

1 Preamble

These Standard Terms and Conditions shall apply to the companies of the Rosti Group in the sale and delivery of their products to customers and applies to any request, offer and contract relating to the sale and delivery of such products.

2 Definitions

In these Standard Terms and Conditions:

“**Specification**” means the specification of the Goods, including technical description, drawings and other documentation, agreed in writing between the parties;

“**Delivery date**” means the date at which the Goods shall be delivered pursuant to the confirmation of the Order by the Seller;

“**Goods**” means the articles or things or any of them described in the order, to be manufactured by the Seller;

“**Order**” means the order placed by the Buyer for the sale or supply of Goods and includes any amendment or addition to the Order specified by the Seller when accepting the Order;

“**Tool**” means any die, pattern, mould or other tooling, jigs and fixtures provided by the Seller or Buyer for the purpose of manufacturing the Goods and not for any other purpose.

3 Orders, Quotations and applicable terms

All Orders by the Buyer must be accepted by the Seller in writing. Quotations submitted by the Seller do not constitute a binding offer.

The price quoted in the Seller’s quotation is for the quantities stipulated only and must not be taken to apply to an Order for different quantities.

Unless otherwise expressly stated the price quoted in the Seller’s quotation is based on current costs of manufacture at the date of the quotation and is subject to confirmation on acceptance of the Order by the Seller.

If the Buyer has submitted forecasts as to its upcoming purchases of Goods and its subsequent orders do not correspond to the forecasts, the Buyer must reimburse the Seller for costs for raw material and other expenses that the Seller has incurred due to such forecasts.

No addition or variation to these Standard Terms and Conditions shall be effective unless made in writing and duly signed by the parties. Any terms of the Order put forward by the Buyer which deviate from these Standard Terms and Conditions are hereby rejected.

4 Quality of the Goods

The Goods shall be delivered in accordance with the agreed Specification.

The colour and other parameters of the Goods may deviate to a reasonable extent from the agreed Specification and the Goods shall be deemed to comply with the Order unless the deviation materially and adversely changes the Goods.

5 Tools

The Buyer shall bear the cost of any modifications in tooling agreed after the date of the tool order and the additional cost shall be paid within 14 days after such agreement between the parties.

The Seller shall maintain the Tool in reasonable working condition (subject to reasonable wear and tear and the design life of the Tool) at the Buyer’s expense. The Seller is not obliged to refurbish or replace a worn out tool and the Seller is not obliged to produce goods from a tool that requires refurbishment or replacement. The Seller’s decision that a tool requires refurbishment or replacement is binding on the Buyer.

The Buyer shall at all time bear the risk for a Tool owned by him and must maintain an insurance policy to the extent and in the amount deemed necessary. If the Seller has not received any instruction where to deliver the Tool from the Buyer within six months as from completion of the production of the relevant goods, the Seller may dispose of the Tool.

To the extent a Tool is provided by the Seller for the purpose of an Order, Clause 4 above shall apply *mutatis mutandis* to such Tool.

6 Price

The purchase price specified in the Order is exclusive of value added tax and any other applicable duties, levies and charges.

The Seller reserves the right to extra charge for any special packaging or other requirements of the Buyer.

The Seller is entitled to adjust the price of the Goods or the Tools due to changes in currency exchange rates, raw material prices, taxes, public charges or inflation, occurring after the Seller’s confirmation of the Order but before delivery of the Goods.

The Seller shall be entitled to increase the price due to loss or additional cost incurred for to any reason attributable to the Buyer, including, but not limited to, incorrect, incomplete or changed instructions.

7 Delivery in lots

If delivery is to be effected in lots, each lot shall be considered separately and a party’s default in respect of any one lot shall not affect the due performance of the contract as regards other lots.

8 Delivery and delay

The Goods shall be delivered “Ex Works” (INCOTERMS 2010).

A delivery shall be deemed to comply with the Order if the deviation (surplus or shortage) from the agreed quantity is less than 10 per cent.

If the Seller fails to deliver the Goods on time for reasons not referable to the Buyer, the Buyer is entitled to a price reduction. The price reduction shall be calculated at a rate of 0.5 per cent of the agreed price for each complete week of delay.

The Seller’s total liability for delay under the contract shall not exceed 15 per cent of the purchase price.

If the delay concerns only a part of the Goods, the price reduction shall be calculated proportionally to that part of the Goods.

The remedies set out in this Clause 8 are the only remedies available to the Buyer in case of delay on the part the Seller.

9 Title and intellectual property rights

The Goods and the Tools shall remain the property of the Seller until paid in full. The Buyer is not entitled to dispose the Goods in any way which may jeopardize the rights of the Seller before full payment without the Seller’s written consent and shall store the Goods separately from its own property, marked as the property of the Seller.

Patterns, drawings, part lists, industrial rights, software and other intellectual property rights required for manufacturing of the Goods will always remain Seller’s property and the Seller is not obliged to reveal them or hand them over even if the Tools are transferred or sold to the Buyer.

10 Payment

The purchase price shall be invoiced upon delivery and shall be settled within 30 days of the date of the invoice.

Where the Goods are delivered in lots each lot shall be invoiced separately.

All payments shall be made by the Buyer without retention, deduction, set off, abatement or counterclaim on any account whatsoever.

11 Liability for defects

Save as stipulated in this Clause 11, the Seller shall not be liable for defects whether stipulated by law, custom of trade or otherwise.

The Seller warrants that the Goods or the Tool under normal usage will comply with the agreed Specification as set forth in Clause 4 above for a period of 6 month from the Delivery date of the Goods or date the Tool was first used. Any quoted life-time of the Goods or the Tool shall be considered an estimate and does not extend the warrant herein.

In case of a defect apparent upon reasonable inspection, the Buyer must notify the Seller within 14 days after delivery. In any other case of defect, the Buyer must notify the Seller within 14 days after the Buyer received, or reasonably should have received, knowledge of the defect. In case of failure to notify the Seller in accordance with this Clause 11, the Buyer shall not have any right to remedy for the defect.

The Seller shall not be liable for defects arising out of material provided by the Buyer or a design stipulated or specified by the Buyer or for any advice or recommendations (including, without limitation, as to the selection of materials) given to the Buyer in connection with the Goods or any Tool.

In the event of a defect for which the Seller is liable, the Seller may at its own discretion and its own cost either remedy or replace the defective Goods or Tool. The Seller’s liability is subject to that the Goods are available at the Buyer’s place of business. The Seller is not liable for any expenses or losses that the defected Goods or Tool may have incurred the Buyer.

The Seller is under no circumstances liable for the fitness of the Goods or the Tool for any purpose whether or not such purpose has been made known to the Seller.

12 Limitation of liability

The Seller shall not be liable for loss of production, loss of business, loss of goodwill, loss of data, loss of profit or revenue or for any special, indirect, incidental or consequential damages resulting from the use or performance of the Goods or the Tool.

The total cumulative liability of the Seller shall not exceed 15 per cent of the total annual value of the contract.

The limitations, restrictions and exclusions of liability contained in these Standard Terms and Conditions shall apply regardless of the negligence or breach of statutory duty of the Seller.

13 Force Majeure

The following circumstances shall constitute grounds for relief if they impede the performance of the contract or make performance unreasonably onerous: industrial or trade disputes (including disputes that the Seller is a party to) and any other circumstance beyond the control of the parties, such as fire, war, mobilization or military call up of a comparable scope, requisition, seizure, trade and currency restrictions, insurrection and civil commotion, shortage of transport, general shortage of materials, restrictions in the supply of power or utilities and defects or delays in deliveries by sub-contractors caused by any such circumstance as referred to in this Clause 13.

The party wishing to claim relief under this Clause 13 shall without delay notify the other party in writing on the intervention and on the cessation of such circumstance.

Notwithstanding other provisions of these Standard Terms and Conditions, either party shall be entitled to terminate the contract by notice in writing to the other party, if performance of the contract is delayed more than 6 months by reason of any grounds for relief as described in this Clause 13.

14 Indemnities

In the event compulsory provisions in laws on product liability are applicable to a specific occurrence, the Seller shall only be liable for personal injury and for damage to property caused by the Goods or Tools delivered by the Seller if it is proven that such injury or damage was caused by defects in the Goods or Tools for which the Seller is liable pursuant to this Clause 11. The Buyer shall be liable for all other personal injury caused by the Goods or Tool and shall indemnify and hold the Seller harmless with respect thereto.

The Buyer shall indemnify the Seller in respect of any costs, expenses, damage loss, action claim or liability arising out of the infringement of any patent, trademark, registered design or similar right arising from the manufacture or supply of the Goods or any Tool or the doing of any work or the use of any article or material by the Seller to the design or specification or on the instruction of the Buyer.

15 Agreement supersedes prior agreements

These Standard Terms and Conditions supersedes any other prior agreements or understandings, written or oral, between the parties with respect to the Goods, Tools, the Order and all matters subject to the provisions hereof.

16 Termination of agreement

The Seller may at any time terminate the Order by giving the Buyer 3 months of written notice.

Any party may terminate the Order with immediate effect, in the event of material breach of the provisions of these Standard Terms and Conditions by the other party or if the other party is declared bankrupt, enters into composition with its creditors, corporate reorganization or otherwise becomes insolvent or bankruptcy proceedings are initiated.

17 Applicable law and dispute resolution

The contract and these Standard Terms and Conditions shall be construed in accordance with and governed by the laws of Sweden. Any dispute, controversy or claim arising out of or in connection with the contract shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.