

## Terms and Conditions of Sale and Delivery of RITTAL GmbH and Co. KG for the online shop

As of August 2024

### 1. General

- 1.1** Our offer is directed towards merchants within the meaning of the German Commercial Code, legal entities under public law, and special public funds under public law. The following Terms and Conditions of Sale and Delivery apply exclusively to our deliveries and services. Supplementary or deviating terms of purchase of the Customer do not apply unless we have agreed to them in writing. The unconditional delivery of goods, rendering of services or acceptance of payments shall not be interpreted as an acknowledgement of deviating conditions.
- 1.2** These Terms and Conditions to the sale and/or delivery of movable items (goods) (hereinafter also referred to as "goods") manufactured by us or our suppliers. The Terms and Conditions also apply to all future supplies and services rendered to the Customer.
- 1.3** Within the scope of the business relationship, we are authorised to collect, process and use the Customer's personal data in accordance with the data protection law.
- 1.4** Our General Terms and Conditions of Sale and Delivery for Software shall take precedence for the sale of software. The Terms and Conditions of Sale and Delivery for Software can be viewed and downloaded from our website at [www.rittal.de](http://www.rittal.de) or which we are happy to send to the Customer upon request.
- 1.5** The currently valid Terms and Conditions of Sale and Delivery can be accessed on our website and printed at any time.
- 1.6** References to the validity of legal provisions shall only have clarifying significance. Even without such clarification, the statutory provisions shall therefore apply insofar as they are not effectively amended or excluded in these Terms and Conditions of Sale and Delivery.

### 2. Conclusion of the contract

- 2.1** The presentation of goods in the online shop does not constitute a binding offer to conclude a purchase contract. It is a non-binding solicitation to order goods in the online shop. Products can be selected from this presentation of goods, reserved in a shopping basket and ordered. Before the order is dispatched, the Customer gets the opportunity to check all the details (e.g. item description, item quantity, name, address, payment method) and change them if necessary.
- 2.2** The Customer only makes a binding offer to purchase the goods in the sense of Section 145 German Civil Code (BGB) by clicking the "Buy now" button.
- 2.3** Upon receipt of the purchase offer, the Customer receives an automatically generated email confirming that we have received the order (confirmation of receipt). This confirmation of receipt does not yet constitute acceptance of the purchase offer. A purchase contract is not yet concluded by the confirmation of receipt.
- 2.4** A purchase contract for the goods is only concluded when we expressly declare our acceptance of the purchase offer (order confirmation). Before shipment of the goods, the Customer receives a shipping confirmation by email together with the invoice. The Customer consents to the electronic transmission of the invoice upon submission of the order. The contract shall also be

concluded without an order confirmation if we execute the order. The order confirmation and shipping confirmation can also be sent to the Customer together in one email. Upon receipt of the purchase offer, the content of the order is stored in the Customer's account where it can be viewed and printed by the Customer.

- 2.5** We shall be entitled to change our goods and services with effect for the future at any time. We shall not be obliged to make such changes to goods that have already been delivered or to services that have already been rendered.

### 3. Prices, terms of payment, offsetting

- 3.1** Unless stated otherwise in the order confirmation, prices are quoted ex works from the named supply plant, excluding packaging plus value added tax at the statutory rate. Any customs duties, fees, taxes, insurance premiums and other public charges shall be paid by the Customer. The installation, assembly and commissioning of systems are invoiced separately on a time and materials basis.
- 3.2** Unless agreed otherwise, the corresponding shipping costs shall be paid by the Customer.
- 3.3** If the date of delivery or performance is later than three months after conclusion of the contract, we shall be entitled, after timely notification to the Customer and prior to delivery or performance, to adjust the price for the goods or services agreed at the time of conclusion of the contract, including cost for transportation, to the extent that this is reasonable due to the development of costs beyond our control (e.g. advance payments, exchange rate fluctuations, changes in customs duties and fees).
- 3.4** We deliver on account. Invoices are issued in euros; currency risks shall be borne by the Customer. Unless agreed otherwise, the purchase price is due and payable within 30 days from the date of invoice and receipt of the goods. The Customer shall be in default without a reminder after expiry of this deadline. The amount invoiced is payable strictly net without deduction.
- 3.5** The Customer may only offset uncontested or legally enforceable. The Customer shall only be entitled to rights of retention insofar as they are based on the same legal transaction.

### 4. Performance period

- 4.1** We shall comply with the deadlines and dates specified for performance of the contract provided that all technical questions have been clarified and the Customer has fulfilled their duties to cooperate in a timely, complete and proper manner. Delivery dates or deadlines shall only binding if we have confirmed them in text form.



**4.2** If we do not fulfil our obligations in due time for reasons for which we are responsible, the Customer shall grant us a reasonable grace period for the performance, which as a rule shall be two weeks. Upon our request the Customer shall be obliged to declare within an adequate period of time whether they wish to withdraw from the contract due to the delay in delivery and/or wish to claim compensation in lieu of performance, or insist on delivery.

**4.3** If an agreed date of performance is delayed due to circumstances for which we are not responsible because we have not been supplied, have not been supplied in time or have not been supplied properly despite proper congruent covering of requirements, our deadlines shall be extended to a reasonable extent. If we have duly informed the Customer about the impediment to performance and if such impediment is not only of a temporary nature, we shall be entitled to withdraw from the contract in whole or in part with regards to the part remaining, unfulfilled part of the contract.

**5. Shipping, transfer of risk, deliveries by instalment, call orders**

**5.1** Unless otherwise agreed, we shall ship the goods at cost to and risk of the Customer. We shall determine the shipping method, dispatch route, forwarding agent and/or freight carrier at our reasonable discretion.

**5.2** The risk of destruction, loss or damage of the goods shall be transferred to the Customer upon loading the goods are loaded at our warehouse. The aforesaid shall also apply where delivery is made in instalments or where we have undertaken additional services such as transport costs or delivery and assembly.

**5.3** We shall provide suitable packaging, protective material and/or transport aids according to our experience. Unless otherwise agreed in text form or if prescribed by law, we take packaging, protective material and transport aids back at our warehouse. The costs of transportation to our warehouse shall be borne by the Customer. The same shall apply to increases in freight rates that occur after conclusion of the contract.

**6. Force majeure, frustration of contract, reservation of performance**

**6.1** In the event of force majeure affecting us or our suppliers, our delivery and performance obligations shall be suspended for the duration of the disruption and a reasonable recovery period. Force majeure is an external event caused by elementary forces of nature or other exceptional environmental events or by the actions of third parties, and which is unforeseeable according to human insight and experience, which cannot be prevented or rendered harmless by economically reasonable means, even by the utmost care that could reasonably be expected on the merits, and which neither is to be accepted on account of the frequency of its occurrence. A case of force majeure shall be assumed in particular in the event of a pandemic or epidemic situation. A case of force majeure shall furthermore be assumed in the event of shortage of energy or raw materials, justified industrial action, operational disruptions of any kind, transport delays, shortage of labour, difficulties in obtaining the necessary official permits or in the event of other official measures and dispositions.

**6.2** We shall be entitled to withdraw from the contract, if the circumstance prevailing at the time of concluding the contract have seriously changed and as a result of which we cannot reasonably be expected to adhere to the contract.

**6.3** Our fulfilment of the contract is subject to the proviso that we thereby do not violate either regulations of national and international foreign trade law or sanctions or embargoes.

**6.4** We shall be released from our obligations to perform if and to the extent that our sub-supplier finally fails to perform despite diligent selection and the timely conclusion of a congruent covering transaction with them. We shall remain under obligation to perform if we are responsible for the failure of our supplier to deliver to us or if we knew or should have known that our supplier was incapable or not prepared to deliver at the time when we assured to the Customer. We shall be obliged to inform the Customer without delay about the relevant circumstances and to reimburse the Customer for any already rendered services in return.

**7. Retention of title**

**7.1** Sold goods shall remain our property until fulfilment of all claims arising from the business relationship (reserved goods).

**7.2** Until full payment of all secured claims, the Customer may only dispose of the reserved goods if we have previously agreed to such a disposal. The Customer shall immediately inform us in written form if and to what extent third parties intend to access the reserved goods.

**7.3** If reserved goods are treated or processed by the Customer, our retention of title shall be extended to cover the entire new object. If our goods are processed, combined or mingled with third-party items by the Customer, we shall acquire co-ownership to the fraction corresponding to the ratio of the invoice value of our goods to that of the other items used by the Customer at the time of processing, combining or mingling our goods.

**7.4** If the Customer combines or mingles the reserved goods with principal goods belonging to the Customer, the Customer shall hereby assign to us their rights with regard to the new item. If the Customer combines or mingles the reserved goods with principal goods belonging to a third party against payment, they hereby assign to us their claims for payment against the third party; we accept the assignment.

**7.5** The Customer shall be entitled to resell reserved goods in the normal course of their business. If the Customer in turn resells reserved goods without having received the full purchase price for such goods, the Customer shall agree on a retention of title with their customers corresponding to the obligations to which the Customer is subject. The Customer hereby assigns to us their claims arising from this resale and the rights arising from the retention of title agreed by the Customer. We accept the assignment. At our request, the Customer shall be obliged to inform their customer about the assignment and to provide us with the information and documents required to assert our rights against their customer. Irrespective of the assignment, the Customer shall only be authorised to collect claims under the resale as long as they duly fulfil their obligations towards us.

**7.6** If the value of the securities provided to us exceeds our claims by more than ten percent, upon request by the Customer, we undertake to release excess securities at our discretion upon request by the Customer.

**8. Liability for defects**

**8.1** Regarding the rights of the Customer in the event of material defects and defects of title, the statutory provisions shall apply unless stipulated otherwise below.

**8.2** We warrant that the goods delivered and services rendered by us comply with the applicable German regulations and standards. If the goods are to be used in another country, the Customer undertakes to ensure that they comply with the locally applicable legislation and the authoritative standards that apply there and, if necessary, to make any relevant adaptations at their own expense.

**8.3** The goods shall be deemed to be free of defects if (a) they have the agreed quality, (b) they are suitable for the use provided for in the contract and (c) they are handed over with the agreed accessories parts and instructions, including assembly and installation instructions (subjective requirements). A condition deviating from our product description or a usage intended by the Customer shall be effectively agreed only if we have expressly consented thereto in writing in accordance with Section 126 (1) German Civil Code. A declaration of obligation that exceeds the claims for defects (independent guarantee) shall not be associated with this unless the Customer has concluded a separate agreement with us which regulates the scope and legal consequences of the independent guarantee in detail.

**8.4** In the absence of a subjective requirement, the goods shall be free from material defects if they meet the objective requirements in accordance with Section 434 (3) German Civil Code. Our product description as provided to the Customer prior to their order or has been included in the contract in the same way as these Terms and Conditions shall be authoritative.



- 8.5** The Customer's claims for defects require that they have fulfilled their statutory obligations to inspect consignments and give notification of deficiencies (Sections 377, 381 German Commercial Code (HGB). If a deficiency is obvious (including incorrect or shortfall in delivery) or if it becomes apparent during the inspection or later, we must be notified about it in writing without delay. If the notification is not given at all or later than stipulated, claims associated with the deficiency in question shall be excluded.
- 8.6** A defect caused by the Customer or a third party, shall not entitle the Customer to any claims in this regard. This shall be assumed in particular if the deficiency is attributable to one of the following circumstances:
- the Customer's requested execution if its unsuitability was not apparent to us or if the Customer rejected the reservations expressed by us;
  - deficiency of the material or other components supplied by the Customer;
  - improper use, faulty assembly or commissioning, normal wear and tear, faulty or negligent handling or maintenance, usage of unsuitable operating materials or damaging ambient conditions if they are attributable to the Customer or third parties.
- 8.7** If the delivered goods are defective, we can initially choose whether to undertake subsequent fulfilment by remedying the defect (rectification) or by delivering flawless goods (substitute delivery). We shall be entitled to make subsequent performance conditional upon payment of the due purchase price by the Customer, whereby the Customer may retain a reasonable part of the purchase price until the deficiency has been remedied.
- 8.8** The place of performance for subsequent fulfilment shall be the original place of delivery unless the movement to another location corresponds to the intended use. Additional costs incurred in association with shipment to a location with restricted access (e.g. offshore platform, restricted area, polar or alpine region) shall be borne by the Customer. In the event of substitute delivery, the Customer shall return the defective goods to the place of performance.
- 8.9** If our subsequent fulfilment fails despite two attempts or if we are in default despite having set a reasonable deadline, the Customer may either withdraw from the purchase contract while waiving a further subsequent fulfilment or reduce the purchase price according to the value of the deficiency. If a deficiency is insignificant, withdrawing from the purchase contract shall be excluded.
- 8.10** Claims on the part of the Customer for damages or reimbursement of futile expenses shall only exist within the limits of the following Section 9 (Liability); otherwise they shall be excluded.
- 9. Liability**
- 9.1** Unless indicated otherwise in these Terms and Conditions, including the provisions set out below, we shall be liable according to the statutory provisions in case of infringement of contractual and non-contractual duties.
- 9.2** We shall only be liable to pay damages, irrespective of their legal grounds, in the event of wilful intent or gross negligence unless the law provides for liability without fault. Furthermore, we shall also be liable for minor negligence for non but the following:
- for damages resulting from injury to life, limb or health, and
  - for damages arising from the breach of a material contractual obligation, in which case our liability shall be limited to compensation for the foreseeable, typically occurring damage. A material obligation is an obligation, the fulfilment of which makes proper execution of the contract possible in the first place and the observance of which the Customer can justifiably rely upon.
- 9.3** The limitation of liability in accordance with Clause 9.2 shall not apply if we have maliciously concealed a deficiency or if we have issued a separate guarantee for the quality of the goods. The same shall apply to Customer's claims under the German Product Liability Act.
- 9.4** To the extent that our liability is excluded or limited, this shall also apply to the individual liability of employees, representatives or vicarious agents.
- 9.5** In the event of a breach of obligation other than a deficiency, the Customer shall be entitled to withdraw from or terminate the contract only if we are responsible for the breach of obligation. Any separate right to termination on the part of the Customer (in particular in accordance with Sections 650, 648 of the German

Civil Code) shall be excluded. The declaration of withdrawal or termination must be in writing in accordance with Section 126 (1) German Civil Code. In all other respects, the statutory provisions shall apply.

- 9.6** An assignment of claims on the part of the Customer as regulated in Clauses 8 and 9 is excluded; Section 354a German Commercial Code shall remain unaffected.

## **10. Limitation**

- 10.1** Reciprocal claims of the contracting parties shall become time barred in accordance with the statutory provisions unless stipulated otherwise below.
- 10.2** Notwithstanding Section 438 (1) No. 3 German Civil Code, the limitation period for claims arising from material defects and defects of title shall be one year from delivery of the goods or performance of the service unless the defect was maliciously concealed. Insofar as an acceptance has been agreed, the limitation period commences with the date of acceptance.
- 10.3** Claims arising from defects of title shall be deemed non time-barred insofar and as long as the third party can still assert their rights against the Customer in the absence of a limitation period.
- 10.4** The statutory limitation period shall apply to constructions and newly manufactured items that have been used for a construction in accordance with their customary use and have caused deficiencies in the structure.
- 10.5** If we owe the Customer contractual damages in accordance with Clause 9 due to or as a result of a deficiency, this claim shall be subject to the statutory limitation period (Section 438 German Civil Code). It shall also apply to competing non-contractual claims for damages unless the regular statutory limitation period in accordance with Sections 195, 199 German Civil Code results in a shorter period in an individual case. The statutes of limitations laid down in the German Product Liability Act shall remain unaffected.

## **11. Delivery of spare parts**

- 11.1** Insofar as we are obliged to supply spare parts, after the limitation period as stipulated in Clause 10 has expired, we shall be entitled to supply the Customer with functionally identical spare parts instead of original spare parts or to inform them about another supplier. The same shall apply to the provision of services required for operating the business.

## **12. Information obligations in accordance with the German Electrical and Electronic Equipment Act (ElektroG)**

- 12.1** We are obliged to provide a reasonable option for returning waste electrical equipment. The return address as well as and further information on the rights and obligations arising from the German Electrical and Electronic Equipment Act (ElektroG) can be viewed at [www.rittal.com](http://www.rittal.com).
- 12.2** The Customer shall bear the responsibility and costs for returning waste electrical equipment until they reach the warehouse. We will take care of the disposal and pay the incurred costs.

## **13. Export compliance**

- 13.1** For (a) the transportation of goods (products, software and technology) across national borders as well as (b) the provision of services (e.g. assembly, maintenance, repair, instruction and training) abroad or with extraterritorial effect which serve the fulfilment of our contractual obligations, national and European foreign trade legislation as well as – where relevant – U.S. export control legislation shall apply. In accordance with these regulations, individual deliveries or services may be subject to restrictions or prohibition. If this is the case, we shall be released from our fulfilment obligations to the extent of the restrictions or prohibition.
- 13.2** Upon request, the Customer shall be obliged to provide us with adequate and complete information on the end use and final destination of the goods to be delivered or services to be rendered. For this purpose, the Customer shall prepare the neces-



sary documents using the officially stipulated forms and provide us with the original copies so that we can check them and provide the competent supervisory authority with the necessary verification.

- 13.3** If an export or transportation permit or another permit or clearance under foreign trade legislation is required, our performance obligations shall be dependent upon the granting of such a permit or clearance by the competent authority. If the approval or clearance is not granted or there are other obstacles to the fulfilment of the contract under foreign trade or customs legislation, we shall be entitled to withdraw from the contract in its entirety or with respect to the affected delivery or service obligation. Services already rendered are to be restituted provided that no obstacles to this exist under foreign trade legislation.
- 13.4** The adherence to agreed delivery deadlines is subject to the timely granting of the necessary export or shipment permits or other clearances by the competent authority. In case the granting of the required permits is delayed, the delivery period shall be extended by the duration of the official proceedings and a reasonable restart time after receiving the positive notice; default cannot occur during this time.
- 13.5** The Customer shall take appropriate measures to ensure that the goods, intellectual property rights, trade secrets, rights of access or re-use within the meaning of Articles 12g and 12ga of Regulation (EU) No. 833/2014 and Article 8g of Regulation (EU) No. 765/2006 ("sanctioned objects"), which are delivered to him by us under this contract or granted to him and are listed in the list of goods under Articles 12g and 12ga of Regulation (EU) No. 833/2014 and Article 8g of Regulation (EU) No. 765/2006, do not enter the Russian Federation or Belarus either directly or indirectly or are intended for use there. Even entering into an obligation under the Law of Obligations that is aimed at this is to be avoided, as is any arrangement which may be qualified as a circumvention of the afore mentioned prohibition.
- 13.6** The Customer shall inform us immediately about third party activities indicating a breach of the obligations set out in Clause 13.5. The Customer shall support us to the best of its ability in clarifying and remedying the situation.
- 13.7** A breach of Clause 13.5 constitutes a serious breach of contractual obligations which entitles us to an extraordinary termination of the contractual relationship. Furthermore, we may demand suitable remedial measure from the Customer.

#### **14. Confidentiality**

- 14.1** The parties shall treat the operating and business secrets of the other party confidentially; in particular, they shall not pass them on to third parties or use them for their own business purposes without authorisation. The parties shall also impose this obligation on their employees and vicarious agents.
- 14.2** The confidentiality obligation shall not apply to any information which at the time of its disclosure
- was already known to the other party outside of the contractual relationship,
  - has been developed by the party itself or has been lawfully procured from third parties,
  - is generally known or is state of the art or
  - has been released by the contractual partner from whom it originates.
- 14.3** After termination of the contractual relationship, the parties shall return all information of a confidential nature to the respective other party, whether in physical or digital form, without being requested to do so or, at the request of the party from which it originated, destroy it or – insofar as is technically possible with reasonable effort – irrevocably delete it.
- 14.4** The parties shall comply with the rules of data privacy, in particular if they are granted access to the operations or information technology facilities of the other party. They shall take appropriate measures to ensure that their employees and vicarious agents also comply with these provisions.

#### **15. Right of withdrawal/termination**

- 15.1** We shall be entitled to withdraw from the contract or to terminate the contract with immediate effect in the event of a deterioration of the Customer's financial circumstances and the fulfilment of the Customer's payment obligations towards us is are consequently jeopardised or if the Customer ceases to render payments.

#### **16. Place of jurisdiction, choice of law**

- 16.1** These Terms and Conditions and all legal relations between us and the Customer shall be governed by German law applicable to domestic contracting parties to the exclusion of the UN Convention on Contracts for the International Sale of Goods. By way of derogation, the conditions and effects of the retention of title in accordance with Clause 7 shall be governed by the law of the respective place of storage or installation of the item should the choice of law made in favour of German legislation accordingly be inadmissible or ineffective.
- 16.2** For the target group addressed in accordance with Clause 1.1 the sole – including international – place of jurisdiction for all disputes arising from and in conjunction with the contractual relationship is our registered office in Dillenburg. We shall also be entitled to take legal action at the Customer's general place of jurisdiction.

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