

Terms and Conditions Rösler Benelux B.V.

- 1. General**
 - 1.1. In these Conditions the following definitions shall apply:
Rösler: the private company with limited liability Rösler Benelux B.V., with its registered office in Oss
Client: the person who has accepted the validity of these Terms and Conditions
Agreement: the agreements between Rösler and the Client based on which Rösler will supply goods and/or services to the Client.
In writing: if these Terms and Conditions refer to communications that must be made in writing, an e-mail notification is included.
Conditions: These Terms and Conditions
 - 1.2. These conditions apply to each quotation and/or Agreement between Rösler and the Client. In addition, these Conditions also apply to every future quotation and/or Agreement: even if these are not explicitly agreed upon.
 - 1.3. Rösler rejects the applicability of any (purchasing) conditions of the Client. Only with Rösler's written consent to the (purchasing) conditions of the Client these are applicable.
 - 1.4. If Rösler does not always require strict compliance with these Conditions, this does not mean that the provisions of these Conditions do not apply or that Rösler loses the right to require strict compliance with the provisions of these Conditions in other cases.
 - 1.5. Insofar as agreements deviate from each other and/or are contradictory, the following order will be decisive for the content of the Agreement between Rösler and the Client:
 - 1.5.1 The Agreements in Writing (including oral agreements confirmed in writing by Rösler)
 - 1.5.2 Rösler's order confirmation
 - 1.5.3 These conditions
 - 1.6. If one of the provisions in these Conditions should prove to be void or invalid, the remaining provisions of these Conditions shall remain in force. Parties shall agree on a provision that best meets the purport and intent of the void / invalid provision.
 - 1.7. The Dutch text of the conditions shall prevail for its interpretation.
- 2. Quotations and Agreement**
 - 2.1. Quotations made by Rösler are non-binding, unless a term for acceptance is included herein. Rösler shall never be obliged to comply with a quotation if the Client can reasonably understand that the quotation—or any part thereof—contains an apparent error or spelling mistake.
 - 2.2. If Rösler makes a quotation, Rösler shall not be obliged to comply with part of the Agreement at a corresponding part of the quoted price. Quotations do not automatically apply to future orders.
 - 2.3. If the Client places an order, he shall be bound by this order for four weeks. An Agreement is established as soon as Rösler has confirmed the order in writing within four weeks after having placed the order or has carried out the delivery within the said period.
 - 2.4. If the order and the order confirmation do not correspond, Rösler's order confirmation shall be binding for the scope of the services if the Client does not submit a complain in writing within ten days after receiving the order confirmation.
- 3. Import and export**
 - 3.1. The Client is responsible for all required import and/or export work permits and complies with all relevant regulations for import and export, so that Rösler can and may execute the Agreement. Relevant regulations may include but are not limited to, the so-called European Dual-Use Regulation (Regulation (EC) No. 428/2009) and the Dutch Weapons and Ammunition act.
 - 3.2. The Client shall inform Rösler in writing of regulations relevant for the delivery that apply to import and/or export controls or approval requirements.
 - 3.3. If the delivery is subject to a conditional approval, the Client shall grant its full cooperation and make every effort to obtain the approval. The Client shall send Rösler all necessary information and documents.
 - 3.4. If the Client violates the aforementioned provisions and as a result Rösler is held liable by a third party or if a delivery is not possible, Rösler shall be entitled to terminate the Agreement. The Client shall compensate Rösler for any damage suffered by Rösler as a result of the breach of the aforementioned provisions and/or the termination of the Agreement.
 - 3.5. If after the conclusion of an Agreement, delivery by Rösler becomes impossible as a result of an import or export restriction (e.g. because of an embargo or tightening of an embargo), Rösler shall be entitled to terminate the Agreement.
- 4. Delivery times and deadlines**
 - 4.1. Rösler does not have to start with the performance OR execution of the Agreement before it has received all the necessary documents from the Client.
 - 4.2. If the time of an agreed delivery or performance might be jeopardized to come due to the fault of the Client such as for example not providing material, drawings, plans, sketches or samples on time, after an additional period of two weeks Rösler has the right to dissolve OR terminate the Agreement and to claim compensation from the Client of at least 15% of the contract value. Rösler reserves the right to recover the actual damage suffered from the Client.
 - 4.3. If changes of OR to the Agreement have been agreed upon after the conclusion of the Agreement, which affect the agreed delivery period or agreed agreements, the Parties shall agree on a new delivery period. The previously agreed terms are no longer valid in this case.
 - 4.4. Is a period has been agreed or specified for the completion of certain work or for the delivery of certain goods, this shall be no final deadline for Rösler, even if Rösler has accepted a period as binding.
 - 4.5. The following applies if a term is exceeded by Rösler:
 - 4.5.1 If Rösler exceeds a term that has been accepted as binding, the Client will set an additional term for the execution of the Agreement of at least 15 business days. If Rösler has failed to comply with Agreement after the expiry of this period, the Client has the right to terminate the Agreement. Rösler shall only be obliged to pay compensation if there is intent or gross negligence on the part of Rösler.
 - 4.5.2 If Rösler fails to meet a non-binding deadline, the Client shall set an additional period for Rösler for the performance of the Agreement of at least 30 business days. If Rösler still fails to comply with Agreement after the expiry of this period, the Client has the right to terminate the Agreement. Rösler shall only be obliged to pay compensation if there is intent or gross negligence on the part of Rösler.
 - 4.6. In case of force majeure, strike, fire or other obstructions to the performance, the delivery/performance period will be extended for Rösler in accordance with the duration of the obstruction. However, the Client is entitled to terminate the Agreement unilaterally six months after the originally agreed term (fixed term). In this case, Rösler shall not be obliged to compensate the Client for any damage.
- 5. Implementation of the Agreement**
 - 5.1. Rösler shall have the right to change the design and other matters, if the changes have a technical cause and do not affect the normal or the contractually agreed usage.
 - 5.2. The documents provided by Rösler such as images, drawings, weights, dimensions and technical data are to be regarded as approximate unless explicitly declared binding by Rösler in writing.
 - 5.3. Features of goods or services to be delivered are only guaranteed if they are explicitly earmarked by Rösler as guaranteed properties.
- 6. Delivery / Transfer of risk**
 - 6.1. Delivery of goods shall take place factory by Rösler. The risk of loss, damage or depreciation of the goods to be delivered shall pass to the Client, as soon as the goods have been handed over to the carrier, also if Rösler transports the goods to be delivered by its own means of transportation.
 - 6.2. The risk of loss, damage or depreciation of the goods to be delivered shall pass to the Client, as soon as Rösler has sent a notice of completion with the request to collect the goods to be delivered and the (reasonable) period set by Rösler for the collection of the goods to be delivered has expired.
 - 6.3. The packaging material shall be taken back by Rösler in accordance with the statutory provisions.
 - 6.4. If the goods are sent in crates or railway containers, the rental of this material will be charged to the Client charged in accordance with Rösler's rental price list.
 - 6.5. Rösler is not obliged to insure the goods to be shipped against theft, breakage, transport or fire damage unless Rösler declares in writing to do so. In this case, the insurance costs shall be borne by the Client.
- 7. Prices and terms of payment**
 - 7.1. The agreed prices are exclusive of shipping costs, excluding packaging, excluding VAT and other government levies and any other costs incurred in connection with the Agreement (such as travel, accommodation costs). The Agreement may deviate from this principle in writing.
 - 7.2. Unless agreed otherwise in writing, payments must be made as follows:
 - 7.2.1 For processing equipment: 30 days after delivery of the goods and invoicing.
 - 7.2.2 For machinery and materials: 30 % of the agreed price after the order confirmation; then 60 % as soon as ready for shipment; the remaining 10 % 30 days after delivery and – if agreed—acceptance.
 - 7.2.3 For services and performances (service, repairs): 30 days upon completion of the performance and invoicing.
- 7.3. The between parties agreed price remains effective if the corresponding performance is delivered by Rösler within four months after receiving the order confirmation. If this period of four months is exceeded, Rösler reserves the right to charge a reasonable price increase in the event of production or material costs. In the event of such a price increase, the Client can only terminate the Agreement if the price increase exceeds 10 %. The Client can only terminate the Agreement by written notification within two weeks after the price increase by the Client.
 - 7.4. Even without further notice, the Client is in default if the aforementioned payment agreements are not complied with. The Client will then owe interest of 1% per month, unless the statutory commercial interest rate (Article 6:119a of the Dutch Civil Code) is higher. The interest on the amount due and payable shall be calculated from the moment that the Client is in default until the moment of payment of the full amount due.
 - 7.5. The Client may not offset the amount due to Rösler against a (if any) claim on Rösler. Objections against (the amount of) do not suspend the Client's payment obligation.
- 8. Acceptance**
 - 8.1. The Client is obliged to immediately accept the ordered goods within 14 days after delivery. In case of non-acceptance, Rösler shall grant the Client an additional term of eight calendar days. After the expiry of this term without result, Rösler may unilaterally terminate the Agreement and demand compensation. Setting an additional term is not required if the Client has definitively and irrevocably refused to comply with the agreement prior to compliance. The statutory principles apply with regard to the amount of compensation to be claimed by Rösler.
 - 8.2. In the event of non-acceptance of the performance, Rösler is also entitled to charge the storage of the goods to be delivered, based on the storage space used (in square meters) based on a square meter price of € 4.00 per month.
 - 8.3. If the Client establishes a deviation from the quantity or a defect upon acceptance of the goods, he must notify Rösler of this deviation in writing within eight calendar days. In order to resolve the deviation in the quantity or the defect, the Client shall grant Rösler a reasonable period of at least three weeks. If Rösler allows this period to expire without result, the Client may unilaterally (partly) terminate the Agreement and demand compensation, in accordance with the provisions of Article 11.
 - 8.4. If Rösler claims compensation for damages on the basis of Article 8.1 due to non-acceptance of the performance by the Clients, Rösler shall be entitled to freely dispose of the performance to be delivered and in particular to sell the performance to a third party through replacement sale at the expense of the Client. The proceeds of this replacement sale shall be credited to the Client after deducting the costs of the sale.
- 9. Setting up machinery and equipment**
 - 9.1. Rösler advises the Client on setting the machinery and equipment and hires technicians to this effect. For the deployment of a technician, in addition to travel expenses, Rösler shall charge freight costs, tools and the cost items specified in the relevant Rösler terms and conditions.
 - 9.2. If the setting up or commissioning (acceptance) is delayed due to circumstances that lie within the sphere of influence of the Client and are therefore beyond Rösler's control, all costs for waiting times (deployment of personnel) and the availability of company resources shall be borne by the Client.
- 10. Warranty**
 - 10.1. Rösler guarantees that the agreed performance is carried out in accordance with the current level of technology and moreover, is also suitable for the agreed or normal use.
 - 10.2. The warranty period is limited to one year (limitation period). The warranty period commences in at the time of delivery, acceptance or notification of completion.
 - 10.3. In the event of defects, the Client shall in principle only be entitled to repair. The Client must set a reasonable period of time for the repair for Rösler. A period of less than three weeks will never be regarded as reasonable. If the performance by Rösler is not carried out within the reasonable period or ultimately fails – which is the case after three failed attempts to repair – the Client may claim compensation as described in Article 11.
 - 10.4. Rösler does not provide any warranty if a defect is the result of the provision by the Client, or a representative of the Client or a deputy representative of the Client, of deficient material, tools, equipment or inadequate planning or if the Client, or a representative of the Client or a deputy representative of the Client, has given explicit instructions resulting in the defect.
 - 10.5. If the Client has made changes to the goods to be delivered himself or through a third party, all warranty claims against Rösler shall lapse.
 - 10.6. The warranty period will not be extended by fulfilment.
 - 10.7. In the case of repair, the replaced parts are owned by Rösler.
 - 10.8. Rösler will bear the costs of repairs (labour and material costs). Transport, accommodation and travel expenses will only be borne by Rösler to the extent that repair is carried out in the Benelux. Rösler will charge any travel, accommodation and transport costs incurred by Rösler if repair is conducted outside the Benelux.
- 11. Liability**
 - 11.1. If Rösler should be liable, this liability – without prejudice to the provisions in Article 9 – shall be limited to what is stipulated in this Article.
 - 11.2. Rösler is not liable for damage any kind, caused by Rösler's reliance on incorrect and/or incomplete data provided by or on behalf of the Client.
 - 11.3. If Rösler should be liable for any damage, Rösler's liability shall be limited up to a maximum of the amount that Rösler could have invoiced to the Client on the basis of the Agreement, or at least to that part of the Agreement to which the liability relates.
 - 11.4. Rösler is only liable for direct damage. Direct damage shall exclusively be understood to mean the reasonable costs for determining the cause and extent of the damage, insofar as the establishment relates to damage within the meaning of these Terms and Conditions, any reasonable costs incurred for Rösler's defective performance in accordance with the Agreement, insofar as these can be attributed to Rösler and any reasonable costs incurred to prevent or limit damage, insofar as the Client demonstrates that these costs have led to the limitation of direct damage as referred to in these Terms and Conditions.
 - 11.5. Rösler is never liable for indirect damage, including consequential damage, loss of profit, missed savings and damage caused by business interruption.
 - 11.6. The limitations of liability set out in this Article do not apply if the damage is due to intent or gross negligence on the part of Rösler or if there is product liability.
- 12. Retention of title**
 - 12.1. All goods delivered by Rösler under the Agreement shall remain the property of Rösler, until the Client has properly fulfilled all obligations under the Agreement(s) concluded with Rösler. Because the Client – as long as payment has not been made – is not the owner of the delivered goods, he cannot establish a right of pledge on the delivered goods, he cannot hire out the delivered goods and he may also not sell the delivered goods. The Client shall do everything that may reasonably be expected to safeguard Rösler's property rights.
 - 12.2. Until the goods to be delivered have been paid for in full to Rösler, only the Client may make use of these goods himself.
 - 12.3. If third parties seize the delivered goods during the retention of title, the Client shall notify Rösler thereof and inform the third party of Rösler's right of ownership. The Client shall bear all costs incurred by Rösler in the event of seizure and for recovering the goods to be delivered insofar as these costs cannot be recovered from third parties.
- 13. Intellectual property**
 - 13.1. Rösler retains the copyright and ownership of all contractual documents, such as quotations, cost estimates, drawings or any other quotation documents. These become the property of the Client only if agreed in writing. The contractual documents must be returned by the Client immediately to Rösler if required by Rösler during the contract negotiations or if an agreement is not concluded. The Client's withholding and right to refuse payment of these contractual documents is hereby expressly excluded. The Client shall not be entitled to transfer the contractual documents provided to him to third parties.
 - 13.2. Rösler reserves all rights and powers under the Copyright Act and other intellectual laws and regulations. Rösler has the right to use the knowledge gained by the performance of an Agreement for other purposes as well, provided that no strictly confidential information of the Client is brought to the attention of third parties.
- 14. Applicable law and disputes**
 - 14.1. The court in the place of business of Rösler shall have exclusive jurisdiction to hear disputes, unless the Law requires otherwise. Rösler is entitled to submit the dispute to the competent court according to the law.
 - 14.2. The contractual and legal relationship between Rösler and the Client is governed exclusively by Dutch law, even if an obligation is wholly or partly performed abroad. The applicability of the Vienna Sales Convention is excluded. However, this does not apply to relevant import and export control regulations described in Article 3.