, the customer shall pay all costs for waiting times (deployment of personnel) and provision of resources.

13. General provisions

- 13.1. The parties hereby agree the written form (see also para. 1 above). This also applies to side agreements and warranties, as well as for subsequent amendments and additions to the contract, unless the parties expressly agree that a verbal agreement should have validity.
- 13.2. The assignment of rights and obligations as well as claims of the customer under the contract concluded to any third party shall require the prior written consent of Rösler. The consent may not, however, be unfairly withheld.

- 13.3. The customer may only set off a claim by Rösler, if the claim set off either has a legal basis or is recognised by Rösler.
- 13.4. The customer may invoke a right of retention or right to refuse performance against Rösler as specified in the preceding provisions only if the claims originate with the same contract. The exercise of a right of retention or right to refuse performance by the customer against Rösler under a different contract is hereby expressly excluded.
- 13.5. The parties agree that the place of performance for the mutual obligations under the contract shall be place of business of Rösler.
- 13.6. Insofar as the customer is a merchant within the meaning of the law, the place of jurisdiction agreed between the parties is, depending on value in dispute the jurisdiction of the District Court of Lichtenfels or the District Court of Coburg, including for actions in connection with checks and bills of exchange. Rösler may at any time claim against the customer in accordance with the general rules on jurisdiction.
- 13.7. The contractual and legal relationship between Rösler and the customer is solely based on the procedural and substantive law of the Federal Republic of Germany. The application of laws of other states is expressly excluded. The application of the UN Convention on Contracts for the International Sale of Goods is excluded. Only the agreements on the import and export control under item 3 above), in accordance with which the further provisions cited therein and generally referred to apply in this context.
- 13.8. If one of the present agreements is or becomes void or invalid, the parties agree that the remaining provisions of these Terms and Conditions shall nonetheless remain valid.

RÖSLER Oberflächentechnik GmbH
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