

General Terms of Purchase

MEHLER VARIO SYSTEM GmbH
Edelzeller Str. 51 · 36043 Fulda



Art. 1 General – Scope of Application

(1.1) The legal relationships between ourselves and the contractual partner shall be determined by these Terms and any other written agreements. Any modifications and amendments must be in writing. Conflicting terms of delivery shall be valid only upon express written acknowledgement by us. Any references by the contractual partner to the applicability of their General Terms and Conditions are hereby expressly objected to.

(1.2) Terms and conditions of business of our suppliers or of third parties shall not be applicable, even if we do not separately object to their applicability in individual cases. Even if we do make reference to a letter containing or making reference to terms and conditions of the supplier or of a third party, this shall not imply our acceptance of the applicability of those terms and conditions.

(1.3) Our Terms of Purchase shall only apply towards entrepreneurs in accordance with Sec. 310 Para. 1 *BGB* [German Civil Code].

Art. 2 Quality, modification of the product components/production process

(2.1) The following provisions shall apply to all deliveries. Any changes to these provisions with respect to individual cases must be in writing.

(2.2) All contracts (purchase orders) shall be based on the values of the product specification agreed upon with the contractual partner, technical drawings as well as additional product-specific documents. Likewise, the product samples (materials) approved between contractual partners and Mehler Vario System GmbH shall form the content of the respective purchase order.

(2.3) With each delivery, the contractual partner shall undertake to issue a quality inspection certificate (specific test report) in accordance with DIN 55350-18-4.1.2. Our purchase order, article and delivery note numbers shall also be recorded.

(2.4) The contractual partner undertakes to inform Mehler Vario System GmbH of any deviations or changes in the product composition as against the specified object of the contract immediately and in writing. Any changes in the product composition, as well as their effects and risks with respect to the agreed product quality, shall be cited explicitly. In addition, the modified product composition shall require the approval of Mehler Vario System GmbH by means of new quality and safety inspections, adjustment of the specifications, product approval samples and certificates.

(2.5) Any changes to the production site or production process or the specific settings in the production process following the approval of product specifications and approval samples, if applicable, which the purchase order is based on, shall be communicated to Mehler Vario System GmbH immediately and in writing. Any changes to the procedures, as well as their effects and risks with respect to the agreed product quality, shall be cited explicitly.

(2.6) Irrespective of successful sampling, the contractual partner shall be obliged to inspect the quality of the delivery items on a continuous basis and to carry out requalification tests on a regular basis. The contractual partners shall mutually inform each other of the possibilities of further quality improvements.

(2.7) The contractual partner shall adhere to all environmental protection laws applicable to the former. The continuous improvement of the company's environmental protection and the prevention of pollution shall be systematically ensured in accordance with recognised rules.

(2.8) With respect to deliveries to the European Union, the contractual partner shall be obliged to observe the requirements of Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 pertaining to the registration, evaluation, authorisation and restriction of chemical substances (REACH). Products which do not fully meet the requirements of REACH must not be delivered to us.

(2.9) Mehler Vario System GmbH shall assign the liability for a damage to the contractual partner insofar as the cause can be attributed to a retrospective modification of the product components or production processes and was not known at the time of preparing the contract. The supplier shall bear the full burden of proof if the cause for damage is within its sphere of responsibility.

Art. 3 Contractual documents (purchase order & confirmation of order)

(3.1) Contracts, purchase orders, agreements or changes must be in writing in order to be binding. It shall not be necessary for us to sign these documents. Any deviations from agreements made and from our purchase orders shall become effective only upon our prior written consent. A purchase order shall be confirmed in writing within 3 days, otherwise we shall be entitled to cancel the order. The written form requirement shall also be deemed to have been observed if transmission is effected by fax or e-mail.

(3.2) All confirmations of order, specific test reports, delivery documents and invoices shall indicate our order number, the article number, delivery volume and delivery address.

(3.3) The contractual partner shall be obliged to effect changes to the delivery item pertaining to construction and design within the scope of reasonableness. In this context, the effects, in particular those pertaining to additional costs and reduced costs as well as to the dates of delivery, shall reasonably be settled by mutual agreement.

§ 4 Prices – Terms of payment - Invoice details

(4.1) The purchase price indicated in the purchase order shall be binding.

(4.2) In the absence of a written agreement to the contrary, the price shall include delivery and transport to the address indicated below, including packaging. If the price does not include the packaging in accordance with the agreement reached and remuneration for the packaging – unless provided only as a loan – has not been expressly specified, it shall be invoiced at verifiable cost price. At our request, the supplier shall take back the packaging at its own expense.

(4.3) Invoices shall be issued indicating our full order details (order number, date, delivery note number). If this prerequisite is not met, the contractual partner shall be liable for any consequential delays in the invoice processing and settlement. Invoices shall be sent to the following invoice address depending on the purchaser: Mehler Vario System GmbH, Kreditorenbuchhaltung, Edeltzeller Straße 44, 36043 Fulda, Germany. If one or more of these details are missing and this results in a delay with respect to processing on our part within the scope of our ordinary business activities, the terms of payment indicated in Paragraph 4.6 shall be extended by the period of the delay.

(4.4) In case of the acceptance of early deliveries, the due date shall be determined by the agreed date of delivery.

(4.5) Unless otherwise agreed, the statutory value-added tax shall not be included in the price.

(4.6) Unless otherwise agreed in writing, we shall pay the purchase price within 10 days, calculated from the date of delivery and receipt of the invoice, less 2% cash discount, and/or within 30 days upon receipt of invoice net. As regards the timeliness of the payments owed by us, receipt of our remittance order by our bank shall suffice.

(4.7) We shall be entitled to set-off rights and rights of retention within the statutory limits.

(4.8) In the event of default, we shall be liable to pay default interest in the amount of five percentage points above the base rate in accordance with Sec. 247 *BGB*.

Art. 5 Terms of delivery, delivery period and passing of risk

(5.1) Each delivery shall be accompanied by a delivery note including full details pertaining to the order. We shall be advised of a delivery on the day of dispatch with delivery note and specific test report.

(5.2) Unless otherwise agreed, the deliveries of the contractual partner shall be effected including packaging material - DDP, in accordance with Incoterms 2010. The passing of risk shall take place at the place of receipt at the time of delivery.

(5.3) The delivery period indicated in the purchase order shall be binding. The receipt of the goods at the place of receipt indicated in our purchase order shall be authoritative with respect to the observance of the date of delivery

or of the delivery period.

(5.4) The contractual partner shall be obliged to notify us immediately in writing if circumstances should arise or come to its knowledge which render it impossible to adhere to the stipulated delivery period.

(5.5) The exceedance of the agreed delivery dates or periods of delivery shall put the supplier in default without a reminder being required, insofar as a specific date has been directly or indirectly specified by the agreed dates and periods of delivery.

(5.6) In the event of default in delivery, we shall be entitled to the statutory claims without limitation, including the right to cancel the contract and the right to claim damages in lieu of performance following the lapse of a reasonable grace period.

(5.7) The contractual partner shall provide any proof of origin requested by us (e.g. supplier's declarations, movement certificates) with all the necessary details and shall provide such proof to us duly signed, without delay and free of charge.

(5.8) In the event of defaults in delivery, we shall have the right, following prior written warning to the supplier, to demand a contractual penalty in the amount of 0.5%, 5% maximum, of the respective order value per week or part thereof during which the default in delivery persists. The contractual penalty shall be credited towards the damage caused by default to be compensated by the contractual partner.

(5.9) Even if shipping has been agreed, the risk shall not pass to us until the goods are handed over to us at the agreed point of destination.

Art. 6 Inspection for defects – Liability for defects

(6.1) We shall immediately and in writing notify the supplier of any defects in the delivery as soon as such defects are detected in the course of proper business. To this extent, the supplier shall waive the objection of late notice of defects.

(6.2) The statute of limitations pertaining to warranty claims shall be suspended upon receipt of our written notice of defects by the supplier. Upon substitute delivery and removal of defects, the warranty period for replaced and repaired parts shall begin anew, unless the supplier's conduct gave us reason to assume that the latter did not feel obliged to perform the measure but performed the substitute delivery or removal of defects only as a gesture of goodwill or for similar reasons.

(6.3) Product qualities based on the agreed product specification and technical drawings shall be documented by the specific test report due for each delivery.

(6.4) We shall be entitled to the full statutory claims based on defects and shall at any rate have the right to demand removal of defects or delivery of a new item from the supplier at our discretion. The right to damages, in particular the right to damages in lieu of performance, shall expressly remain reserved.

(6.5) The warranty period shall be 36 months, calculated from the passing of risk.

Art. 7 Product liability – Indemnification – Third-party liability insurance

(7.1) In the event of a product recall as a result of a defect in the product delivered by the contractual partner, we shall notify the contractual partner in order to grant it the opportunity to consult with us with respect to the procedure and execution of the recall measure, unless prior notification of the contractual partner is not possible due to the urgency of the measure. The contractual partner shall bear the costs of a recall measure if and as far as such measure is the result of a defect in the contractual item delivered by the former or the cause lies within the contractual partner's area of control and responsibility.

(7.2) Within the scope of its liability for occurrences of damage within the meaning of Para. (1), the contractual partner shall also be obliged to reimburse any expenses in accordance with Sec. 683, 670 *BGB* as well as in accordance with Sec. 830, 840, 426 *BGB* which arise from or in connection with a product recall executed by us. We shall – as far as practicable and reasonable – inform the contractual partner of the content and scope of the recall measures to be effected and provide it with the opportunity to comment. Any other statutory claims shall remain unaffected thereby.

(7.3) The contractual partner undertakes to maintain product liability insurance with an insured sum of €10 m (lump sum) per personal injury/property damage; if we are entitled to further damages, these shall remain unaffected.

Art. 8 Industrial property rights

(8.1) The contractual partner shall guarantee that no third-party rights are infringed in connection with its delivery in countries of the European Union, North America or other countries in which it manufactures the products or has the products manufactured.

(8.2) If we are subject to third-party claims for this reason, the contractual partner shall be obliged to indemnify us against these claims upon first written request. This entitlement shall be in effect irrespective of any fault on the part of the contractual partner.

(8.3) The obligation to indemnify of the contractual partner shall refer to all expenses which are necessarily incurred by us due to or in connection with third-party claims.

(8.4) The statute of limitations shall be ten years, calculated from the date of conclusion of the contract.

Art. 9 Reservation of title and supplied manufacturing tools

(9.1) Any extended or prolonged reservation of title on the part of the supplier shall not be acknowledged by us. The agreement of such reservation of title shall require our separate written consent.

(9.2) Materials, tools, samples, models, templates, drawings and other manufacturing tools, as well as confidential information provided to the supplier by us or paid by us, are and shall remain our property.

(9.3) Any processing or remodelling by the contractual partner shall be effected on our behalf. If the goods subject to retention of title by us are processed together with other objects not belonging to us, we shall acquire joint ownership of the new object in proportion of the value of our object (purchase price plus value-added tax as against the other processed items at the time of processing).

(9.4) If the object provided by us is inseparably blended with other objects not belonging to us, we shall acquire the joint ownership of the new object in proportion of the value of the reserved goods (purchase price plus VAT as against the other blended items at the time of blending). If the blending is effected in such a way that the object of the contractual partner is to be regarded as the main object, it shall be deemed to be agreed that the supplier shall transfer joint ownership to us on a pro-rata basis; the supplier shall hold the exclusive property or the jointly held property in custody for us.

(9.5) The contractual partner shall be obliged to use the tools exclusively for the manufacturing of the goods ordered by us. The contractual partner shall be obliged to insure the tools belonging to us at its own expense and at replacement value against any damage caused by fire, flooding or theft. At the same time, the contractual partner shall with immediate effect assign to us all claims for compensation based on such insurance; we hereby accept such assignment. The contractual partner shall be obliged to carry out in good time and at its own expense any required maintenance and inspection work on our tools as well as all servicing and repair work. The contractual partner shall notify us of any incidents immediately; in the event of culpable failure to do so, claims for damages shall remain unaffected.

(9.6) If the security interests which we are entitled to in accordance with Para. (9.1) and/or Para. (9.3) exceed the purchase price of all of our as yet unpaid reserved goods by more than 10%, we shall be obliged to release the security interests of our choice at the request of the contractual partner.

Art. 10 Secrecy

(10.1) The contractual partner shall be obliged to maintain secrecy with respect to the conditions of the purchase order as well as with respect to all information and documents provided for this purpose (in particular samples, patterns, illustrations, drawings, calculations and information stored on the data carrier), and to use such information and documents solely for the execution of the order. Such obligation shall not apply to information which is in the public domain. The contractual partner shall immediately and unsolicited return the relevant information and documents to us following the settlement of inquiries or the processing of orders.

(10.2) The obligation to secrecy shall continue to be in force even after the performance of this contract; it shall expire if and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents provided has become common knowledge.

(10.3) In the absence of our prior written consent, the contractual partner shall not be permitted to make any reference to the business relationship in advertising material, brochures, etc., and shall not be permitted to display delivery items manufactured on our behalf.

(10.4) The contractual partner shall obligate its sub-suppliers in accordance with this Art. 10.

Art. 11 Hazardous material

If the contractual item is a substance or a preparation of hazardous properties within the meaning of the *Gefahrstoffverordnung* [Dangerous Chemicals Ordinance], or if such properties only arise upon handling, the supplier shall, prior to bringing them into circulation, classify the goods in accordance with the provisions of the Dangerous Chemicals Ordinance applicable at the time of delivery, and shall package and label them accordingly. Upon initial sampling as well as upon initial serial delivery, a current safety data sheet containing the date, making reference to the application site and purpose of use, among other things, shall be submitted both in English and in German. A new safety data sheet must be submitted unsolicited by the supplier upon each change to the substance/the preparation, as well as upon each revision of the safety data sheet by the supplier, however, at least once every 3 years. If any special handling provisions exist, the contractual partner shall notify us thereof separately and in writing and shall advise us with respect to the application of the substance/the preparation, taking into consideration the local requirements at our site. The provisions, in particular the supplier's obligations pursuant to the Dangerous Chemicals Ordinance in its applicable version at the time of delivery, shall remain unaffected.

Art. 12 Code of Conduct for suppliers

(12.1) The supplier shall be obliged to observe the laws of the applicable legal system(s). In particular, the supplier shall not, neither actively nor passively, neither directly nor indirectly, participate in any form of bribery, violation of the fundamental rights of its employees or child labour. In addition, the contractual partner shall assume responsibility for the health and safety of its employees in the workplace, shall observe the environmental protection laws and shall promote and demand the adherence to this Code of Conduct from its suppliers to the best of its abilities.

(12.2) If the supplier culpably violates these obligations, we shall, irrespective of any additional rights, be entitled to withdraw from the contract or to cancel the contract. Provided that a rectification of the violation of duty is possible, such right must not be exercised until a reasonable time period granted for the rectification of the violation of duty has lapsed.

Art. 13 Place of jurisdiction — Place of performance

(13.1) If the contractual partner is a merchant, our place of business shall be the place of jurisdiction; however, we shall also have the right to bring an action against the supplier at the competent court of the supplier's domicile.

(13.2) Unless otherwise provided for by the purchase order, our place of business shall be the place of performance.

(13.3) The agreements concluded between ourselves and the contractual partner shall be subject to the laws of the Federal Republic of Germany, including the Convention on the International Sale of Goods CISG (UN Sales Convention).

Art. 14 Severability Clause

Should any provision of these Terms or of the additional agreements arrived at be or become invalid, the validity of the remaining provisions shall remain unaffected thereby. The contractual partners shall be obliged to replace the invalid provision by a provision which comes as close as possible to the former with respect to economic success.

Note:

The contractor acknowledges that the purchaser shall save data from the contractual relationship in accordance with Sec. 28 *Bundesdatenschutzgesetz* [Federal Data Protection Act] for the purpose of data processing, and that the purchaser shall reserve the right to communicate such data to third parties (e.g. insurance companies) to the extent necessary for the performance of the contract.