

Terms and Conditions of Sale and Delivery of Alfra GmbH

Last update February 2024

1. General

- 1.1 Our offer is directed at merchants within the meaning of the German Commercial Code, legal entities under public law, and special public funds under public law. Solely the following terms and conditions apply to our deliveries and services. Supplementary or deviating terms of purchase of the Customer shall not apply unless we have agreed to them in individual cases in writing. The unconditional delivery of goods, rendering of services or receipt of payments shall not be tantamount to an acknowledgement of deviating provisions.
- 1.2 These terms and conditions apply in particular to the sale and/or delivery of movable goods (hereinafter also referred to as "goods", irrespective of whether we manufacture the goods ourselves or purchase them from suppliers. They shall also apply to all future deliveries and services rendered for the Customer.
- 1.3 Within the scope of the business relationship, we are authorised to collect, process and use personal data of the Customer in accordance with the applicable data privacy legislation.
- 1.4 Our General Terms and Conditions of Sale and Delivery shall take precedence for the sale of software. These can be viewed and downloaded from our website at www.rittal.com or can be sent to the Customer upon request.

2. Contractual representations

- 2.1 Our published range of products and services (e.g. in catalogues, brochures, technical documentation or on the internet) is subject to change and is non-binding. A contract for an order shall only be concluded upon receipt of our order confirmation in text form. The contract shall also be concluded if we execute the order. If we have declared ourselves bound for a specified item and price for a certain period of time, a contract shall only come into existence if the customer accepts the offer in text form while it is still binding.
- 2.2 We shall be entitled at any time to change our goods and services with effect for the future. We shall not be obliged to make such changes to goods that have already been delivered or to services that have already been rendered.
- 2.3 Only our order confirmation in text form shall be authoritative with respect to the acceptance of the order, the precise subject matter of the contract and the delivery date. If orders are placed over the Internet, the automated order receipt confirmation does not constitute a declaration directed at contract formation.

3. Prices, terms of payment and offsetting

- 3.1 The prices for standard items can be found on the price list in effect when the contract is entered into, unless otherwise agreed. In case of the specification of packaging units (PU), the price per PU shall apply as specified. It is understood that the list price does not include shipping, customs duties, incidental import duties, insurance, statutory VAT, packaging and other incidental costs. We shall charge packaging costs at the amount of the expenses actually incurred by us. We shall invoice the cost of assembly, installation and commissioning of equipment on a time and material basis. For orders below an order value of EUR 150, we charge a lump sum of EUR 35.

- 3.2 If the date of delivery or performance is later than three months after conclusion of the contract, we shall be entitled, after timely notification of the Customer and prior to delivery or performance, to adjust the price of the goods or services agreed at the time of conclusion of the contract, including transportation, to the extent that this is reasonable due to the development of costs beyond our control (e.g. up-front costs, exchange rate fluctuations, changes in customs duties and fees. In the case of general contracts which contain price agreements, the three-month period shall commence upon conclusion of the general contract.

- 3.3 Unless otherwise agreed, the customer must pay the amount owed within 30 days after receipt of the invoice. Upon expiry of this deadline, the customer shall be in default without a reminder. The amount invoiced is payable strictly net without deduction.

- 3.4 The Customer may off-set accounts only if the counter-claim in question is not controversial or has been ascertained in a legally binding manner. The Customer shall only be entitled to rights of retention in so far as these are based on the same legal transaction.

4. Time for performance

- 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 obligations to cooperate in a timely, complete and proper manner. Delivery deadlines or periods are 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 period of grace for the performance, which as a rule shall be two weeks. If requested by us, the Customer shall be obliged to declare within an adequate period of time if they intend to withdraw from the contract due to the delay in delivery and/or demand compensation in lieu of delivery, or if they will still 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, not supplied in time or not supplied properly despite proper congruent covering of the requirements, our deadlines shall be extended to a commensurate extent. If we have duly informed the Customer about the impediment to performance and if it is not only of a temporary nature, we shall be entitled to withdraw from the contract in whole or in part on account of the part of the contract that has not yet been fulfilled.

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

- 5.1 Unless agreed otherwise, 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.

- 5.2 Unless expressly agreed otherwise, the risk of destruction, loss of or damage to the goods shall be transferred to the Customer when the goods are loaded at our warehouse or, if the goods cannot or are not to be shipped, upon provisioning of the goods or sending of notification of our readiness to deliver. 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 installation.
- 5.3 We shall provide suitable packaging, protective material and/or transport aids in accordance with our experience. Unless agreed otherwise in text form, packaging, protective material and transport aids are taken back at our warehouse. The costs of transportation to our warehouse shall be borne by the Customer. Extra costs attributable to the Customer's special shipping requests shall be borne by the Customer. The same shall apply to increases in freight rates that occur after conclusion of the contract.
- 5.4 We may render deliveries by instalment and issue invoices accordingly unless this is unreasonable for the Customer.
- 5.5 If the Customer has agreed to call for partial deliveries of the total order over a defined period of time, it shall give reasonable consideration to our interests. The Customer shall pay particular attention to an even distribution of quantities and to reasonable lead times between the individual call-off and the respective delivery date.
- 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 restart 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, cannot be prevented or rendered harmless by economically reasonable means, even by the utmost care that could reasonably be expected in the circumstances, and is also not 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. The same shall apply to a shortage of energy or raw materials, 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 If a serious change occurs in the circumstances prevailing at the time of conclusion of the contract as a result of which we cannot reasonably be expected to adhere to it, we shall be entitled to withdraw from the contract.
- 6.3 Our fulfilment of the contract is subject to the proviso that we thereby neither violate regulations of national and international foreign trade law nor violate sanctions or embargoes.
- 6.4 We shall be released from our performance obligations 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 as assured to the Customer. We are obliged to inform the customer immediately of the relevant circumstances and to reimburse him for any consideration already paid.
- 7. Retention of title**
- 7.1 Sold goods remain our property ("reserved goods") until all claims arising from the business relationship have been fulfilled.
- 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 mixed with third-party items by the Customer, we shall acquire co-ownership in the fraction corresponding to the proportion of the invoice value of our goods to that of the other items used by the Customer at the time our goods are processed, combined or mixed.
- 7.4 If the Customer combines or mixes the reserved goods with principal goods belonging to them, the Customer shall hereby assign us their rights with regard to the new item. If the Customer combines or mixes against payment the reserved goods with principal goods belonging to a third party, 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 receiving the full purchase price for such goods, the Customer shall agree with their customers on a retention of title that corresponds 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, we undertake to release excess securities at our discretion upon request by the Customer.
- 8. Liability for defects**
- 8.1 The statutory provisions shall regarding the rights of the Customer in the event of material defects and defects of title 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 prescribed usage according to the contract and (c) they are handed over with the agreed accessories and instructions, including assembly and installation instructions (subjective requirements). A quality deviating from our product description or a usage intended by the Customer shall only be effectively agreed if we have expressly consented thereto in written form as per Section 126 (1) of the German Civil Code (BGB). A declaration of obligation going beyond 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) of the German Civil Code. Our product description as provided to the Customer prior to their order or which was referenced in the contract in the same way as these terms and conditions shall be authoritative.

- 8.5** The Customer's claims for defects presuppose that they have fulfilled their statutory obligations to inspect consignments and give notification of deficiencies (Sections 377, 381 German Commercial Code/HGB). If a defect is obvious (including incorrect or shortfall in delivery) or if it becomes apparent during the inspection or later, we must be notified about the defect in text form (in the meaning of Sec. 126b BGB) without delay. If the notification is not given at all or later than stipulated, claims associated with the defect in question shall be excluded.
- 8.6** Defects caused by the Customer or a third party shall void any claims in this regard. This shall be assumed in particular if the deficiency is based on one of the following circumstances:
- the Customer's requested execution, if its unsuitability was not apparent to us or 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 to deliver flawless goods (substitute delivery). We shall be entitled to make subsequent fulfilment 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 defect has been remedied.
- 8.8** The place of performance for subsequent fulfilment shall be the original place of delivery unless the transfer to another place 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 a 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 setting a reasonable deadline, the Customer may withdraw from the purchase contract while waiving further subsequent fulfilment or reduce the purchase price in accordance with the value of the deficiency. A withdrawal shall be excluded in the case of an insignificant deficiency.
- 8.10** Claims of the Customer for damages or compensation for futile expenditure shall only exist in 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 following provisions, we shall be liable in accordance with the statutory provisions in the event of any 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 in the event of a degree of culpability that falls short of Sentence 1 (minor negligence), but then only
- for damages resulting from injury to life, body 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 we have assumed a separate warranty for the quality of the goods. The same shall apply to claims on the part of the Customer in accordance with 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 and vicarious agents.
- 9.5** In the event of a breach of obligation that does not concern a

deficiency, the Customer may only withdraw from or terminate the contract if we are responsible for the breach of obligation. Any separate right of termination on the part of the Customer (in particular in accordance with Sections 650, 648 of the German Civil Code) shall be excluded. A withdrawal or termination must be in written form in accordance with Section 126 (1) German Civil Code/BGB. In all other respects, the statutory provisions shall apply. Otherwise the legal provisions shall apply.

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

10. Limitation

- 10.1** Reciprocal claims of the contracting parties shall lapse in accordance with the statutory provisions unless stipulated otherwise below.
- 10.2** Notwithstanding Section 438 (1) No. 3 of the 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. If the subject matter of the contract is a machine or an appliance (not a tool) and the customer is acting as a dealer, the limitation period for these claims shall commence, in deviation from sentence 1, from the date of sale from the dealer's warehouse as evidenced by the sales receipt, but no later than six months from delivery of the goods or provision of the service to the dealer. If an acceptance has been agreed upon, the limitation period commences with the date of acceptance.
- 10.3** Claims arising from defects of title shall be deemed not to have lapsed 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** If we owe the Customer contractual damages in accordance with Clause 9 due to or as a result of a defect, this claim shall be subject to the statutory limitation period (Section 438 of the 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 of the 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

Insofar as we are obliged to supply spare parts, after expiry of the limitation period as stipulated in Clause 10 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 operationally necessary services.

12. Information obligations in accordance with the German Electrical Appliances Act

- 12.1** We are obliged to provide reasonable means for returning waste electrical equipment. The return address and further information about the rights and obligations arising from the German Electrical Appliances Act (ElektroG) can be viewed at www.rittal.com.
- 12.2** The Customer shall bear the responsibility and costs for returning his old appliances to the return address specified by us. We will take care of the disposal and pay the incurred costs.

13. Export compliance

- 13.1** For (a) the transportation of goods (goods, 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** The Customer is obliged to provide us upon request with adequate and complete information about 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 necessary 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** In the event that an export or transportation permit or another permit or clearance under foreign trade legislation is required, our fulfilment 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 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 that have already been 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 the event of a delay, the delivery period shall be extended after receipt of a positive notice by the duration of the official proceedings and a reasonable restart time; we cannot be in default during this time.
- 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 requiring secrecy to the respective other party, whether in embodied or digital form, without being requested to do so or, at the request of the party from which it originates, 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**
- We shall be entitled to withdraw from the contract or to terminate the contract with immediate effect if
- a deterioration in the financial circumstances of the Customer arises and consequently the fulfilment of their payment obligation towards us is in jeopardy or
 - the Customer stops their payments.
- 16. Place of jurisdiction and 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, Germany. We shall also be entitled to take legal action at the Customer's general place of jurisdiction.

Special provisions for works services

If the Customer has commissioned us with the installation,

assembly or commissioning of the goods delivered by us, the following provisions shall additionally apply.

17. Subcontractors

We shall be entitled to engage subcontractors to perform assembly work.

18. Duties of cooperation of the Customer

18.1 The Customer shall ensure that materials required for the installation or assembly, such as machine parts, equipment and tools, are stored at the installation site. The Customer is obliged to provide suitable premises for this purpose, in particular sufficiently large, dry and lockable rooms, and adequate work and break rooms for the assembly personnel. Protective clothing and safety equipment that are required due to special circumstances at the installation site are to be provided.

18.2 If the installation, assembly or acceptance is delayed due to circumstances for which we are not responsible, the Customer shall bear to a reasonable extent the extra costs for waiting times and additionally necessary travel arrangements of our assembly personnel.

19. Custom-made products

19.1 In the case of custom-made products ordered by the Customer, the Customer shall only be entitled to terminate the contract if there is an important reason for doing that lies within our sphere of responsibility.

19.2 In the event of non-acceptance of goods manufactured in accordance with the Customer's specifications, we shall be entitled to dispose of the items at the Customer's expense after the unsuccessful expiry of a reasonable collection deadline set for the Customer in text form.

20. Acceptance

20.1 If we demand acceptance of the performance after its completion – where applicable including before expiry of the agreed performance period – the Customer shall carry this out within twelve working days unless agreed otherwise. Upon request, self-contained parts of the service must be accepted separately. Refusal of acceptance is only permitted if significant defects are established and only until their elimination.

20.2 If an acceptance is not requested, the work shall be deemed to have been accepted at the end of 30 working days after written notification has been given of its completion. If an acceptance is not requested and the Customer has put the work results or part of the work results into use, unless agreed otherwise acceptance shall be deemed to have taken place at the end of six working days after the commencement of use.

20.3 With the acceptance, the risk is transferred to the Customer unless the transfer of risk has already taken place in accordance with Clause 5.