

Romazo Business to Business Terms & Conditions

General delivery and payment terms of the association for roller shutter, awning and sunblind companies (Romazo).
This text applies from 16 September 2010 and has been filed with the Clerk of the District Court in Utrecht under number 236/2010.

Article 1: Applicability

- 1.1 These terms and conditions apply to all offers made by members of Romazo, to all contracts entered into by them and to all contracts which may result from them.
- 1.2 The provider/supplier is the member of Romazo that uses these terms and conditions and is referred to as the Contractor. The other party is referred to as the Client.
- 1.3 In the event of any conflict between the contents of the contract concluded between the Client and the Contractor and these general terms and conditions, the provisions of the contract shall prevail.
- 1.4 These conditions may only be used by members of Romazo.

Article 2: Offers

- 2.1 All offers are without obligation.
- 2.2 If the Client provides data, drawings etc. to the Contractor, the Contractor is entitled to assume that they are accurate and to base its offer on them.
- 2.3 The prices referred to in the offer are based on delivery ex works, in accordance with Incoterms 2000, from the work place, warehouse or shop selected by the supplier. The prices are exclusive of turnover tax and packaging.
- 2.4 If its offer is not accepted, the Contractor has the right to charge the Client for all costs incurred in order to make the offer.

Article 3: Intellectual Property Rights

- 3.1 Unless otherwise agreed in writing, the Contractor shall retain the copyright and all industrial property rights to its offers, designs, illustrations, drawings, prototypes, models, software, etc.
- 3.2 The rights to the data referred to in paragraph 1 shall remain the property of the contractor irrespective of whether the Client has been charged for their production. Such data may not be copied, used or shown to third parties without the express prior written consent of the Contractor. The Client is liable to pay the contractor a penalty for each instance of violation of this provision, to the amount of €25,000. This penalty may be claimed in addition to any damages awarded by law.
- 3.3 The Client must return the data referred to in paragraph 1 at the Contractor's first request and within the period stipulated by the Contractor. If this provision is violated, the Client is liable to pay the Contractor a penalty of €1,000 per day. This penalty may be demanded in addition to any damages awarded by law.

Article 4: Advice, Designs and Materials

- 4.1 The Client cannot derive any rights from advice and information given to it by Contractor if they do not directly relate to the order.
- 4.2 The Client is responsible for the drawings, calculations, designs made by it or on its behalf and for the functional suitability of the materials prescribed by it or on its behalf.
- 4.3 The Client indemnifies the Contractor against any claim by third parties relating to the use of drawings, calculations, designs, materials, samples, models and the like provided by or on behalf of the Client.
- 4.4 The materials that the Contractor wants to use before processing may be examined (or have examined) by the Client at its own expense. If the Contractor suffers damage as a result, this will be at the expense of Client.

Article 5: Delivery Period

- 5.1 The delivery time and/or implementation period will be determined by the Contractor by approximation.
- 5.2 When determining the delivery time and/or implementation period, the Contractor assumes that it can execute the order under the circumstances known to it at that time.
- 5.3 The delivery time and/or implementation period does not start until agreement has been reached on all commercial and technical details, all necessary data, final, approved drawings, etc. are in the Contractor's possession, the agreed payment or instalment has been received and the conditions necessary for the execution of the order have been met.
- 5.4
 - a. If there are circumstances other than those known to the Contractor when it determined the delivery time and/or implementation period, the Contractor may extend the delivery time and/or implementation period by the time necessary to execute the order under these circumstances. If the work cannot be fitted into the Contractor's schedule, it will be carried out as soon as its schedule permits.
 - b. If there are contract changes, the delivery time and/or work period will be extended by the time required to supply (or arrange for the supply of) the materials and parts for this purpose and to carry out the extra work. If any additional work cannot be fitted into the Contractor's schedule, it will be carried out as soon as the schedule permits.
 - c. If there is a suspension of obligations by the Contractor, the delivery time and/or implementation period shall be extended for the duration of the suspension. If continuation of the work cannot be fitted into the Contractor's schedule, the work will be carried out as soon as the schedule permits.
 - d. In case of unworkable weather conditions, the delivery time and/or implementation period shall be extended by the resulting delay.

- 5.5 Exceeding the agreed delivery time and/or implementation period does not in any case give a right to compensation, unless this has been agreed in writing.

Article 6: Risk Transfer

- 6.1 Delivery shall be made ex works, in accordance with Incoterms 2000, from the Contractor's workplace, warehouse or shop at the Contractor's discretion; the risk in relation to the goods shall pass at the moment that the Contractor makes them available to the Client.
- 6.2 Notwithstanding the provisions of the previous paragraph, the Client and Contractor may agree that Contractor will arrange for transport. The risk of storage, loading, transport and unloading rests on Client in this case as well. The Client can insure itself against these risks.
- 6.3 If in the case of an exchange the Client continues to use the exchanged good until delivery of the new good, the risk of the exchanged good remains with the Client until the moment it has returned it in the Contractor's possession.

Article 7: Price Changes

- 7.1 An increase in cost price determining factors arising after the conclusion of the agreement may be passed on by the Contractor to the Client if the performance of the agreement at the time of the increase has not yet been completed.
- 7.2 The Client is obliged to pay the price increase as referred to in paragraph 1 at the same time as the payment of the principal sum or the next agreed payment term.
- 7.3 If goods are delivered by the Client and the Contractor is prepared to use them, the Contractor may charge up to 20% of the market price of the delivered goods.

Article 8: Impracticability of the order

- 8.1 Contractor shall be entitled to suspend the fulfilment of its obligations if it is temporarily prevented from fulfilling them due to circumstances which could not be foreseen at the time of concluding the agreement and which are beyond its influence.
- 8.2 Circumstances which could not be foreseen by Contractor and which lie outside its sphere of influence shall include the failure of suppliers and/or subcontractors of Contractor to meet their obligations or to do so in time, the weather, earthquakes, fire, loss or theft of tools, the loss of materials to be processed, road blocks, strikes or work stoppages and import or trade restrictions.
- 8.3 The Contractor shall no longer be entitled to suspend performance if the temporary impossibility of performance has lasted for more than six months. The contract may be dissolved only after this period has elapsed and only in respect of that part of the obligations which have not yet been fulfilled. In that case, the parties are not entitled to compensation for damage suffered or to be suffered as a result of the dissolution.

Article 9: Scope of the Work

- 9.1 The Client must ensure that all licences, exemptions and other decisions that are necessary in order to carry out the work are obtained in good time.
- 9.2 The price for the work does not include:
 - a. the costs of groundwork, pile-driving, cutting, breaking, foundation work, bricklaying, carpentry, plastering, painting, wallpapering, repairs or other construction work;
 - b. the costs of connecting gas, water, electricity or other infrastructural facilities;
 - c. the costs of preventing or limiting damages to any objects situated on or near the work site;
 - d. the costs of disposing of materials, building materials or refuse;
 - e. travel and accommodation expenses.

Article 10: Changes to the Work

- 10.1 Changes to the work shall result in any event in a contract change if:
 - a. there is a change in the design, the specifications or the contract documents;
 - b. the information provided by the Client does not correspond to reality
 - c. estimated quantities have been deviated from by more than 5%.
- 10.2 Additional work is calculated on the basis of the value of the price determining factors which applies at the time that the additional work is carried out. Work reductions will be settled based on the value of the price determining factors which applied at the time of concluding the Agreement.
- 10.3 If the balance of the reduced work exceeds that of the additional work, the Contractor may charge the Client 10% of the difference of the balances in the final invoice. This provision does not apply to reductions in work that are the result of a request by Contractor.

Article 11: Performance of the work

- 11.1 The Client shall ensure that the Contractor can carry out its activities without interruption and at the agreed time and that it has access to the necessary facilities when carrying out its activities, such as:
 - gas, water and electricity;
 - heating;
 - lockable dry storage space;
 - facilities prescribed by the Working Conditions Act and regulations.
- 11.2 The Client is liable for all damages, including those resulting from loss, theft, burning or damage to property of the Contractor, the Client and/or third

parties, such as tools and materials intended for the work, which are located at the location where the activities are carried out or at another agreed location.

- 11.3 If the Client does not fulfil its obligations as described in the previous paragraphs and this causes a delay in the execution of the work, the work will be executed as soon as the Client fulfils all its obligations and the planning of the Contractor permits this. The Client is liable for all damages caused to Contractor by the delay.

Article 12: Completion of the Work

- 12.1 The work is considered to have been completed when:
 - a. the Client has approved the work;
 - b. the work has been put into use by the Client. If the Client puts part of the work into use, that part is considered to have been completed;
 - c. the Contractor has notified the Client in writing that the work is finished and the Client has not communicated in writing within 14 days after the notice whether or not the work has been approved;
 - d. the Client does not approve the work on the grounds of minor defects or missing parts which can be repaired or supplied within 30 days and which do not prevent the work from being put into use.
- 12.2 If the Client does not approve the work, it is obliged to inform the Contractor in writing of the reasons for this.
- 12.3 If the Client does not approve the work, it shall give the Contractor the opportunity to redeliver the work. The provisions of this article shall apply again.
- 12.4 The Client indemnifies the Contractor against claims from third parties for damage to undelivered parts of the work caused by the use of already delivered parts of the work.

Article 13: Liability

- 13.1 The Contractor is liable for damages suffered by the Client that are the direct and exclusive consequence of a shortcoming that can be attributed to the Contractor. However, only those damages for which the Contractor is insured, or reasonably should have been insured, qualify for compensation.
- 13.2 If, at the time of entering into the agreement, it is not possible for the Contractor to take out insurance as referred to in paragraph 1, or to renew such insurance at reasonable conditions thereafter, compensation for the damage shall be limited to the amount charged by the Contractor for the agreement in question (excluding VAT).
- 13.3 The following are not eligible for compensation:
 - a. trading losses, including losses due to stagnation and loss of profit. The Client should take out such insurance to cover such damages, if such is deemed desirable;
 - b. damage to the property in the care, custody or control of, but not owned by the insured. This includes damage caused, during or as a result of the performance of the contract work, to objects on which work is being carried out or to objects situated in the vicinity of the work site. The Client should take out insurance to cover such damages, if such is deemed desirable;
 - c. damage caused by intent or willful recklessness of auxiliary persons or non-managerial subordinates of the Contractor.

- 13.4 The Contractor is not liable for damage to material supplied by or on behalf of the Client as a result of improper processing. At the request of the Client, the Contractor will carry out the processing again, using new material supplied by the Client at its own expense.
- 13.5 The Client indemnifies the Contractor against all claims by third parties for product liability as a result of a defect in a product which was delivered to a third party by the Client and which consisted of or included products and/or materials delivered by the Contractor.

Article 14: Warranty

- 14.1 The period during which the Contractor is responsible for the proper performance of the agreed performance after delivery is divided as follows:
 - a. two years for external blinds, roller shutters, roll-up grilles and sliding grilles.
 - b. one year for internal blinds
 - c. two years for any motor parts for the products mentioned under a. and b., with exception of the electronic control and operating components, for which a six-month guarantee applies.
 - d. a six-month guarantee shall be given for any product types not mentioned by name.
- 14.2 If the agreed performance consists of the delivery of a good, the Contractor guarantees the soundness of the delivered good during the period referred to in paragraph 1.

If it appears that the delivery was defective, the good must be returned to Contractor carriage paid. Thereafter the Contractor shall decide whether to:

 - a. repair the item
 - b. replace the item;
 - c. credit the Client for a proportionate part of the invoice.

If, where appropriate, the parties agree that, instead of returning the delivery free of charge, the work under warranty will be carried out on location by the Client, any travel and accommodation expenses as well as any costs related to working at height (such

as climbing materials and an aerial work platform) will be borne by the Client.

- 14.3 If the agreed performance (also) consists of the installation and/or assembly of a delivered good, the Contractor guarantees the soundness of the installation and/or assembly for the period referred to in paragraph 1.

If it appears that the installation and/or assembly has not been carried out properly, the Contractor will repair it. Any travel and accommodation expenses and costs associated with working at height (such as climbing materials and an aerial work platform) are borne by the Client.

- 14.4 The manufacturer's warranty applies to those parts for which Client and Contractor have expressly agreed in writing and where the Client has had the opportunity to become acquainted with the contents of the manufacturer's warranty.

14.5 In all cases, the Client must give the Contractor the opportunity to repair any defect and/or to carry out the work again.

- 14.6 The Client can only invoke a warranty after it has fulfilled all its obligations towards the Contractor.

14.7

- a. No warranty is given on defects due to:
 - normal wear and tear;
 - improper use;
 - lack of or incorrectly executed maintenance;
 - installation, assembly, modification or repair by Client or by third parties.
 - b. No warranty is given on delivered items that were not new at the moment of delivery, or on items that are prescribed by the Client or supplied by it or on its behalf.
 - c. No warranty is given on the testing and/or repair of items of the Client.
- 14.8 The customer's attention is drawn to the following product characteristics and the customer is therefore not entitled to complain about them:
 - a. Kink folds and pinstrips. These can occur during manufacturing and folding of the cloths and may look like soiled stripes.
 - b. In the vicinity of hems and seams, double layers of cloth create different winding thicknesses on the fabric roll. The resulting fabric tension can create waves, which can manifest themselves in a waffle or herringbone pattern, for example.

Article 15: Complaints

The Client cannot invoke a defect in the performance if it has not submitted a written complaint to the Contractor within fourteen days after it discovered or reasonably should have discovered the defect.

Article 16: Uncollected Goods

If goods have not been collected after the expiry of the delivery period, they shall remain at the Client's disposal. Uncollected goods are stored at the expense and risk of the Client. The Contractor may always exercise the power of Section 6:90 of the Dutch Civil Code.

Article 17: Payment

- 17.1 Payment shall be made at the Contractor's place of business or to an account designated by the Contractor.
 - 17.2 Unless otherwise agreed, payment shall be made as follows:
 - a. at counter sales in cash;
 - b. in payment in instalments has been agreed:
 - 40% of the total price at the time the order is placed;
 - 50% of the total price after supply of the material or, if the supply of material is not included in the order, after commencement of the work;
 - 10% of the total price upon delivery;
 - c. in all other cases within fourteen days after the invoice date.
 - 17.3 Regardless of the agreed payment conditions, the Client is obliged, at the request of the Contractor, to provide what the Contractor deems sufficient security for payment. If the Client does not do so within the set period, it is immediately in default. In such a case, the Contractor has the right to dissolve the agreement and to recover its damages from the Client.
 - 17.4 The right of the Client to set off its claims against the Contractor is excluded, unless the Contractor is in bankruptcy or subject to judicial debt restructuring.
 - 17.5 The full claim for payment is immediately due and payable if:
 - a. a payment term has been exceeded;
 - b. the Client is declared bankrupt or applies for a moratorium;
 - c. attachment is levied on the Client's assets or claims
 - d. the Client (company) is dissolved or liquidated;
 - e. the Client (natural person) requests to be admitted to the judicial debt restructuring arrangement, is placed under guardianship or dies.
 - 17.6 If payment has not been made within the agreed payment period, the Client shall immediately owe interest to the Contractor. The interest rate amounts to 12% per year, but is equal to the statutory interest rate if this is higher. In calculating the interest, a part of the month is considered a full month.
- If payment has not been made within the agreed payment term, the Client shall owe the Contractor all extrajudicial costs with a minimum of € 75. The costs are calculated based on the following table:

on the first € 3,000	15%
on the excess up to € 6,000	10%
on the excess up to € 15,000	8%
on the excess up to € 60,000	5%
on the excess of € 60,000	3%

If the actual extrajudicial costs incurred are higher than those resulting from the above calculation, the actually incurred costs are due.

17.7 If the Contractor is found to be in the right in legal proceedings, all costs it has incurred in connection with these proceedings will be borne by the Client.

Article 18: Retention of Title and Lien

18.1 After delivery, the Contractor remains owner of delivered goods as long as the Client:

- fails or is likely to fail to perform its obligations arising from this agreement or any other similar agreements

- does not pay or is likely to not pay for work performed or to be performed under such agreements;
- has not paid claims arising from non-fulfilment of the aforementioned agreements, such as damages, penalties, interest and costs.

18.2 As long as goods delivered are subject to retention of title, the Client may not encumber them other than in the normal course of its business.

18.3 After the Contractor has invoked its retention of title, it may take back the delivered goods. The Client shall allow the Contractor to enter the place where these goods are located.

18.4 If the Contractor cannot invoke its retention of title because the delivered goods have been mixed, deformed or copied, the Client is obliged to pledge the newly formed goods to the Contractor.

Article 19: Termination

If the Client wants to dissolve the agreement without any fault on the part of the Contractor and the Contractor agrees, the agreement will be terminated by mutual consent. In that case the Contractor is entitled to compensation for all financial losses such as loss suffered, loss of profit and costs incurred.

Article 20: Applicable law and competent court

20.1 Dutch law is applicable.

20.2 The Vienna Sales Convention (C.I.S.G.) shall not apply, nor shall any other international regulation the exclusion of which is permitted.

20.3 Only the Dutch civil court that has jurisdiction in the Contractor's place of business shall hear disputes, unless this is contrary to mandatory law. The Contractor may deviate from this rule of jurisdiction and apply the statutory rules of jurisdiction.

20.4 Parties may agree on another form of dispute settlement, such as arbitration or mediation.



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