

General Terms of Manufacturing and Delivery for Roth Composite Machinery GmbH

Bauhofstr. 2, D-35239 Steffenberg
As of 2023

1. Intended use

- 1.1 The following General Terms of Manufacturing and Delivery (hereinafter "Terms") apply for all business relationships between Roth Composite Machinery GmbH (hereinafter "we" or "us") and our customers, particularly for contracts concerning the manufacture and delivery of movable goods (hereinafter "goods").
- 1.2 These Terms apply exclusively. Any deviating, contradictory or supplementary General Terms and Conditions of the customer shall only become integral components of the contract if and insofar as we have expressly consented to their validity in writing. These Terms apply exclusively even if the customer makes reference to his General Terms and Conditions when ordering goods and we do not expressly object to their validity.
- 1.3 Individual agreements (e.g. framework delivery agreements, quality assurance agreements) and arrangements with the customer that are stipulated in our order confirmation take priority over the Terms.
- 1.4 Legally material declarations and notifications from the customer concerning the contract (e.g. setting of grace periods, defect notices, withdrawal or reduction) must take place in writing. Writing in the sense of these Terms includes written and text form (e.g. letter, e-mail, fax). Mandatory statutory form requirements remain unaffected.
- 1.5 These Terms only apply with respect to companies pursuant to sections 310 (1), 14 of the BGB (German Civil Code).
- 1.6 These Terms also apply for all future business with the customer.

2. Conclusion of contract

- 2.1 The customer formulates his requirements for the goods to be manufactured and delivered by us in writing and submits these to us. In particular, the customer specifies the requirements for technical functionality, application environment and further use as well as other requirements concerning the good. On the basis of the performance specification we prepare an offer that reflects the customer's requirements – insofar as these are technically possible and achievable.
- 2.2 Our offers are voluntary and non-binding. Offers submitted by us are considered a request to the customer to place an order. The order for the goods submitted by the customer is then considered a binding contract offer. Unless otherwise stipulated according to the order, we are entitled to accept this contract offer within four (4) weeks after we receive it.
- 2.3 We can declare acceptance either in writing (e.g. through order confirmation) or by delivering the goods to the customer.
- 2.4 Our statements regarding the goods to be manufactured and delivered (e.g. technical characteristics, dimensions, weights, usage values, load ratings etc.) as well as their representations (e.g. drawings and illustrations) in our offer or other contract documents are approximate values and are only binding if we have expressly indicated them as such and/or offered a guarantee. They may vary depending on the specific conditions of use for the goods. Typical deviations due to technical or legal changes as well as the replacement of components with equivalent parts are permitted insofar as the suitability for the intended contractual purpose is not impaired.
- 2.5 We reserve the rights of ownership, copyrights and other intellectual property rights to figures, drawings, calculations and other documents. In order to disclose these documents to third parties, the customer requires our express written consent.

3. Prices and payment conditions

- 3.1 Unless otherwise agreed in the individual case, our current prices apply in each case at the time of contract conclusion, which are state ex works. We reserve the right to change our prices accordingly if cost decreases or cost increases occur after conclusion of the contract. Price increases are conceivable as a result of increased personnel costs, price increases for our preliminary suppliers, disruptions to the supply chain or owing to force majeure. In cases of a considerable price increase, the customer is entitled to terminate the contract in writing within two (2) weeks after notification of the price increase.
- 3.2 Our prices are listed excluding the applicable VAT. These are calculated additionally in the legal amount on the invoicing date and indicated separately in the invoice.
- 3.3 The deduction of discounts requires a separate written agreement.
- 3.4 The price of the goods becomes due for payment within 14 days after invoicing and delivery or acceptance of the goods. We are entitled at any time however, even during the course of an ongoing business relationship, to demand partial payments for individual (partial) services and to make the manufacture and/or delivery of goods conditional on full settlement of these (partial) claims. We will declare a corresponding reservation with the order confirmation at the latest.
- 3.5 Upon expiry of the agreed payment deadline, the customer enters into default. The affected amount accrues interest during default at the relevant applicable statutory default interest rate. We reserve the right to assert claims to more extensive damages owing to default.
- 3.6 The customer is only entitled to rights of offsetting or retention insofar as the relevant counterclaim is uncontested or has been established by a final legal decision. In the event of defects in delivery, the customer's opposing rights remain unaffected, in particular clause 6.6 sentence 2 of these Terms.
- 3.7 If it becomes evident after concluding the contract (e.g. due to an application for initiating insolvency proceedings) that the claim to the price is endangered due to the customer's lack of ability to pay, we are entitled according to the statutory regulations to refuse payment and – potentially after setting a grace period – to withdrawal from the contract.
- 3.8 We are also entitled only to carry out or perform the manufacture and/or delivery of goods in exchange for advance payment or the provision of a security if we become aware of circumstances after concluding the contract which are capable of significantly reducing the customer's creditworthiness and which endanger the settlement of the outstanding claims arising from this contractual relationship.

4. Delivery period and delivery default

- 4.1 The delivery period is agreed individually or stated by us for indicative purposes when accepting the order. Delivery periods only begin after all commercial and technical details have been resolved.
- 4.2 If we are unable to comply with binding delivery period for reasons outside our responsibility (hereinafter referred to as "non-availability of service"), we will inform the customer of this promptly and communicate the expected new delivery period at the same time. If the service is also unavailable within the new delivery period, we are entitled to partially or fully withdraw from the contract. We will reimburse any payments already made by the customer without undue delay. Non-availability of service may occur for example if the delivery of supplies from our suppliers is delayed, if we have concluded a congruent hedging transaction or in the event of other disruptions in the supply chain, such as force majeure.
- 4.3 The start of our default in delivery is determined by the statutory regulations. In any case, however, a reminder must be issued by the customer.
- 4.4 The customer's rights pursuant to clause 7 of these Terms and our statutory rights, particularly to an exclusion of the performance obligation (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), remain unaffected.

5. Delivery, transfer of risk, receipt of delivery and default of acceptance

- 5.1 Based on the performance specification in the offer, we prepare a design sketch. The design sketch contains the technical functionalities of the product, its dimensions, usage values and other characteristics. The customer reviews the design sketch and informs us in writing within two (2) weeks whether there is a need for changes or adjustments; otherwise, the customer issues approval for production. Approval for production of the goods is considered to be issued if the customer does not object to the design sketch in writing within two (2) weeks.
- 5.2 Production is followed by a visual inspection of the goods in our factory ("preliminary acceptance"). During preliminary acceptance, we check together with the customer whether the manufactured goods correspond to the technical specifications and coordinate the details for delivery.
- 5.3 Unless otherwise agreed, delivery is carried out ex works, whereby this is also the place of fulfilment for manufacture and delivery and any subsequent performance. At the request and cost of the customer, the goods can be shipped to a different destination (hereinafter referred to as "mail order purchase"). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular the transport company, shipment route, packaging) ourselves.
- 5.4 If delivery of the goods is intended for a state outside the European Economic Area as well as Switzerland, we will undertake the necessary measures for obtaining the export authorisation, where agreed; the customer will supply us with necessary documents and information from his sphere of influence. We cannot guarantee that the goods are allowed to be exported; the risk of an export or import ban lies with the customer. This applies regardless of whether an import ban already existed upon conclusion of contract or occurs subsequently. Any costs, customs or duties which are incurred in connection with the export of the goods will be paid by the customer unless an agreement was made otherwise. If third parties assert claims against us due to the lack or inaccuracy of export authorisations and/or the necessary approvals and other required documents for transport via third countries or importation into the state of use, the customer commits to releasing us from all such claims and to reimburse us for the necessary expenses that we incur.
- 5.5 Unless otherwise agreed, the following applies: The risk of accidental destruction and accidental deterioration of the goods is transferred to the customer upon acceptance, however for mail order purchase the customer bears the risk of loss or damage to the goods starting from the handover of the goods to the carrier, the freight forwarder or other person or institution specified by us for carrying out the shipment, until the acceptance of the goods.
- 5.6 Acceptance occurs according to the requirements and deadlines agreed between the parties (generally in the offer). If such requirements have not been agreed, the customer must inspect the goods promptly, no later than within 14 calendar days after notification of readiness for acceptance, and declare acceptance as long as no material defects are identified in the goods. The identification of defects is determined by the performance specification in the offer. The customer prepares a written certificate for acceptance and submits a copy to us. The goods are deemed as accepted in any case if (i) the customer uses the goods for purposes other than carrying out the acceptance process; or (ii) the customer does not refuse acceptance within 14 calendar days after notification of readiness for acceptance, indicating material defects. Apart from this, acceptance will be deemed to have taken place if the customer is in default of acceptance.
- 5.7 If the customer enters into default of acceptance, fails to provide assistance or delays our delivery for other reasons for which the customer is responsible, the risk of accidental destruction and accidental deterioration of the goods is transferred to the customer at the time when the customer entered into default of acceptance.
- 5.8 If the prerequisites of clause 5.7 of these Terms are met, we are entitled to demand compensation for resulting damages, including extra expenses (e.g. storage costs). For this, we calculate a lump-sum compensation in the amount of 0.5% of the net price of the affected goods per commenced calendar week, up to a maximum total of 5% (or 10% in the event of final non-acceptance), starting with the delivery deadline or – if no delivery deadline was specified – with the notification that the goods were ready for dispatch. The right to demonstrate greater damages and our statutory claims (in particular reimbursement for extra expenses, appropriate compensation, termination) remain unaffected. However, this lump sum is to be offset against more extensive monetary claims. The customer reserves the right to demonstrate that no damages were incurred for us, or that the damages were significantly smaller than the abovementioned lump sum.

6. Defect claims of the customer

- 6.1 For the customer's rights in the event of material and legal defects (including incorrect and insufficient delivery as well as improper installation/assembly or faulty instructions), the statutory provisions shall apply unless other stipulations are made in the following.
- 6.2 The basis of our defect liability is solely the agreement reached with the customer concerning the quality and the required use of the goods (including accessories and instructions). Quality agreements in this context refer to all specifications made by us in the offer and in the documents concerning the goods that were referenced in the offer (e.g. regarding the nature, quality and functionality of the goods). Insofar as the quality was not agreed upon, an assessment must be made based on the statutory regulations as to whether or not a defect exists.
- 6.3 For goods with digital elements or other kinds of digital content, we are only responsible for providing and updating the digital content insofar as this is expressly required by a quality agreement pursuant to clause 6.2 of these Terms.
- 6.4 Insofar as acceptance is not agreed or not required based on the composition of the goods, the delivered goods must be inspected promptly by the customer after their delivery. In these cases, the customer's defect claims presuppose that the customer has fulfilled his legal inspection and reporting obligations (sections 377, 381 HGB). For goods intended for installation or other further processing, an inspection must be carried out in any case directly before processing. If a defect is detected upon delivery, inspection or at any later time, we must be notified of this immediately in writing. In any case, evident defects must be reported in writing within five (5) working days after delivery, and defects that are not detected during inspection must be reported within the same period after their discovery. If the customer fails to carry out a proper inspection and/or notification of defects, our liability is excluded for defects that were not reported, or that were reported in an untimely or improper manner. Furthermore, we are not liable for defects of which the customer is aware upon conclusion of contract, or where the customer's lack of awareness results from gross negligence.
- 6.5 If there is a defect in the delivered goods, we are entitled to choose the form of subsequent performance either by rectifying the defect (hereinafter referred to as "rectification") or by delivering new faultless goods (hereinafter referred to as "replacement delivery"). If the form we have chosen for subsequent performance is unreasonable for the customer in the individual case, the customer may reject this choice. Our right to refuse subsequent performance subject to the statutory prerequisites remains unaffected.
- 6.6 We are entitled to make any subsequent performance obligations conditional on the customer's payment of the due price of the goods. However, the customer is entitled to retain an appropriate share of the price in proportion to the defect.
- 6.7 The customer must allow us the necessary time and opportunity to fulfil the subsequent performance obligations, in particular to hand over the rejected goods for inspection purposes. In the case of replacement delivery, the customer must return the defective goods to us at our request according to the statutory regulations; however, the customer has no right to restitution. Subsequent performance does not include either the dismantling, removal or deinstallation of the defective goods, nor the assembly, attachment or installation of faultless goods if we were not originally obligated to provide these services.
- 6.8 We will pay or reimburse the expenses required for the purpose of inspection and subsequent performance, in particular costs for transport, travel, work and materials as well as removal and installation costs according to the statutory regulations and these Terms if a defect actually exists. In the event of unjustified defect notices, we are entitled to demand reimbursement from the customer for our incurred costs.
- 6.9 If an appropriate deadline set by the customer for subsequent performance has lapsed unsuccessfully, or if such a deadline is not required according to the statutory, or if subsequent performance fails definitively, the customer may withdraw from the agreement or reduce the agreed price according to the statutory regulations. However, there is no right of withdrawal in the case of immaterial defects. The parties agree that the goods are complex technical products for which multiple rectification attempts may be required.
- 6.10 The customer's claims to compensation for damages or reimbursement for futile expenses only exist, even for defects, according to clause 7 of these Terms, and are otherwise excluded.
- 6.11 Claims due to material and legal defects in the goods become time-barred one (1) year after delivery of the goods. If acceptance has been agreed upon, the period of limitation shall begin upon acceptance. Other contractual and non-contractual damage claims of the customer that are based on a defect in the goods also become time-barred one (1) year after delivery of the goods, or – insofar as acceptance is agreed upon – after acceptance, unless the application of the regular statutory limitation period (sections 195, 199 BGB) would lead to a shorter limitation period in the individual case.

7. Joint and several liability

- 7.1 Unless otherwise specified by these Terms including the following provisions, we are liable for breaches of contractual and non-contractual duties according to the statutory regulations.
- 7.2 We are liable to pay compensation for damages – regardless of the legal reason – within the scope of statutory liability based on fault for cases of wilful intent and gross negligence. We are only liable for simple negligence, subject to statutory limitations of liability (e.g. due diligence in own affairs; minor breaches of duty)
 - 7.2.1 for damages due to injury of life, body or health,
 - 7.2.2 for damages due to breach of a cardinal contractual duty (a duty which must be fulfilled to enable proper performance of the contract and for which the contracting partner regularly relies and is entitled to rely on compliance); in this case, however, our liability is limited to compensation for foreseeable damages that typically occur in this type of contract.

In cases of clause 7.2.2, our liability in any case is limited to the amount of the agreed price (excluding VAT) for the goods in question.

- 7.3 The limitations of liability resulting from clause 7.2 of these Terms also apply with respect to third parties as well as for breaches of duty by persons (even for their benefit) whose fault we are responsible for according to the statutory regulations. They do not apply if a defect was maliciously concealed or a guarantee was provided for the quality for the goods, nor for the customer's claims in accordance with product liability law.
- 7.4 The customer may only withdraw or terminate due to a breach of duty that is not attributable to a defect if we are responsible for the breach of duty. Apart from this, the statutory requirements and legal consequences apply with the restrictions in clause 7 of these Terms.
- 7.5 Damage claims of the customer as defined by clause 7.2 sentence 1 and 7.2.1 of these Terms and according to product liability law exclusively become time-barred according to the statutory periods of limitation.

8. Reservation of title

- 8.1 Until the full payment of all our current and future claims arising from the agreement and an ongoing business relationship (hereinafter referred to as "secured claims"), we reserve ownership of the delivered goods.
- 8.2 The goods subject to reservation of title may neither be pledged to third parties nor transferred as a security before the full payment of the secured claims. The customer must notify us in writing without undue delay if an application to initiate insolvency proceedings is filed or if third parties exercise rights over the goods belonging to us (e.g. seizure).
- 8.3 In case the customer acts in breach of contract, particularly through failure to pay the due price, we are entitled according to the statutory regulations to withdraw from the contract and/or demand the return of the goods based on our reservation of title. The request to surrender the goods does not automatically involve a declaration of withdrawal; instead, we are entitled to solely demand the return of the goods and reserve the right of withdrawal. If the customer fails to pay the due amount, we can only assert these rights if we have previously set an appropriate grace period for the customer to make payment, or if setting such a grace period is not required according to the statutory regulations.
- 8.4 The customer is obliged to handle the goods with care. In particular, the customer is obliged, at his own cost, to insure the goods adequately at their new value against fire, water and theft damages. Insofar as maintenance and inspection work are required, the customer must carry these out at his own cost in a timely fashion.
- 8.5 The customer is authorised, until this is revoked according to clause 8.5.3 of these Terms, to further sell and/or process the goods subject to reservation of title during the ordinary course of business. In this case, the following provisions apply additionally.
 - 8.5.1 The reservation of title extends to the products generated by processing, mixing or combining our goods in their full value, whereby we are considered the manufacturer. If third-party property rights continue to apply after processing, mixing or combining with third-party goods, we acquire co-ownership proportionally to the invoice values of the processed, mixed or combined goods. Apart from this, the same applies for the generated product as for the goods delivered subject to reservation of title.
 - 8.5.2 By way of security, the customer hereby transfers to us all claims against third parties established by the further sale of the goods or the product in their entirety, or in the amount of our co-ownership share according to the above clause 8.5.1 of these Terms. We hereby accept this transfer. The obligations of the customer outlined in clause 8.2 of these Terms also apply with regard to the transferred claims.
 - 8.5.3 In addition to us, the customer remains empowered to collect the claim. We commit to not collect the claim as long as the customer fulfils his payment obligations to us, there is no deficiency of his capacity and we do not assert the reservation of title by exerting one of our rights pursuant to clause 8.3 of these Terms. If this is the case, however, we may request the customer to inform us of the transferred claims and their debtors, to make all required statements for collection, to hand over the accompanying document and to inform the debtors (third parties) regarding the transfer. Furthermore, in this case we are entitled to revoke the customer's other to further sell and process the goods subject to reservation of title.
 - 8.5.4 We commit to releasing the securities granted to us at the customer's request insofar as the realisable value of our securities exceeds the secured claims by more than 10%; we are responsible for selecting the securities to be released.

9. Choice of law and place of jurisdiction

- 9.1 These Terms and the contractual relationship between us and the customer are subject to the laws of the Federal Republic of Germany, without giving effect to the principles of conflict of laws and to the exclusion of the United Nations Convention on Contracts for the International Sale Of Goods (CISG).
- 9.2 The exclusive place of jurisdiction for all disputes resulting from and in connection with the contractual relationship is Marburg/Lahn. However, we are also entitled in all cases to file suit at the customer's general place of jurisdiction. Higher-priority statutory regulations, particularly regarding exclusive responsibilities, remain unaffected.