

Applicability

1. These general terms and conditions apply to Rittal, central business register (CVR) DK 2707 6661. The company that has ordered products from Rittal shall hereafter exclusively be referred to as the Customer. Rittal and the Customer may also be referred to as a Party or the Parties.
2. These general terms and conditions shall apply to all deliveries of products by Rittal to the Customer (“**the Product**”) and for any services which Rittal may perform for the Customer, e.g. preparation of a specific design. These general terms and conditions are thus an integrated part of the contract entered into by Rittal and the Customer (“**the Contract**”). Among other things, the Contract comprises the Customer’s order, Rittal’s confirmation of the order, these general terms and conditions, and all other terms and conditions and all other documentation referred to as part of the Contract.
3. Deviations from these general terms and conditions shall only apply if they are formulated in writing and approved with signatures from Rittal and the Customer. The Customer’s own terms and conditions shall only apply if they have been accepted in writing by Rittal.

Orders

4. The Customer shall place an order for the Product from Rittal by e-mail or telephone or through Rittal’s web-based ordering system. The order shall not be binding on Rittal until it has been confirmed in writing by Rittal. The Customer shall not be entitled to cancel orders once they are given.

Product information

5. Information in marketing material, price lists and other product information shall only be binding to the extent that the Contract specifically refers to them. Rittal reserves the right to make alterations to its products without notice, provided this can be done without essential alteration to the agreed technical specifications and without essential alteration to the form or function of the Products.
6. The product may not be used by or resold to any physical or legal person who is directly or indirectly associated with production or trading with nuclear, chemical or biological weapons.

Technical documentation

7. All technical documentation concerning the Product or its manufacture which may be passed from one Party to the other before or after entering into the Contract shall still belong exclusively to the Party who hands over the documentation.
8. The Party who receives technical documentation may not use it without the other Party’s consent for any purpose other than that for which it was intended. With the exception of the documentation mentioned in Clause 5, technical documentation may not be copied, passed on or brought to the knowledge of third parties without the consent of the other Party.
9. Not later than at the time of delivery, and without separate compensation, Rittal shall provide the Customer with the agreed number of copies of sufficiently detailed technical documentation to enable the Customer to install all parts of the Product and take them into use, operate and maintain them (including regular repairs). However, Rittal shall not be obliged to pass on documentation for the manufacture of the Product or of spare parts.
10. Rittal shall be entitled to fulfil its obligations under Clause 9 by making technical documentation available on the Internet.

Intellectual property rights

11. Unless otherwise agreed between the Parties, Rittal or Rittal’s licensor shall own all rights (e.g. data codes etc.), including intellectual property rights associated with the Product, such as trade marks, registered design rights, inventor’s rights and patents. The Customer shall not acquire any intellectual property rights or other rights to the Product under the Contract.
12. The Customer shall inform Rittal immediately and in writing of any claim from third parties against the Customer on the grounds that the Product infringes or is claimed to infringe a third party’s intellectual property rights. The Customer shall be obligated to treat all such claims in accordance with Rittal’s instructions, and Rittal shall not be held liable for any infringement if the Customer does not comply with Rittal’s instructions.

13. If it is established that there is an infringement, or if it is likely according to Rittal’s own assessment that an infringement has occurred, Rittal shall, at its own expense and at its own discretion either (I) secure the Customer’s right to continue to use and sell the Product, (II) replace the Product with another corresponding product which can be used without causing an infringement, or (III) alter the Product to prevent all infringements.

If Rittal has altered, created or manufactured the Product according to the Customer’s requirements, instructions, specifications or design, Rittal shall not be held liable if the Product infringes or is claimed to infringe a third party’s immaterial property rights. The Customer shall compensate and indemnify Rittal against any claim, legal proceedings, or other court action arising from actual or claimed infringement of any such product, and for all losses, expenses, damages and costs (including costs of legal assistance and administrative costs) which Rittal may incur as a result of actual or claimed infringement by any such product.

Delivery clause

14. Delivery shall only be made ex works in accordance with entry into the Contract, in compliance with Incoterms. If the delivery clause has been agreed upon, it shall be interpreted in accordance with the date of entry into the Contract, in compliance with Incoterms.

Delivery time and delays

15. If Rittal and the Customer have agreed on a specific period instead of a specific delivery date for delivery, this period shall begin when the Contract is entered into.

16. If Rittal discovers that it cannot deliver in time, or estimates that a delay is likely, then Rittal shall inform the Customer immediately in writing, stating the reason for the delay and as far as possible the time at which delivery is expected.

17. If the delivery is delayed because of any circumstance which according to Clause 65 constitutes a reason for exception due to an action or omission on the Customer’s part, including cancellation of the Contract by Rittal with reference to Clause 32, the delivery time shall be extended as much as is reasonable in the circumstances. The delivery time shall be extended, even if the reason for the delay arises after the original time limit for delivery has been exceeded.

18. If Rittal does not deliver the product on time, the Customer shall be entitled to compensation from the date on which the delivery should have been made.

19. Compensation shall amount to 0.5 % of the agreed price for each week or part of a week the delivery is delayed. If only part of the Product is delayed, compensation shall be calculated according to that part of the Product which cannot be taken into use because of the delay. Compensation shall not exceed 5 % of this basis for calculation. Compensation shall be paid after a written demand from the Customer, but no earlier than when the Product has been delivered in its entirety, or at the time when the Contract is cancelled in accordance with Clauses 21 and 23.

20. The Customer shall forfeit the right to compensation if it has not presented a written claim within six months after delivery should have been made.

21. If the delay is so long that the Customer is entitled to the maximum compensation according to Clause 19, and the Product has still not been delivered, the Customer may demand delivery within a final reasonable time limit of not less than a week. If Rittal does not make the delivery within the time limit, and this is not due to any circumstance for which the Customer is responsible, the Customer may, by giving written notice to Rittal, cancel the Contract with regard to that part of the Product which cannot be taken into use because of the delay.

22. In the event of such a cancellation, the Customer shall also be entitled to compensation for losses incurred by the Customer arising from the delay on Rittal’s part to the extent that the loss exceeds the maximum amount that the Customer could have demanded under Clause 19. Compensation may not exceed 10 % of that part of the price associated with the part of the Product covered by the cancellation.

23. The Customer may in addition cancel the Contract by written notification to Rittal if there will clearly be a delay which in accordance with Clause 19 will entitle the Customer to maximum compensation. In the event of such a cancellation, the Customer shall be entitled both to maximum compensation and to compensation according to Clause 22.

24. Apart from compensation according to Clause 19 and termination with limited compensation according to Clauses 22 and 23, all claims from the Customer in connection with a delay on Rittal's part will be rejected. This limitation of Rittal's liability shall not apply, however, if Rittal is guilty of gross negligence.

25. If the Customer discovers that it cannot receive the Product on the agreed date, or if the Customer assesses that a postponement is likely, then the Customer shall inform Rittal immediately in writing, stating the reason for the delay and as far as possible the time at which it is expected that the delivery can be received.

26. If the Customer does not receive the Product on the agreed date, the Customer shall be obligated nevertheless to pay the delivery costs as if the Product had been delivered. Rittal shall store the Product securely at the Customer's risk and expense. If the Customer so requires, Rittal shall insure the Product at the Customer's expense.

27. If the Customer's omission according to Clause 25 is not due to circumstances mentioned in Clause 65, Rittal may demand in writing that the Customer shall receive the Product within a reasonable time limit.

28. If the Customer, for reasons for which Rittal is not responsible, does not receive the Product within the agreed time limit, then Rittal may, by giving written notification, cancel the Contract with regard to the part of the Product that is ready for delivery, but because of the Customer's omission has not been delivered. In such a case, Rittal shall be entitled to compensation for the losses Rittal has incurred because of the Customer's error. Compensation may not exceed 10 % of that part of the price associated with the part of the Product covered by the cancellation.

Price

29. The prices for the Products shall be stated in Rittal's current price list at any time, unless the Customer and Rittal together have reached a different agreement. Rittal shall be entitled to adjust the prices of the Product at any time. Price adjustments shall be announced in writing not later than 30 days before the new price takes effect.

30. All prices shall apply for delivery ex works, INCOTERMS 2020, and shall be exclusive of VAT, other taxes and charges and the costs of transport packaging for the Products. If the Parties have agreed that Rittal shall take charge of dispatch, the dispatch fee shall be charged according to Rittal's current price list at the time of delivery.

31. Unless otherwise agreed, the invoice shall be paid within eight days net.

32. If the Customer does not pay in time, Rittal shall be entitled to interest on the overdue payment from the due date, at the interest rate that applies according to the Danish Interest Act. If the Customer does not pay on time, Rittal may also cancel performance of its part of the Contract until payment is made, after notifying the Customer in writing of the fact.

33. If the Customer has not paid 30 days after the due date, Rittal may also terminate the Contract by notifying the Customer in writing. In this case, in addition to interest on the overdue payment, Rittal shall be entitled to compensation for direct and indirect losses which may be imposed on Rittal.

Reservation of title

34. The Product shall remain the property of Rittal until it is fully paid for, to the extent that reservation of title is applicable.

Liability for defects

35. When making replacements or doing repairs, Rittal shall remedy all defects in the Product due to deficiencies in Rittal's design, materials or manufacture.

36. If Rittal is responsible for defects, Rittal shall also be liable for any damage to the Product which the defects may cause.

37. Rittal's liability shall not include defects due to materials provided by the Customer, or to a design which the Customer has determined or specified. Rittal's liability shall not include defects caused by circumstances that have arisen after the risk for the Product was passed on to the Customer. For example, liability shall not cover defects that arise because of operational conditions which deviate from those assumed in the Contract, or from incorrect use of the Product. Liability shall not include defects caused by inadequate maintenance or incorrect installation by the Customer, alterations made without Rittal's written consent, or repairs carried out by the Customer. Finally, liability shall not include ordinary wear and tear or deterioration.

38. Rittal shall only be liable for defects which arise within a year from the date when the Product was delivered. If the Product is used more intensively than agreed, the period of liability shall be shortened correspondingly.

39. If parts are replaced or repaired according to Clause 35, Rittal's liability shall be the same as for the original product, for a period of one year. For the other parts of the Product, the period of liability mentioned in Clause 38 shall only be extended by the time in which it was not possible to use the Product because of defects for which Rittal was responsible.

40. The Customer shall submit a complaint to Rittal in writing not later than the next working day after the defect has been discovered from the transport, and not later than 7 days after the expiry of the period of liability according to Clauses 38-39. The complaint shall include a description of how the defect becomes apparent. If the Customer does not submit a complaint in writing within the time limits stated in Clause 41, the Customer shall lose the right to make any complaint based on the defect.

41. If there is reason to assume that the defect may constitute a risk of injury, the complaint shall be submitted immediately, and at the latest on the next working day after the date on which the reason was found for assuming that the defect could constitute a risk of injury. If a complaint is not made immediately, and at the latest on the following working day, the Customer shall lose the right to claim compensation for injury or damage to the Product which could have been avoided, if the complaint had been made immediately or at the latest on the following working day.

42. If Rittal has received a complaint in accordance with Clause 46, Rittal shall remedy the defect with the haste that the circumstances require. Remedial action shall be taken within this time limit, at a time when the Customer's business activities are not disturbed more than necessary. Rittal shall pay the costs of remedial action according to the stipulations of Clauses 43-46.

43. Remedial action shall be taken in the place where the Product is situated, unless, in the interests of both Parties, Rittal considers it more convenient to send the Product to Rittal or to a place specified by Rittal.

44. If the defect can be remedied by replacing or repairing the defective part, and if the defective part can be detached and replaced without special professional skills, Rittal may require that the defective part be sent to Rittal or to a place specified by Rittal, for replacement or repair. Rittal's liability in connection with the defect shall be deemed fulfilled when Rittal has delivered a replacement or repaired part to the Customer. If the remedial action involves intervention in anything other than the Product, the Customer shall be liable for the work and expenses thus caused.

45. All transport in connection with remedial action shall be carried out at Rittal's risk and expense.

46. The Customer shall follow Rittal's instructions for how transport is to be carried out.

47. The Customer shall pay extra expenses for remedying defects which Rittal considers are caused by the Product being in any place other than the destination indicated for the delivery of the Product when the Contract was entered into or, if no destination was indicated, the place of delivery.

48. Defective parts which are replaced in accordance with Clause 34 shall be placed at Rittal's disposal and be the property of Rittal.

49. If the Customer complains in accordance with Clause 40, and there proves to be no defect for which Rittal is liable, then Rittal shall be entitled to compensation for the work and the expenses incurred by Rittal arising from the complaint.

50. If Rittal does not fulfil its obligations within a reasonable period in accordance with Clause 35, the Customer may give Rittal a final time limit to do so. If Rittal has not fulfilled its obligations within the set time limit, then the Customer may, at its discretion:

- a) at Rittal's risk and expense carry out or have carried out the necessary measures to remedy the defect, provided that the Customer uses its best judgement, or
- b) demand a price reduction of not more than 20 % of the agreed price.

51. If the defect is substantial, the Customer may instead terminate the Contract by written notification to Rittal. The Customer shall similarly be entitled to termination if the defect or the measures mentioned under a) are still substantial. On termination, the Customer shall be entitled to compensation for the losses imposed on the Customer. However, compensation may not exceed 20 % of the agreed price.

52. Regardless of what is set out in Clauses 35-51, Rittal's liability for any part of the Product whatsoever shall exclusively be for one year from the beginning of the liability period in accordance with Clause 38.

53. Rittal assumes no liability for defects falling outside those described in Clauses 35-52. This applies to any loss caused by the defect, such as loss of production, loss of earnings and other financial consequences. This limitation of Rittal's liability shall not apply, however, if Rittal is guilty of gross negligence.

Liability for damage to property caused by the Product

54. Rittal shall not be liable for damage caused by the Product to real property or chattels, or the consequences of such damage, if the damage occurs while the Product is in the Customer's possession.

55. The Customer shall indemnify Rittal to the extent that Rittal may be held liable to third parties for any damage or loss for which, according to Clause 54, Rittal is not liable. The limitations of Rittal's liability mentioned above shall not apply, however, if Rittal is guilty of gross negligence. If a third party files a claim for compensation against Rittal or the Customer in connection with damage or loss mentioned in this clause, then the other Party must be informed of it immediately in writing.

56. Rittal and the Customer shall agree to be summoned to the court or arbitration court which hears a claim against them if the claim is based on damage or losses said to be caused by the Product. However, mutual relations between the Customer and Rittal shall always be settled by legal procedure in accordance with Clause 70.

Payment and set-off

57. Rittal's parent company, the Friedhelm LOH Group, shall have the same rights as Rittal with regard to claims made by the Customer, and may pay or set off any claims which the Friedhelm LOH Group may have in dealings with the Customer.

Fighting corruption

58. Rittal has joined the UN Global Compact initiative, which means that Rittal is committed to compliance with the convention on human rights, employee rights, the environment and fighting corruption. Further information is available from the website <http://www.unglobalcompact.org>. If the Customer does not comply with the UN Global Compact, Rittal shall be entitled to give notice to terminate the Contract with the Customer.

Confidentiality

59. Rittal and the Customer shall commit themselves not to pass on information to third parties (verbally or in writing, electronically or in other ways) without the written consent of the other Party while the Contract is in force and afterwards, if the other Party's activities can be regarded as industrial or business secrets, and the Parties shall not in any other way make use of such information for purposes other than fulfilling their obligations under the Contract. Information which a Party has indicated is confidential shall always be regarded as industrial or business secrets.

60. The requirement of confidentiality shall not apply to information which Rittal and the Customer can prove have come to the Party's knowledge by other means than through the Parties' mutual business connection, or if the information is generally known. The requirement of confidentiality shall not apply either, if a Party is obligated to pass on information under legislation, regulations, or the decisions of authorities, any valid contract with the stock exchange or other valid stock-exchange or rules of the market place.

61. Rittal and the Customer shall return confidential information at the other Party's request.

Sub-contractors

62. Rittal shall be entitled to engage sub-contractors to fulfil its obligations under the Contract. If Rittal engages sub-contractors, Rittal shall be responsible for these sub-contractors and for its own invoice.

Early termination of the Contract

63. Either Party shall be entitled to terminate the Contract by giving written notice of termination to the other Party (I) if the other Party is guilty of essential breach of contract and fails to remedy the breach within 30 days after having received written notification of the fact, or (II) if the other Party cancels its payments, goes into liquidation, is bankrupt, suspends payments, starts negotiations for a compulsory arrangement with creditors, or in any other way can be deemed insolvent. Notice of termination shall be given immediately after the injured Party has discovered or ought to have discovered the breach of contract.

64. In addition to the above, Rittal shall always be entitled to terminate the Contract with immediate effect if (I) the Customer does not pay in due time, or (II) the ownership of the Customer is essentially changed, or if the Customer acts in contravention of the Contract or with current legislation and rules on bribery and corruption.

Exemption (force majeure)

65. The following circumstances shall constitute grounds for exemption if, in consequence, the terms of the Contract cannot be fulfilled or become unreasonably burdensome: an industrial dispute or any other situation beyond the control of the Parties, such as fire, natural disasters or extreme natural phenomena, war, mobilisation or military call-up of a similar magnitude, requisition, confiscation, restrictions on trade and currency, uprising or riots, lack of means of transport, general scarcity of goods, restrictions on supplies of operating power, and failure or delay of deliveries from sub-contractors caused by a similar exemption.

66. Exemption shall only be allowed in these circumstances if their effect on the fulfilment of the Contract could not have been foreseen at the time when the Contract was entered into.

67. If Rittal or the Customer wishes to claim exemption as mentioned in Clause 64, that Party shall be obligated to inform the other Party immediately of the occurrence of the reason for exemption and when it will cease.

68. If the Customer is subject to force majeure, the Customer shall compensate Rittal for the costs which Rittal may incur to secure and protect the Product.

69. Regardless of what otherwise may apply under these stipulations, either Party may terminate the Contract by written notification to the other Party if the fulfilment of the Contract is delayed for more than six months because of the reason for exemption mentioned in Clause 65

Governing law and venue

70. The Contract shall be governed by Danish law, and disputes in connection with the Contract and all matters concerning the Contract shall be settled in the court in Copenhagen as the first instance.