



# Standard Terms of Purchase of Riva Stahl GmbH



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## Please note:

The following English translation of the German original version is for convenience only and therefore legally not binding. The terminology and language and thus the legal meaning of the English translation may differ from the German original version as a result of this translation. The German original version is incorporated in the agreement and therefore applies in case of all discrepancies between the German original version and the English translation.

## I. GENERAL PROVISIONS

1. The following terms apply to all present and future deliveries and performance that we obtain from entrepreneurs (§ 14 BGB [German Civil Code]), legal persons under public law and special funds under public law as suppliers. They apply irrespective of whether the supplier manufactures the goods himself or whether he for his part obtains them from suppliers (§§ 433, 651 BGB). They apply to all future business with the supplier even if they are not explicitly referred to in individual cases. If special conditions are agreed, these apply with priority. In each case our Standard Terms of Purchase or our Special Terms apply in the version valid at the time of our order.
2. We do not recognize any opposing or deviating terms of the supplier, unless we have explicitly agreed to their validity in writing. Our terms shall apply exclusively even if we accept the supplier's delivery or performance without any reservation fully aware of opposing or deviating terms of the supplier.
3. The supplier may assign his claims against us to third parties only with our explicit prior approval. § 354a HGB [German Commercial Code] remains unaffected.
4. The attention of the supplier is drawn to the fact that his data will be stored by us. The processing of the data is undertaken in compliance with the applicable data protection provisions.
5. If single provisions of these terms are ineffective, this shall not affect the effectiveness of the remaining provisions. In this case, the ineffective provision is replaced by an existing provision customary in the trade, or in the absence of such provision by the corresponding statutory provision.
6. The entire legal relationship with the supplier is governed exclusively by German law, excluding the UN Convention on Contracts for the International Sale of Goods (CISG). As far as the supplier is an entrepreneur, a legal person under public law or a special fund under public law, our registered place of business is the place of exclusive jurisdiction – also place of international jurisdiction. Nevertheless, we are also entitled to sue the supplier at his place of general jurisdiction.

## II. OFFERS AND ORDER CONFIRMATIONS

1. Inquiries regarding the deliveries and performances of the supplier are non-binding requests to the supplier to submit an offer, unless they are expressly designated as an order.
2. Our orders are binding on the supplier and shall be deemed accepted by him if he does not declare the rejection in writing within five working days (based on our registered place of business).
3. The quantities, prices and delivery periods stated in our orders are binding.
4. **Our employees, insofar as they are not authorized to do so, are not entitled to make verbal subsidiary agreements, or to make verbal promises, or to give assurances, or to reach verbal agreements as to amendments of the contract. Such agreements, promises and assurances only oblige us after our corresponding written confirmation.**
5. Technical and design deviations from individually agreed specifications or descriptions and details given in brochures, catalogues and written documents as well as model, construction design and material changes after the placing of an order require our approval.
6. We reserve ownership rights and copyrights to illustrations, drawings, calculations and other documents passed on to the supplier. These must not be made accessible to third parties, unless we have previously given our explicit consent in each case.



## III. PRICES AND PAYMENT

1. Agreed prices include all deliveries or performances and ancillary performances of the supplier including any packaging and transport costs. The prices are fixed prices and apply, unless otherwise agreed, to deliveries in accordance with section IV and plus the value added tax applicable on the day of delivery.
2. Invoices of the supplier are payable within the period of payment stipulated in the individual contract after receipt of an invoice corresponding to the requirements of the contract and these Terms of Purchase. Due date interest are not owed. In case of default of payment, the supplier is entitled to demand default interest to the statutory amount (§ 288 (2) BGB).
3. We are entitled to first credit payments against the supplier's older debt. If incurred costs and interest, we are also entitled to first credit payments against the costs, then against the interest and finally against the primary debt. Rights of set-off, rights of retention as well as the defence of unperformed contract are entitled to us to the legal extent. In particular, we are entitled to withhold payments due as long as we are still entitled to claims from incomplete or defective performances against the supplier.
4. In case of non-performance or defective performance, we are entitled to cease payments, including those relating to other deliveries in the context of a permanent business relationship, if and to the extent necessary to secure the consequences of non-performance or defective performance.
5. The supplier is only entitled to rights of set-off and rights of retention (including the rights according to § 369 HGB) if his counterclaims are established finally and non-appealable, are uncontested or are acknowledged by us. In addition, supplier's rights of set-off also exist even if his counterclaims are in a close reciprocal relation (synallagma) with our main claim.
6. Payments via bills of exchange or bank receipts will not be accepted.

## IV. DELIVERY, DELIVERY DATES, PASSING OF RISK, DAMAGE IN TRANSIT

1. Goods sent or delivered must be accompanied by a delivery note.
2. Deliveries must be carried out without retention of title.
3. If goods are delivered under retention of title by the supplier and received by us, this retention of title expires upon payment of the price for these goods. We are entitled to resell such reserved goods in the ordinary course of business even prior to our payment of the purchase price with assignment in advance of the purchase price claim arising from the resale. Our rights arising from the supplier's failure to perform his obligation of delivery without retention of title remain unaffected.
4. Unless otherwise agreed, delivery is "free domicile" to the place named in our order (DAP - Incoterms 2020). The supplier's obligation to bear the costs also extends to the packaging as well as to any additional transport costs due to dispatch difficulties, the unloading costs and any downtime, as well as to any transport and liability insurance. The packaging is to be taken back by the supplier.
5. The risk of destruction or deterioration of the goods is not transferred to us until delivery.
6. For deliveries of goods, the weight determined at the receipt of goods shall be deemed the weight of the goods. In case of performances that involve the collection of goods from us (for example disposal services), the weight determined at our outgoing goods department applies.
7. We reserve the right to reject deliveries or performances that do not conform to our order in terms of their type, quantity, weight, quality, packaging or other characteristics, or that deviate from the drawings and samples on which the order is based, or that otherwise fail to meet the contractual requirements. Goods rejected must be taken back by the supplier at their own expense. The delivery of materials that must undergo a laboratory test or an incoming inspection shall not be deemed to have been accepted regardless of receipt by us before the receipt of the inspection or test certificate from the competent authorities.
8. The supplier is not entitled, without our prior written approval, to have the performance owed by him performed by third parties (such as subcontractors).
9. The supplier is not entitled to make partial deliveries, unless we have expressly approved of this in this individual case.
10. Delivery and performance times are binding and to be understood as fundamental parts of the contract, unless they are expressly agreed as non-binding. The supplier must notify us immediately if he has indications that he will not comply with the delivery or performance time; our rights in the event of default remain unaffected.
11. If the supplier defaults on delivery or performance, we are entitled to demand a contractual penalty in accordance with the individual contractually regulated rates. A forfeited contractual penalty shall be credited against further claims for damages due to default of delivery or default of performance.
12. Neither of the Parties is responsible for any non-fulfilment of their respective obligations stipulated in these T&C and the Specific Conditions contained in the Order or Contract if said non-fulfilment is caused by, for example and not limited to the following, natural disasters, revolts, epidemics, national strikes, fires, wars, provisions by any public or governing authority or any other unpredictable event that is beyond the control of the Party who is subjected to said event, which makes it impossible to provide the services stipulated in the Contract (Force Majeure Event). Should a Force Majeure event occur, the services, which have become impossible to carry out, shall remain suspended for the entire duration of the Event; the Party that invokes this clause shall endeavour, in all possible cases, to adopt solutions that enable them to remedy or at least limit the consequences of the Force Majeure Event. The onset or cessation of the Force Majeure Event must be communicated, in writing and without delay, by the Party whose service provision to the other Party became impossible (Notification of a Force Majeure Event). It is understood that, should a Force Majeure Event last over 60 (sixty) days, each Party has the right to terminate the Contract early.
13. Incidentally, our rights in the event of non-performance, late performance or default of the supplier are governed by the statutory provisions.



## V. FREE ISSUE MATERIALS, INTELLECTUAL PROPERTY RIGHTS

1. We reserve all intellectual property rights to all specifications, plans, drawings, concepts and other information and data that we issue free or pass in any other way to the supplier for the purpose of determining the goods to be delivered or the performance to be provided. This applies accordingly to samples, tools, shapes, software and other embodiments of our intellectual property. The supplier may only use such materials to the extent required for the production or delivery of the goods or for the provision of the contractual performance. Any transfer to third parties requires our written consent.
2. Upon termination of the performance or delivery of the goods or at our request, the materials specified in Section V. no. 1 shall be returned to us.
3. The supplier must store our materials separately and mark them so that we are clearly recognizable as the holder of the rights and the owner. The supplier must inform us immediately if there is any indication that third parties have access to our materials, in particular by means of execution of judgment. Furthermore he will exhaust all available remedies against the access in agreement with us.
4. Any combination, intermixture or processing of our materials by the supplier may only be carried out within the limits of our order and will in any case be taken for us so that we are considered the producer (§ 950 BGB).

## VI. DEFECTS, LIABILITY

1. Deliveries and performances must comply with all applicable legal provisions as well as all contractual agreements in accordance with our order. Our specifications and requirements with regard to the goods or performance do not release the supplier from their own inspections and trials.
2. We are fully entitled to statutory rights in case of material defects and legal defects of the delivered goods (including wrong and short delivery, improper installation as well as defective instructions for installation or operating) or performances provided. This also applies to any recourse claims in accordance with §§ 478, 479 BGB; there are recourse claims particularly if goods delivered by the supplier have been processed before the resale.
3. The acceptance of goods is subject to our inspection. Our duty to inspect and notice in accordance with § 377 HGB is limited to defects which become evident under optical inspection including delivery documents during our incoming goods control (for example damage in transport, wrong delivery or short delivery) or can be identified during our quality control by sampling in the ordinary course of business.
4. If the supplier fails to meet his obligation of cure within an appropriate period of time set by us, we shall be entitled to remedy the defect ourselves and to demand reimbursement of the necessary expenses or a corresponding advance payment from the supplier. If cure by the supplier has failed or is unreasonable for us (e.g. due to special urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no setting of a period of time is required; we will promptly inform the supplier of such circumstances, if possible in advance.
5. The supplier shall bear the expenses necessary for the purpose of remedying the defect and replacement delivery in accordance with the statutory provisions.
6. The supplier's liability to us is governed by the statutory provisions. The supplier must indemnify us from claims of third parties concerning the goods delivered or performances provided by the supplier; this applies in particular to claims arising from product and producer liability as well as to expenses in connection with product recalls.
7. Subject to longer statutory periods, claims for defects and other claims against the supplier are generally subject to a limitation period of 36 months starting from the passing of risk. In the case of a chattel that has been used for a building according to its usual way of use and has caused its defectiveness, the limitation period is five years starting from the passing of risk (§ 438 (1) no. 2 BGB).