

General terms and conditions

Rudolf Rost Sperrholz GmbH

1. Scope of application

- a) These general terms and conditions are to be applied in addition to the customs of the timber and woodcraft industry (Tegernseer Gebräuche) for all contracts, deliveries, buys, sells or any other service, including any consulting service provided herein, as long as this service is not part of a separate consulting contract, in relation with business operations with all business partners (buyers, suppliers, sellers, customers) who are not consumers in accordance with § 13 of the German civil code (BGB).
- b) We hereby explicitly object to deviating conditions and specifically to the general terms and conditions of our business partners.
- c) In the context of ongoing business relations between businessmen (B2B) these GTCs will become part of the contract even if Rudolf Rost GmbH didn't explicitly mention their application. Therefore, they shall also be valid for future contracts / deals.

2. Offer and contract conclusion

- a) The "offers" included in the catalogues and contractual documents of Rost as well as the offers on our webpage are to be understood as non-binding and only meant as an invitation to make an offer (invitatio ad offerendum).
- b) Orders made by business partners are considered accepted, if they are either accepted in written form by Rost or if they are executed without delay after the placement of the order. In that case the invoice counts as the order confirmation.
- c) Orders made by Rost to the business partner are to be confirmed in written form without undue delay, whilst also stating the required delivery time. If Rost doesn't receive a written confirmation in one week the order shall be considered void and not placed.

3. Deliveries by Rost

- a) Partial deliveries are permissible.
- b) An accorded delivery time frame also within a debtor's delay, shall be adequately extended in the case of any unforeseen obstacles or hindrances that occur after the conclusion of the contract (particularly business disruptions, strikes, blocks or interruptions of the traffic routes), if said obstacles demonstrably have a considerable influence on the delivery of the sold goods. This shall also apply if said circumstances occur or happen to Rost's suppliers or any of their respective subcontractors.
Rost shall communicate any of such obstacles to the business partner without any delay. In such case, the partner shall be entitled to demand a statement from Rost, inquiring if Rost wants to withdraw from the contract or to deliver after a reasonable period after the resolution of the obstacle. In the case that Rost doesn't make such statement immediately, the business partner shall be entitled to withdraw from the contract.

The business partners agree that they hereby explicitly forfeit any claim for damages resulting thereof.

c) In the case of deliveries within the timeframe Rost is only liable in case of malice or gross negligence.

d) In case of a delivery delay the business partner is obligated upon request by Rost, to state in written form within a week if he persists in the delivery or whether he wishes to withdraw from the contract due to the delay and/or pursue any claim damages instead of the contractual performance. If no such timely statement is made by the other party, Rost is entitled to fulfil the contract or to withdraw from it.

4. Deliveries to Rost

a) The other party shall execute any delivery according to the usual quality and labelling regulations of the ordered goods, unless accorded otherwise.

b) The other party guarantees that the delivered goods comply with the valid laws and administrative regulations applicable to the distribution and usage of said goods and that it does not violate any third-party rights.

c) If a business partner fails to deliver an order in the accorded timeframe, Rost is not obligated to set a deadline but is immediately entitled to decline the contract fulfilment, to withdraw from the contract and/or claim damages. Rost may accept any partial deliveries that were already fulfilled, although it still preserves the aforementioned rights regarding other partial deliveries not delivered on time.

d) The order is delivered at the partner's expense and at his own risk to the stock of Rost or the indicated address by the client. In the latter case the delivery note is to be signed by the recipient and sent back to Rost. As long as the signed delivery note does not reach Rost the goods are considered as neither delivered nor as accepted.

5. Competition protection

In case that Rost discloses the recipient of the goods to the business partner, the latter commits to the total client protection towards the recipient in favour of Rost for this and any future order. Every infraction of this client protection entitles Rost to claim a compensation for damages of 15% of the goods net selling price which were delivered during the infraction of the client protection. Rost reserves the right to pursue further damages.

6. Risk transfer / Acceptance obligation of goods

a) With the provision of the goods at the accorded delivery destination by Rost the total risk transfers to the other party, such as the

b) accidental loss of the goods.

c) In case of force majeure, war, the suspension of the production without blame, unforeseen events and official measures not depending on Rost which have an influence on the production, Rost is not obligated or bound to accept delivered goods.

7. Prices / Payment / Netting / Withdrawal

- a) All prices are net prices without the legal VAT (value added tax). No discounts are granted.
- b) Rost carries its payments out through the remittance of crossed cheques or through bank transfers.
- c) Payments by the business partner are due upon receiving the goods without any discounts. If partial deliveries are rendered (see section 3 a), Rost to this extent is also entitled to issue partial invoices and demand the immediate payment in this regard according to paragraph 1.
- d) Cheques are always taken as a payment method, not instead of the payment. In case of a cheque protest Rost is entitled to demand an immediate cash payment in return for the recourse cheque.
- e) Netting is only admissible with positions either acknowledged by Rost, undisputed or either legally established positions or claims from the business partner.
- f) Rost reserves the right to withdraw from the contract if the business partner issues wrong statements about his own credit rating or in the case Rost's payment claims are endangered by the partner's objectively missing credit score or poor credit rating. The credit rating is objectively missing in particular, but not limited to, if foreclosure measures are taken against the business partner, insolvency proceedings are opened, or an insolvency proceeding is rejected due to the lack of insolvency assets.
- g) Should an article ordered by the client not be available, due to Rost not being supplied by its distributor and Rost not being at fault for it and despite a contractual obligation of the distributor for it, Rost shall be entitled to withdraw from the contract. In such case Rost shall inform the client immediately that the demanded goods are not available and shall reimburse already provided performances made by the client.

8. Reservation of title

- a) Rost retains the title to the sold goods until the entire payment is made.
- b) If such reserved goods are processed into a new movable item, the processing shall be carried out for Rost, without any new obligation arising from it for Rost. The new thing or product shall become Rost's property.
- c) In case that Rost doesn't already attain the property (or joint ownership) through the combination / processing according to the paragraphs 947 et seq. of the German civil code (BGB), the business partner shall transfer the property (or joint ownership) in that moment according to the proportion of the value of the reserved goods to the other goods at the moment of combination / processing. The business partner is obligated to store the reserved goods in the property of Rost (or joint ownership) without charge.
- d) The business partner is only authorized and entitled to further sell, use or install the reserved goods within the frame of the usual course of business and only provided that from that moment on, the accrued claims in the amount of the value of the reserved goods with all its entailed ancillary rights ensuing from the reselling, usage or instalment are transferred to Rost; Rost accepts the transfer. The value of the goods subject to the retention of title shall be the invoice amount of Rost, which shall be excluded if it is opposed by third party claims or rights.

If the resold reserved goods are in the joint ownership of Rost, the transferred claim shall be the proportional amount to the proportion owned by Rost in the joint ownership. The business partner is revocably bound and entitled to retract the transferred claims, unless the business partner does not fulfil his payment obligations.

e) The business partner shall inform Rost immediately of any third-party foreclosure measures affecting the reserved goods or the transferred claims while also handing over the necessary documents for an objection.

f) The right to resell, use or install of the reserved goods or the authorization to collect the transferred claims expires in case of cessation of payment and/or the opening of the insolvency procedure. This does not affect the insolvency administrator's rights.

g) The collateral shall be released if the value of the collateral exceeds the claims by more than 20% (potentially discounted by the partial payments or down-payments).

9. Default

a) If the business partner is in default of payment, then Rost is entitled to take back the goods after a written reminder and is entitled to enter the premises of the business partner for this end or to charge a representative with this task in order to take back the goods in question. The return of these goods does not constitute a withdrawal from the contract.

b) If the business partner has committed himself to pick up the goods at Rost's premises he then defaults if the accorded pick-up date is exceeded by more than 1 week. The business partner is obliged to pay Rost the local common storage fees for the goods in question for the duration of the default. It is calculated per each started week and is due on a monthly basis afterwards. The rest of the storage fee is due on pickup. Rost is entitled to release the goods under the condition of receiving payment in full, both executed concurrently.

c) In case of a payment delay Rost is entitled to charge the usual bank interest rates for the contractual or tolerated overdraft of the current account, at least however the statutory default interest rates set by the current law.

10. Wood properties

a) Wood is a natural product; therefore, its natural properties, deviations and attributes are to be observed. Thus, the business partner needs to take into consideration the biological, physical and chemical properties when buying and when putting the product to use.

b) The range in colour, structure and other differences within one wood type is part of the properties of the natural product wood and does not constitute a liability ground or a reason for a complaint.

11. Defects / Representations and statutory warranties (liability for defects) / Statute of limitation

a) Rost is not obliged to accept replacement deliveries for defective goods but is entitled to demand a replacement delivery.

- b) Rost's claims for damages, price reduction or other statutory rights due to defects are unaffected by the processing or reselling of the goods. This is independently valid from the time that the defects are detected.
- c) Suitability and usability risks lie with the buyer. In case of complaints, we refer to the Tegernseer customs ("*Tegernseer Gebräuche*"). In case of mutual commercial businesses between merchants, paragraph 377 of the German commercial code remains unaffected.
- d) In case of rightful complaints Rost is entitled to choose the type of supplementary performance (replacement or repair) taking into consideration the type of defect.
- e) If, due to a defect or other complaints, the client or Rost make use of a right of retention, it can only be done in a way proportional to given defect or complaint. In case of a dispute an independent expert shall decide over the proportionality designated by the IHK or another commercial chamber at the location of the goods. The same shall also decide over the division of the costs of his activity in his own estimation. The decision of the independent expert shall be final and binding for both parties.
- f) The business partner shall inform Rost immediately about a liability or statutory warranty case from a consumer.
- g) The claims for material defects have a statute of limitation of 12 months. This does not apply if there are longer limitation periods by law, especially those prescribed in the paragraphs 438 section 1, number 2 et seq. (building structures and objects for structures), paragraph 479 section 1 (regress claim) and paragraph 634a section 1, number 2 (defects of building structures) of the German civil code (BGB).

12. Product liability

Claims for product and producer liability are exclusively governed by German law. Business partners are bound to keep Rost clear from any such claims.

13. Limitation of liability

- a) Claims for damages and reimbursement for expenses from the business partner against Rost are excluded, independently from the legal grounds.
- b) In cases of intent or gross negligence Rost is still liable without limitations.
- c) In cases of negligence Rost is only liable for the violation of essential duties which would put the achievement of the contract purpose in jeopardy, or duties which make the contractual fulfilment possible in the first place and on the fulfilment of which the business partner may rely. The liability is therefore limited to the foreseeable and typical damage of the contract at the time of the conclusion of the contract.
- d) As far as a liability by Rost is limited or excluded, the same is valid for the personal liability of its workers, representatives and agents.
- e) These limitations of the liability do not apply in case of the injury of life, body or health, for a defect after the guaranty of a certain product characteristic and in case of the concealment of defects with fraudulent intent. The liability according to the German product liability law remains unaffected.

14. Data storage

The business partner takes notice that Rost may store and process certain data from its partners from this contract according to the federal law for data protection (Bundesdatenschutzgesetz) for the purpose of data handling and Rost reserves itself the right to transmit the data, if necessary by this law. The separately available data information is also to be observed.

15. Construction services

The allocation and contract regulation for construction services, parts B and C of the German law (Vergabe- und Vertragsordnung für Bauleistungen or VOB) shall be applicable in any case of construction services including installation, if the contract was placed by a company active in the construction business.

16. Other agreements

- a) The place of contractual performance (including possible further deliveries or replacement deliveries) and payments shall be Rellingen.
- b) The court of jurisdiction shall be, depending on the material competence, either the Amtsgericht Hamburg (local court) or the Landgericht Hamburg (County or district court). Rost further reserves the right to sue the business partner at its registered office.
- c) Rost's employees are not entitled to pursue verbal agreements. Valid agreements shall always require the written confirmation.
- d) Exclusively German law shall be valid for the business relations between the parties, while explicitly excluding UN law (CISG).

17. Severability clause

Should any provision or clause in this general purchase conditions be or become invalid, obsolete, not applicable or impracticable or be deemed void for any other reason, this shall not affect the other remaining clauses.

The invalid or impracticable clause shall be replaced by another appropriate provision, which has the same or similar effect and has a similar economic aim and comes as close as possible to the intended effect of the invalid provision.