

GENERAL TERMS AND CONDITIONS



For individual parts, especially spare parts of

- **MULTIVAC Sepp Haggenmüller SE & Co. KG**
- **MULTIVAC Deutschland GmbH & Co. KG**
- **and affiliated companies of MULTIVAC Sepp Haggenmüller SE & Co. KG in Germany**
(„MULTIVAC“)

(following the recommended conditions of the German Association of Machine and Plant Builders (VDMA) e.V.)

I. General

These conditions, or also any separate contractual agreements, form the basis of all deliveries and services. Any purchasing conditions, which deviate from these, on the part of the purchaser do not become part of the contract, even if the order is accepted. These conditions also apply to all future commercial relationships between the supplier and purchaser, even if they have not explicitly been agreed once more. They do not apply to consumers in the sense of § 13 BGB.

Offers and order confirmations of the supplier constitute trade secrets within the meaning of § 2 No. 1 of the German Trade Secret Protection Act; the purchaser may therefore only use them within his own organization and may not make their contents available to third parties.

Verbal agreements with employees of the supplier before or during the formation of the contract require the written confirmation of the supplier to become effective, unless a specific legal power of representation has been granted to these employees.

The ineffectiveness of individual provisions does not affect the effectiveness of the remainder of these conditions.

II. Price and payment

1. Unless otherwise agreed, the prices apply ex works. Value-added tax at the respective statutory rate will be added to the prices.
2. Unless expressly agreed otherwise, payment is due immediately without any deduction.
3. The right to withhold payments or to offset these against counterclaims is only available to the purchaser if his counterclaims are uncontested or have been established with the force of law.

III. Delivery time, delivery delay

1. The delivery time results from the agreements of the contracting parties.
2. Compliance with the delivery term is subject to the provision, that the correct and timely delivery is made by our suppliers. The delivery date stated by the supplier is not a fixed delivery date, but rather serves as an orientation as to when the delivery item is expected to arrive at the purchaser.
3. If non-compliance with the delivery period is due to force majeure including pandemic and/or any associated sovereign measures, industrial disputes or other events beyond the supplier's control, the delivery period shall be extended accordingly.

4. The purchaser can withdraw from the contract without any fixed time being set, if the supplier finds it impossible before the transfer of risk to fulfil final performance of the contract. The purchaser can also withdraw from the contract, if one part of the delivery can not be used by him for the order, and if the purchaser has a justified interest in refusing the partial delivery. If this is not the case, the purchaser must pay the contractual price, which is apportioned to the partial delivery. The same applies in the case of failure by the supplier. Section VII.2 also applies in this regard.

If the impossibility or failure becomes apparent due to a default during the acceptance, or if the purchaser is solely or overwhelmingly responsible for these circumstances, he remains obliged to make reparations.

IV. Transfer of risk

1. The risk shall pass to the purchaser when the delivery item has left the factory, even if partial deliveries are made or the supplier has assumed other services, e.g. shipping costs or delivery and installation.
2. If dispatch is delayed or does not take place due to circumstances not attributable to the supplier, the risk shall pass to the purchaser on the day of notification of readiness for dispatch. The supplier undertakes to take out the insurance policies requested by the purchaser at the purchaser's expense.
3. Partial deliveries are permissible, as far as reasonable for the purchaser.

V. Retention of title

1. The supplier shall retain title to the delivery item until receipt of all payments under the delivery contract.
2. The purchaser may neither pledge the delivery item nor assign it as security until the transfer of ownership. In the event of seizure, confiscation or other dispositions by third parties, he must inform the supplier without undue delay.
3. If the purchaser acts in breach of contract, particularly in case of default of payment, the supplier is entitled to take the delivery item back after a warning letter and the purchaser is obliged to hand it over.
4. Due to the reservation of title, the supplier can only demand the return of the delivery item if he has withdrawn from the contract.
5. An application for the opening of insolvency proceedings on the assets of the purchaser entitles the supplier to withdraw from the contract and to demand the immediate return of the delivery item.
6. The purchaser is entitled to resell the delivery item in the ordinary course of business. However, in order to secure the claims of the supplier against the purchaser, the purchaser hereby assigns to the supplier all claims arising from the resale against the purchaser or against third parties. The purchaser is authorized to collect these claims even after the assignment, provided he acts in accordance with the contract and is not illiquid (*"zahlungsunfähig"*). The authority of the supplier to collect the claims himself remains unaffected by this; however, the supplier undertakes not to collect the claims as long as the purchaser duly meets his payment obligations to the supplier and is not illiquid (*"zahlungsunfähig"*). Otherwise, the supplier may, after setting a reasonable deadline, demand that the purchaser informs him of the assigned claims and their debtors, provides all information necessary for collection, hands over the

relevant documents and informs the debtors of the assignment. If the realizable value of all securities existing in favor of the supplier exceeds the claims to be secured by a total of more than 10%, the supplier shall be obliged to release securities of his choice at the request of the purchaser.

VI. Claims for defects

For material defects and defects of title of the delivery, the supplier warrants as follows, excluding further claims - subject to section VII:

Defects of quality

1. All those parts which prove to be defective because of a circumstance occurring prior to the transfer of risk shall, at the discretion of the supplier, be put into a defect-free condition or replaced by defect-free parts. The discovery of such defects must be reported to the supplier in writing without delay. Replaced parts become the property of the supplier.
2. Insofar as the parties have agreed on a quality of the delivery item, any objective requirements for the delivery item shall not apply."
3. After consultation with the supplier, the purchaser shall give the supplier the necessary time and opportunity to carry out all measures to remedy defects and make replacement deliveries which the supplier deems necessary; otherwise, the supplier shall be released from liability for the consequences arising thereof. The supplier is entitled to make the subsequent performance owed dependent on the purchaser paying the due contract price. However, the purchaser shall be entitled to retain a reasonable part of the contract price in proportion to the defect but limited to a maximum of 20% of the contract price. Only in urgent cases of danger to operational safety or to prevent disproportionately large damage, in which case the supplier shall be notified immediately, shall the purchaser have the right to remedy the defect himself or have it remedied by third parties and to demand compensation from the supplier for the necessary expenses.
4. Of the direct costs arising from the rectification of defects or replacement delivery, the supplier shall bear - insofar as the complaint proves to be justified - the costs of the replacement part including shipping.
5. The purchaser has the right to withdraw from the contract within the framework of the statutory provisions if the supplier - taking into account the statutory exceptions - allows a reasonable deadline set for the elimination of the defect or replacement delivery due to a material defect to elapse fruitlessly. If there is only an insignificant defect, the purchaser is only entitled to a reduction of the contract price. The right to a reduction of the contract price is otherwise excluded. Further claims shall be determined in accordance with section VII.2 of these terms and conditions.
6. No warranty is particularly given in cases where the defect is due to one of the following reasons:

Unsuitable or improper use, faulty assembly, or commissioning by the purchaser or third parties, natural wear and tear, faulty or negligent handling, improper maintenance, unsuitable operating materials, chemical, electrochemical or electrical influences - unless the supplier is responsible for them.
7. If the purchaser or a third party removes the defect improperly, the supplier shall not be liable for the resulting consequences. The same applies to changes to the delivery item made without the prior consent of the supplier.
8. If, however, a demand for rectification of defects by the purchaser turns out to be unjustified, the supplier may demand reimbursement of the costs incurred from the purchaser.

Defects of title

9. If the delivery item infringes German industrial property rights or German copyrights, the supplier shall, at its own expense, procure the right of further use for the purchaser or modify the delivery item in a manner acceptable to the purchaser in such a way that the infringement of property rights no longer exists.

If this is not possible on economically reasonable terms or within a reasonable period of time, the purchaser shall be entitled to withdraw from the contract. Under the conditions, the supplier shall also be entitled to withdraw from the contract.

In addition, the supplier shall indemnify the costumer against undisputed or legally established claims of the respective owners of the property rights.

10. The obligations of the supplier mentioned in section VI. 8 are, subject to section VII. 2, conclusive in the event of an infringement of industrial property rights or copyrights.

Such obligations only apply, if

- a. the purchaser informs the supplier without undue delay of asserted infringements of property rights or copyrights,
- b. the purchaser supports the supplier to a reasonable extent in defending the asserted claims or enables the Supplier to carry out the modification measures in accordance with section VI. 7,
- c. the supplier reserves the right to all defensive measures including out-of-court settlements,
- d. the defect of title is not based on an instruction of the purchaser and
- e. the infringement of rights was not caused by the fact that the purchaser has arbitrarily modified the delivery item or used it in a manner not in accordance with the contract.

VII. Liability

1. If the delivery item cannot be used by the purchaser in accordance with the contract due to the culpability of the supplier as a consequence of the inadequate or faulty execution of suggestions and advice, which took place before or after the formation of the contract, or due to the infringement of other secondary contractual obligations - in particular the instructions for operating and servicing the delivery item -, then the provisions of Sections VI and VII.2 apply accordingly, but to the exclusion of other claims.
2. For damages that have not occurred to the delivery item itself, the supplier is liable - for whatever legal reasons - only
- a. with intent,
 - b. for gross negligence on the part of its organs or executive employees,
 - c. for culpable injury to life, body, health,
 - d. in case of defects which he has fraudulently concealed or whose absence he has guaranteed,

- e. in the event of defects in the delivery item, insofar as liability exists under the Product Liability Act for personal injury or property damage to privately used items.

In the case of culpable infringement of essential contractual obligations, the supplier is also liable for gross negligence by non-supervisory employees and for minor negligence, limited in the latter case to contractually typical and reasonably foreseeable damages. Material contractual obligations are those obligations the fulfilment of which is essential for the proper performance of the contract and the compliance with which the contractual partner regularly relies on and may rely on.

Further liability claims, in particular claims for damages arising from culpa in contrahendo, other breaches of duty or tortious claims for compensation for material damage are excluded. The above exclusions and limitations of liability shall also apply to the benefit of the supplier's employees, representatives and other vicarious agents.

VIII. Statute of limitations

All claims by the purchaser - irrespective of the legal reasons - expire by limitation in 12 months. The statutory time periods apply in the case of compensation claims under Section VII.2.a.-e. They also apply to deficiencies in a building structure or to delivery items, which have been employed in their usual method of use for a building structure, and which have caused the deficiencies of the same structure.

IX. Software usage

In those cases where software is included within the scope of delivery, a non-exclusive and non-transferable right is granted to the purchaser to use the supplied software and its documentation. It is ceded to the purchaser for use on the delivery item, for which it is intended. Use of the software on more than one system is prohibited.

The purchaser is not permitted, except for archiving purposes, to make copies of the software, to modify or decompile the software or to use a form of reverse engineering. The supplier shall provide the information required for interoperability on request. The purchaser undertakes not to remove manufacturer information - in particular copyright notices - or to change it without the prior express consent of the supplier.

All other rights to the software and documentation, including copies of these, remain with the supplier or software provider.

X. Machine data

All data (machine data) on the delivery items are the exclusive property of the supplier as manufacturer and are his property. The supplier may therefore use, pass on, process or change the machine data without restriction. Machine data are raw data without any conclusion to a natural person. Therefore it is neither the intention nor the motivation of the supplier to collect personal data of the purchaser and personnel working on the delivery item.

XI. Open Source Software

The delivered software may contain open source components in whole or in part. These are subject to the relevant license conditions of the used open source components. The relevant license conditions can be requested at the following email address: opensource@multivac.de and are part of the granting of rights of use. The purchaser undertakes to observe these terms of use while using the open source components.

XII. Data protection

The supplier and the purchaser undertake to observe all applicable data protection regulations when processing personal data and to take the necessary technical and organisational measures to ensure data security.

XIII. Confidentiality

1. Notwithstanding the overriding provisions of any separately concluded confidentiality agreement, the following shall apply: The purchaser shall not disclose any confidential information (including business secrets), which it learns in connection with this contract and its performance, to any third parties. Confidential information in this context is information which is marked as confidential or the confidentiality of which is evident from the circumstances, irrespective of whether it has been communicated in written, electronic, embodied or oral form, including, but not limited to, technical specifications of the delivery items, information on the supplier's business partners and contents of the supplier's research and development.
2. Confidential information, as defined by this clause, does not include information that
 - a. was obvious or known to the purchaser at the time of transmission or has subsequently become so;
 - b. has been made available to the purchaser by third parties without any breach of law or
 - c. was developed by the purchaser themselves without the use of confidential information.
3. The purchaser is prohibited from obtaining confidential information by means of reverse engineering. In this context, "reverse engineering" shall mean all actions, including observing, testing, examining and disassembling as well as, if necessary, reassembling, with the aim of obtaining confidential information.
4. The obligation to maintain secrecy pursuant to subsection 1 shall also not apply, beyond the scope of § 5 GeschGehG (German Business Secret Protection Act), if the purchaser is obligated to disclose the confidential information by law or by virtue of a final or non-appealable decision of the authorities or a court. In this case, the purchaser shall immediately inform the supplier of the obligation to disclose. Furthermore, the purchaser shall make it clear in the course of the disclosure that, if this is the case, the disclosed information concerns business secrets and shall work towards making use of the provisions of §§ 16 ff. GeschGehG.
5. If the purchaser breaches its obligations under subsections (1) and (2), it shall owe a contractual penalty to be determined by the supplier at its reasonable discretion, the appropriateness of which shall be reviewed by the competent regional court in the event of a dispute, unless it is not responsible for the breach of duty.

XIV. Force Majeure

In case of an event Force Majeure, the affected contractual party shall not be liable on account of the delay or impossibility thus determined. The delivery time will be extended appropriately. Events of Force Majeure shall include but are not limited to (i) war (whether declared or undeclared), hostilities, military uprising, insurrection, act of public enemy, extensive military mobilization, riot; (ii) civil war, rebellion and revolution, military or usurped power, coup, act of terrorism, sabotage or piracy; (iii) currency and trade restriction, embargo, sanction; (iv) regulations and/or orders of whatsoever nature of any governmental authority, or compliance with such acts, laws rules, regulations, expropriation, seizure of works, requisition or nationalization; (v) plague, epidemic, pandemic, natural disaster or extreme natural event; (vi) explosion, fire, destruction of equipment, prolonged break-down of transport, telecommunication, information system or energy; (vii) general labour disturbances such as boycott, strike, lockout, go-slow, occupation of factories

and premises; (viii) general lack in plant or raw materials, lack of harbour and offloading capacity, serious transport accidents and other reasons that a contractual party has no influence over.

XI. Applicable law, place of jurisdiction

1. German law applies except for the UN Convention on the International Sale of Goods of 11.04.1980.
2. The place of jurisdiction is the court responsible for the area, where the supplier has its headquarters, if the purchaser is a company entrepreneur, a legal person in public law or a special fund under public law. The supplier is however entitled to bring legal action at the court responsible for the area, where the purchaser has its headquarters.

(Valid from February 2023)