

**General Terms of Delivery and Performance
of the RMG Group
(Issued February 2007)**

I. General

1. These General Terms of Delivery and Performance shall be applicable to:
 - a) a person acting in a professional or entrepreneurial capacity (entrepreneur) upon conclusion of a contract;
 - b) juridical persons under public law or a special asset under public law.
2. All deliveries and performances, as well as possible collateral agreements that require written confirmation by the Seller to be valid, are subject to these terms. No diverging terms of purchase of the Purchaser shall become part of the contract, even upon order acceptance. In the absence of a special agreement, a contract comes into force upon the Seller's written order confirmation, if not objected to in writing within one week.
3. The Seller maintains the property and copyrights to designs, estimates of costs, drawings and similar information, whether tangible or intangible – also in electronic form; they must not be made available to third parties. The Seller commits himself not to make available to third parties any information and documents labelled “confidential” by the Purchaser without the Purchaser's express consent.
Any drawings and other documents forming part of tenders shall be returned to the Seller at his request without any delay, if the order is not awarded to the Seller or terminated. Likewise, the above provision applies to the Purchaser's documents, unless the documents may be made available to such third parties whom the Seller has entrusted with deliveries or performances.

II. Price and payment

1. The prices are ex works without packaging. Upon delivery and performance within the home country these prices are subject to the statutory value added tax.
2. The prices correspond to the cost situation at the time the order was granted. If the cost factors should change up to the date of delivery and performance, i.e. the relevant standard wages or the prices of materials, the Seller may increase the prices up to the amount of the additional costs really incurred.
3. All payments have to be made in EURO to the Seller's bank accounts stated in the letterhead. If cheques or drafts are submitted they shall be considered to be paid upon their redemption.
4. In case instalment payments are agreed, the Seller is entitled to claim immediate payment of the entire amount of order due, irrespective of the agreed due date, if only one single due instalment is not paid, a draft is protested, or any other circumstances become known giving reason for serious doubts about the agreement on instalment payments being honoured by the Purchaser. Moreover, in this case the Seller may also cancel the order by registered letter and may demand the return of delivered goods that remain his property, in accordance with Section V, as well as reimbursement of damages incurred to him. No legal measures shall be required to safeguard the Seller's aforementioned rights.

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5. The right to retain payments or to offset them against counterclaims shall be granted to the Purchaser only to the extent to which the counterclaims are undisputed or have been confirmed as justified by legal judgment.

III. Delivery schedule, delayed delivery

1. The delivery schedule results from the agreement of the contracting parties. Its observance by the Seller presumes that all administrative and technical questions have been clarified between the contracting parties, and the Purchaser has fulfilled all his obligations, i.e. all necessary official documents or licenses have been submitted, permits and any other documents have been submitted in due time, the Purchaser has fulfilled the terms of payment and other possible preliminary obligations, and all other, in particular technical, conditions for order execution have been met.
If this should not be the case, the delivery schedule shall be reasonably prolonged. This does not apply if the Seller is responsible for the delay.
2. This delivery schedule shall be deemed as fulfilled:
 - a) Upon delivery without installation or assembly if the delivery has been shipped or collected within the delivery schedule. If delivery is delayed by reasons for which the Purchaser is responsible, this delivery schedule shall be deemed as fulfilled upon notification of shipment readiness within the agreed delivery schedule.
 - b) Upon delivery with installation or assembly, if this is done within the agreed delivery schedule.
3. This delivery schedule may be reasonably prolonged in case of measures taken in the course of industrial disputes, in particular strike, defensive lock-out or other interruption of operations, mobilization, war, riot, and other events unforeseeable and uninfluenceable for the Seller, provided that these obstacles lead to or contribute to non-fulfillment of the schedule. The Seller will inform the Purchaser at the onset and the end of such circumstances at the earliest time possible. The Seller shall not be held liable for the aforementioned circumstances, even if they occur in the course of a delivery delay already prevailing.
4. If the shipment or the delivery should be delayed at the Purchaser's request, the Purchaser may be charged storage costs in the amount of ½ % of the invoiced amount for each month begun; starting one month after the notification of shipment readiness has been submitted. The storage costs are limited to 5% unless higher costs can be proved.
5. The Purchaser may withdraw from the contract without notice, if the Seller should be finally unable to perform before the passage of risk. Moreover, the Purchaser may withdraw from the contract, if fulfillment of a part of the delivery becomes impossible in case of order placement and the Purchaser has a justified interest to refuse partial delivery. If this is not the case, the Purchaser shall pay the contractual prices invoiced for the partial delivery. The same applies to the Seller's inability to perform. Apart from this, Section IX.2 shall apply.

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If the impossibility or the inability should occur after the notification to accept delivery, or if the Purchaser is solely or predominantly responsible for these circumstances, the Purchaser shall be obliged to provide counter-performance.

6. In case the Seller should be in default, and damage should arise to the Purchaser from it, the Seller shall be entitled to claim flat-rate reimbursement. For every full week in default this reimbursement amounts to 0.5%, but not more than 5.0 % in total of such part of the whole delivery that cannot be used within due time or according to contract as a result of this default.

If, under consideration of the permitted statutory exclusions, the Purchaser grants to the Seller in default a reasonable period to perform, and this period is not observed, the Purchaser shall be entitled to withdraw within the limits provided by law.

Any other claims from a default in delivery are exclusively defined in Section IX.2 of these conditions.

IV. Passage of risks

The risks shall pass to the Purchaser also if freight paid was agreed:

- a) Upon delivery, if the delivery has been shipped or collected. Packaging will meet customary standards. Shipment shall be effected at the Purchaser's costs and risk.
- b) Upon delivery with installation and assembly at the time of acceptance on the Purchaser's premises. However this presumes, that acceptance immediately follows assembly or installation. If the Purchaser does not accept the offer for acceptance, the risks shall pass to the Purchaser upon the expiry of 14 days of this offer.
- c) If shipment, delivery, or the start of installation or assembly works is delayed at the Purchaser's request or for reasons for which the Purchaser is responsible.

The Seller agrees to arrange insurance at the request and at the cost of the Purchaser.

Partial deliveries are permissible, provided they are reasonable for the Purchaser

V. Retention of title

1. The following retention of title serves to secure all Seller's claims against the Purchaser arising now and in future from the delivery contract existing between them including all balance claims from any respective open account agreement.
2. Up to complete payment of secured claims, Seller will retain title to any commodities delivered by the Seller (conditional commodity).
3. The Purchaser will store the conditional commodity on behalf of the Seller free of charge. He is obliged to insure the commodities against insurable damages at his own expense, and assigns to Seller as security any claims to possible insurance payments in the amount of the invoiced value of goods.

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4. The Purchaser is entitled to process and sell the conditional commodity in the due course of business, up to the moment of security realization. Pledging or assignment as security is not permissible.
5. If the conditional commodity is combined with other items to form a uniform item, whereby one of these other items must be viewed as a major item, the Purchaser shall, insofar as he owns this major item, assign to the Seller the proportional co-ownership of this uniform item in relation to the value of the conditional commodity to the value of the uniform item. If the conditional commodity is processed by the Purchaser, processing shall be performed in the name and on account of the Seller as producer. If several materials are processed, the Seller shall obtain co-ownership in the newly created item in the relation stated under sentence 1 above.
6. In case the conditional commodity is re-sold, the Purchaser already now assigns any claims against the acquirer from it as security – in case of Seller's co-ownership of the conditional commodity the proportional share in relation to the co-owner's share. The same applies to other claims in lieu of the conditional commodity or otherwise arising with regard to the conditional commodity (e.g. insurance claims or claims from tortuous acts). The Purchaser is revocably entitled to collect the claims assigned to the Seller in his own name on the Seller's account.
7. If any third parties attempt to seize the conditional commodity, the Purchaser must immediately advise them about the Seller's ownership rights to this conditional commodity, and must inform the Seller immediately about this attempt.
8. On request, Seller will decide which conditional commodity and any items replacing it or any claims will be released, provided their value exceeds the amount of the secured claims by more than 50%.
9. If the Seller withdraws from contract due to Purchaser's violation of contract, in particular in case of default in payment (realization of securities), he is entitled to request the handing over of the conditional commodity.

VI. Installation and assembly

For each type of installation and assembly the following conditions shall apply, unless agreed otherwise in writing:

- a) The Purchaser shall bear the costs for, and provide the following in due time:
 1. Supporting personnel such as necessary skilled workers and assistants with the required tools in the required quantity;
 2. All excavation, building, cutting, scaffolding, plastering, painting and other subsidiary work that is foreign to this business, including the building material required;

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3. Any necessary items and materials necessary for assembly and commissioning, such as scaffolding timber, wedges, base plates, cement, plastering and caulking media, lubricants, fuels etc.; moreover working platforms, lifting appliances and other devices;
 4. Power and water, including the necessary fittings up to place of use, heating and general illumination;
 5. Sufficiently spacious, suitable, dry and lockable rooms near the assembly site to store the delivery items, assembly materials, tools etc., and suitable work and recreational rooms for the assembly staff including sanitary facilities; the Purchaser shall undertake necessary steps for the safety of the assembly staff and the property of the Seller;
 6. Protective clothes and protective devices that are necessary under the special conditions at the assembly site and that are not customary to the Seller's business.
- b) Before starting with the assembly work, the Purchaser has to provide voluntarily all necessary information about the location of concealed power cables, gas and water pipes or similar facilities and necessary static data.
 - c) Before installation of assembly, the delivery items necessary for work must be on site, and all necessary preparatory works must have progressed so far that installation or assembly can start immediately upon the assembly team's arrival and can be performed without interruption.
 - d) If installation, assembly or commissioning should be delayed for circumstances-in particular at a building site – for which the Seller is not liable, the Purchaser shall, to a reasonable extent, pay the costs for waiting times and other necessary costs of the assembly staff.
 - e) The assembly staff shall receive from the Purchaser a detailed weekly confirmation of the hours worked. The Purchaser is obliged to issue a written confirmation about the completion of installation or assembly without delay.
 - f) The Seller is not liable for work done by his assembly staff or other assistants, inasmuch as this work is not connected with the delivery item or the installation or assembly, or inasmuch as they have not been ordered by the Purchaser.

If the Seller takes over installation or assembly against individual invoicing, the following additional terms shall apply:

- g) The Purchaser shall pay to the Seller the charges for work-time and surcharges for working overtime, at night, on Sundays and bank holidays, for work under difficult conditions, as well as planning and supervision. Preparatory, traveling, transit times and back reporting shall be deemed as work-time.
- h) The following costs shall be paid extra:
 1. Traveling costs, costs for transport of tools and personal luggage;
 2. Reimbursement for the working hours, as well as for days off and bank holidays.

VII. Acceptance

Delivered goods, even if they should reveal minor defects, have to be accepted by the Purchaser. Partial deliveries are permissible.

VIII. Warranty

Conditional to Section IX, the Seller grants warranty for the following defects of title and material defects, under exclusion of other claims:

Material defects

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1. At the Seller's discretion, all parts which prove to be defective due to circumstances occurring before the passing of risk, must either be reworked or redelivered, free of charge. The Seller must be informed immediately and in writing about such defects. Replaced parts shall become the Seller's property.
2. To perform all the rework and to deliver those spare parts which the Seller deems necessary, the Purchaser shall, upon agreement with the Seller, grant the Seller the necessary time and opportunity, otherwise the Seller is exempted from any liability for any costs arising from it. Only in urgent cases, if operational safety is at risk, or to protect from unreasonably high damages, whereby the Seller has to be informed immediately, the Purchaser has the right to correct the defect immediately, or to have it corrected by third parties, and to claim reimbursement from the Seller for the necessary expenses made.
3. Regarding the costs for rework or substitute delivery, and provided that the complaint is justified, the Seller shall bear the costs of the substitute item including shipment and the reasonable costs for disassembly and installation, and, if this can be reasonably claimed according to the situation, the costs of possible dispatch of assembly and assistant workers.
4. Within the legal limits, and taking the legally permitted exceptions into account, the Purchaser has the right to withdraw from the contract if the Seller ignores a reasonable deadline granted him to rework or to make substitute delivery for a material defect. If the material defect is minor, the Purchaser shall only have the right to reduce the sales price. The right to reduce the contracted price shall otherwise be excluded.
5. No warranty shall in particular be given in the following cases;
Unsuitable or improper use, faulty assembly or commissioning by the Purchaser or third parties, natural wear and tear, faulty or careless treatment, improper maintenance, unsuitable supplementary means, faulty construction work, unsuitable building ground, chemical, electrochemical or electrical influences – unless the Seller can be held responsible.
6. If the Purchaser or a third party does any rework improperly, no liability shall be assumed by the Seller for any consequences arising from it.
The same applies to any modifications of the delivery item made without the Seller's prior consent.

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Defect of title

7. If the use of the delivery item leads to any infringement of industrial rights or copyrights in the home country, the Seller shall, at his own expense, grant to the Purchaser the basic right to make further use of the delivery item, or the Seller shall modify the delivery item in a way that can be reasonably expected by the Purchaser in order to avoid any further infringement of industrial rights.

If this is not possible under economically reasonable conditions or within a reasonable period of time, the Purchaser shall be entitled to withdraw from the contract. Under the conditions aforementioned, the Seller is also entitled to withdraw from the contract.

Moreover, the Seller shall indemnify the Purchaser from undisputed or judicially confirmed claims by the owner of the industrial rights.

8. The Seller's obligations in case of any infringements of industrial property rights and copyrights stated in Section VIII.7 are deemed as conclusive, conditional to Section IX.2.

They shall only prevail if

- the Purchaser informs the Seller immediately about any such infringement of the industrial rights or copyrights claimed,
- the Purchaser gives reasonable support to the Seller in the defense against the claims filed, or enables the Seller to take modifying measures provided in Section VIII.7
- the Seller retains the right to undertake defensive steps including settlements out of court
- the defect of title is not based on an instruction from the Purchaser and
- the infringement of title has not been caused by the fact that the Purchaser has willfully modified the delivery item or has used it in a manner not provided in this contract.

IX. Liability

1. If the delivery item cannot be used by the Purchaser in the contracted manner due to his Seller's failure to carry out or to completely fulfill suggestions and consultations made before or after conclusion of contract, or through violation of other collateral contractual obligations – in particular instructions for operation and maintenance of the delivery item –, the regulations in Sections VIII and IX.2 shall apply, under exclusion of further claims on part of the Purchaser.
2. For any damages that are not incurred at the delivery item itself, the Seller shall, by whatever legal reasons, only be liable in case of
 - intent
 - gross negligence of the owner/the organs or executive employees
 - having done culpable harm to life, body, health
 - any defects that have been concealed fraudulently, or the absence of which has been guaranteed,
 - defects of delivery items inasmuch as liability has to be assumed in accordance with the Product Liability Act for damages to persons or items in connection with privately used items.

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Upon culpable violation of major contractual obligations, the Seller shall be held liable in cases of gross negligence performed by non-executive employees and of minor negligence, in the latter case limited to damage typical for contracts and reasonably foreseeable damages.

Other claims are excluded.

X. Limitation period

All claims by the Purchaser, for whatever legal reason, shall cease to be enforceable after 12 months, starting from the moment the risks have been passed in accordance with Section IV. For willful or fraudulent behavior as well as with claims arising from the Product Liability Act, the legal deadlines shall apply. These deadlines shall also apply to the defects of a building construction or to delivery items that have been used in the usual manner for a construction and that have caused its defectiveness.

XI. Use of software

Inasmuch as software is included in the scope of delivery, the Purchaser is granted non-exclusive rights to use the software delivered, including the required documentation. It will be granted for the use on the delivery item for which it was designed. The use of the software on more than one system is prohibited.

The Purchaser may copy, process, translate or convert the object code into the source code only within the limits permitted by law (Sections 69 and following of the German UrhG [Copyright Law]). The Purchaser commits himself, neither to eliminate manufacturer data – in particular copyright signs –, nor to modify them without the Seller's prior express consent.

All other titles to the software and the documentation including copies remain with the Seller or the software supplier, respectively. The granting of sublicenses is not permissible.

XII. Inability, adaptation of contract

- a) If the Seller or the Purchaser is unable to make the required delivery or provide the required performance, the general legal provisions shall apply under the following conditions:

If the inability can be blamed on the Seller, the Purchaser is entitled to claim damage payment. However, this damage payment is limited to 10% of the value of that part of delivery or performance which cannot not be put into proper operation due to the inability. Further damage claims by the Purchaser are excluded. This does not apply if the Seller is liable due to willful behavior or gross negligence. The right of the Purchaser to withdraw from the contract shall remain unaffected.

- b) If unforeseeable events in the sense of Section III, item 3 should considerably reduce the economic importance or the content of the delivery or performance, or have a considerable effect on the Seller's business, the order shall be reasonably adapted, insofar as this can be done in good faith. If such action cannot be justified for economic reasons, the Seller is entitled to withdraw from the contract. If he wants to make use of this right to withdraw, he must inform the Purchaser immediately after having recognized the extent of the event, also if an extension of the delivery schedule had been initially agreed with the Purchaser.

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XIII. Venue, applicable law

1. If the Purchaser is a businessman, sole venue shall be the Seller's principle place of business in all disputes indirectly arising for the contract relationship. The Seller may also file a lawsuit against the Purchaser at the latter's principle place of business.
2. These General Terms of Delivery and Performance and all legal relations between the Seller and the Purchaser are governed by the Law of the Federal Republic of Germany. The provisions of the UN Sales Convention do not apply.

XIV. Binding effect of the contract's terms and conditions

The terms of this contract will remain in full force, even if individual items are legally ineffective.

Amendments to the terms and conditions of this contract must be made in writing, which can only be amended in writing.