

General Conditions of Purchase of Rittal GmbH & Co. KG

1. Scope of application

These Conditions of Purchase shall apply exclusively; if the Supplier's General Conditions of Purchase conflict with or differ from same, we shall only recognise said General Conditions of Purchase if their validity has been expressly approved by us in writing. Our Conditions of Purchase shall also apply where we accept or pay for products and services of the Supplier (hereinafter: contractual goods) knowing that the Supplier's conditions conflict with or differ from our Conditions of Purchase. Our Conditions of Purchase shall also apply to all future deliveries and services by the Supplier.

2. Entering into a contract

Agreements, orders and call off deliveries, as well as other modifications and additions, must be made in writing. An order shall be deemed to be accepted unless the Supplier notifies us to the contrary within 10 working days of the order date.

3. Prices

Unless a separate agreement is reached, prices are fixed and shall be DDP delivery address (INCOTERMS 2000) including packaging, plus the sales tax applicable in each case.

4. Payment

Except where the parties agree otherwise invoices received on or before the 15th day of any months shall be remitted by the 30th day of the same month. Invoices received after the 15th but on or before the 31st day of any month shall be remitted by the 15th day of the following month. We are entitled to deduct a 3% discount on remittances made within the aforementioned deadlines. . Payment shall be made subject to invoice check.

Default in payment shall arise only after due date and formal reminder. The amount of interest on arrears shall be determined solely on the basis of the statutory interest rate stated in the German Commercial Code (HGB). We retain the right to exercise our statutory rights of set off or retention.

5. Place of performance, delivery, packaging

Unless otherwise defined on a case by case basis, delivery is agreed DDP delivery address (INCOTERMS 2000). Consequently the Supplier shall be liable for the material risk until acceptance of the goods by us or our agent at the place contractually agreed for delivery of the goods.

If the Supplier has agreed to erect or install the goods, and unless otherwise expressly agreed, the Supplier shall be liable for all the necessary costs thereof.

Partial deliveries are not permitted unless we have expressly agreed to the same.

Quantities, weights and dimensions shall be based on the values ascertained by us during incoming goods inspection, subject to evidence to the contrary.

The Supplier undertakes to use environmentally friendly packaging that can be recycled or disposed of at low cost. Styropor chips are not permitted for use as packaging material. Packaging must guarantee protection against damage, dirt and damp during transport and storage in order that assembly at our premises or the premises of one of our agent companies is possible at no further cost. Any important information on contents, storage and transport must be visibly affixed to the packaging. Loaned packaging shall be returned carriage not prepaid to the Supplier's address.

6. Delivery dates

If agreed deadlines are not met, the statutory regulations shall apply. If the Supplier realises that delivery as specified in the contract is or will be impossible owing to problems with production, supply of primary material, compliance with the delivery date or similar circumstances, the Supplier must notify us accordingly without delay.

The Supplier shall only be entitled to rely on our failure to provide requisite information where despite having sent a written reminder setting a reasonable deadline we have failed to provide him with the same.

In the event of late delivery or service we shall be entitled to impose liquidated damages of 0.2% of the net value of the goods delivered late per working day, up to a maximum of 7,5% of the value of the goods.

Unconditional acceptance of a late delivery or service does not constitute a waiver of the claims to which we are entitled as a result of late delivery or service; this shall apply up until we have remitted the sums owing in full.

7. Waste disposal, prohibited materials

The Supplier shall remove and dispose of all waste supplied in conjunction with the products in accordance with the statutory requirements at Supplier's expense except where the parties have agreed otherwise. Title, risk and the responsibility to dispose of the waste shall pass to the Supplier upon waste accrual.

The Supplier is in particular under a duty to take back and properly dispose of electrical and electronic appliances in accordance with the European Directive 2002/96/EG dated 27th January 2003 dealing with scrapped electrical and electronic appliances.

The Supplier guarantees that the products are in conformity with the RoHS Directive (No. 2002/95/EG dated 27th January 2003).

The Supplier guarantees further that the products even where the same only constitute components of electrical or electronic equipment do not contain prohibited substances as required by section 5 of the German Elektrogesetz which regulates the circulation, withdrawal, and environmentally friendly disposal of electrical and electronic equipment..

8. Force Majeure

Force majeure and events beyond our control shall entitle us, without prejudice to our other rights, to withdraw from the contract either fully or in part, where we have no further commercial interest in performance as a result..

9. Confidentiality

No commercial or technical information provided to the Supplier by us may be disclosed to third parties, unless and until it is demonstrably in the public domain. Said information shall remain our exclusive property; we reserve all rights to it. Such information must not be reproduced or used commercially without our prior written agreement, except in respect of contractual services to us. Upon request, the Supplier must return to us or destroy in full and immediately all information provided by us (including prepared copies or drawings if applicable) and items supplied on loan.

Products prepared on the basis of documents drafted by us, such as drawings, models, formulae or similar, must not be used by the Supplier for its own purposes or offered or supplied to third parties.

In the event of a breach of the confidentiality undertakings aforesaid the Supplier shall pay us liquidated damages in the sum of 5,000 € per breach. A defence based on continuation of breach shall not be open to the Supplier.

10. Insurance

The Supplier shall for the term of the contract including periods of guarantee and limitation for warranty claims shall take out and maintain liability insurance on terms customary in the trade and with an insurance sum of not less than 2 million€ per damage claim.

11. Quality Assurance, Incoming Goods Inspection

The Supplier undertakes to maintain a system of quality management which corresponds to the most recent technical standards (eg DIN EN ISO 9000 ff., QS 9000, VDA 6.1 or similar management systems). The Supplier shall carry out tests during manufacture in accordance with the requirements of his system of quality management unless we deem particular testing necessary at a preliminary stage and submit a testing plan requiring the same. The Supplier shall carry out final testing of the products which shall ensure that only non faulty goods are supplied.

Acceptance of the products supplied shall be subject to an examination of the products as soon as and insofar as is feasible in accordance with normal business procedure. Such examination shall include the type and quantity of the products supplied as well as any external damage thereto. Furthermore any incoming goods inspection is replaced by the quality assurance measures undertaken by the Supplier in accordance with the provisions aforesaid. The Supplier hereby waives its defence of late notification of defects as provided for in §377 of the German Commercial Code (HGB).

12. Rights in the event of defects

The statutory regulations on material defects and deficiencies in title shall apply without restriction, unless otherwise provided below

In urgent cases, especially in order to counter acute risks or prevent major damage, we shall be entitled to rectify defects ourselves or arrange for such to be rectified by third parties, at the Supplier's expense.

Claims for material defects and deficiencies in title shall be time barred upon the expiration of the statutory warranty period.

Any Products repaired or replaced during the warranty period shall benefit from a new full warranty period upon the terms set out aforesaid and such new warranty period shall commence upon complete performance by the Supplier of our warranty claim. The Supplier shall be liable for all costs accruing to us as a result of defective delivery of the contractual goods, in particular transport, travel, work, material costs and investigation costs in excess of those normally incurred.

If products manufactured and/or sold by us are returned to us on account of defects in the Products supplied to us by the Supplier, or if the price of purchase from us is reduced or if other claims are made against us as a result, we reserve the right of recourse against the Supplier, whereby no time limit needs to be set in respect of our defect rights, as would otherwise be required.

In the event of recourse we shall be entitled to demand compensation from the Supplier for the expenditure accruing to us in relation to our customers on account of the defective service.

Notwithstanding section 12.3 aforesaid claims based on 12.6 and 12.7 aforesaid shall be time barred not less than 2 months after the date upon which we have satisfied all claims brought against us by our customers.

If a material defect appears within six months following the transfer of risk, it shall be assumed that the defect was already present at the time the risk was transferred, unless said assumption is inconsistent with the type of goods or defect.

In the event that we rescind the contract we reserve the right to use the Products supplied or services performed by the Supplier free of charge until we have procured an alternative. The Supplier shall bear all costs incurred by reason of rescission of the contract and shall be responsible for the disposal of the Products.

13. Product liability

In the event that a claim is asserted against us on the basis of product liability, the Supplier shall be required to indemnify us for such claims upon first demand where and insofar as the loss was caused by a defect in the contractual goods delivered by the Supplier and, in cases of liability with fault, if the fault is attributable to the Supplier. If the Supplier is responsible for the cause of the loss, the burden of proof shall rest with the Supplier.

In such cases the Supplier shall be liable for all costs and expenses, including the costs of any legal prosecution or recall action. For the remainder, the statutory regulations shall apply.

14. Final provisions

Should individual provisions of these General Terms and Conditions be wholly or partially ineffective, this shall not affect the validity of the remaining provisions. A provision that comes closest to the commercial intention of the ineffective provision shall then be agreed.

The place of jurisdiction is the head office of our company; if we file an action, the supplier's general place of jurisdiction shall also apply.

All legal dealings between the Supplier and ourselves shall be governed by the law of the Federal Republic of Germany, excluding the conflict of laws provisions and the Vienna UN Convention on Contracts for the International Sale of Goods (CISG).