

Umfotec GmbH

GENERAL TERMS AND CONDITIONS OF PURCHASE

1. Relevant conditions and scope

- 1.1 These General Terms and Conditions of Purchase shall apply to all deliveries and services (hereinafter referred to generally as "Deliveries") which a seller, contractor or service provider (hereinafter referred to generally as "Supplier") performs for us.
- 1.2 Our General Terms and Conditions of Purchase shall apply exclusively; any deviating, conflicting or supplementary terms and conditions of the Supplier shall only become part of the contract if and to the extent that we have expressly agreed to their application in writing. Our General Terms and Conditions of Purchase shall also apply if we accept the delivery without reservation in the knowledge that the Supplier's terms and conditions are contrary to or deviate from our General Terms and Conditions of Purchase.
- 1.3 These Terms and Conditions shall only apply to a businessperson, a legal entity under public law or a special fund under public law in accordance with § 310 para. 1, sentence 1, BGB (German Civil Code).
- 1.4 All legally relevant notifications and declarations by the Supplier after conclusion of the contract, e.g. setting of deadlines, reminders, declaration of withdrawal, must be made in writing.

2. Purchase orders

- 2.1 Purchase orders, their amendments and supplements as well as call-offs are only binding if they are issued or confirmed by us in writing. We shall be bound by our written orders for two weeks from the date of the order. Order confirmations received later than that shall be regarded as a new offer which requires our written acceptance.
- 2.2 Any contract shall come into effect upon receipt of the Supplier's written order confirmation, or upon our acceptance of the delivery. If the contents of the order

confirmation deviate from the contents specified in the order, the Supplier must expressly and separately accept any deviance in the purchase contract. In this case, our written consent is necessary for the contract to be effective.

- 2.3 If the price is not fixed upon placement of our order and is only communicated to us by the Supplier, this information by the Supplier is regarded as an offer, which requires our express acceptance in text form or in writing. No contract is deemed to exist if this condition has not been fulfilled.

3. Prices

The agreed prices are fixed prices. Unless otherwise agreed, they include delivery "free domicile" to the place of delivery specified by us, including customary packaging, cartage and storage charges and any customs duties, if applicable. In any case, the Supplier shall bear the shipping costs, even if we request a special type of shipping.

4. Delivery

- 4.1 The place of performance is the place of delivery specified by us; shipping is carried out at the Supplier's risk. For any delivery "free domicile" to the place of delivery specified by us, the Supplier shall bear all costs for transport insurance.
- 4.2 All agreed dates and deadlines are binding; if delivery periods are specified, these are deemed to begin at the date the order is received. The date of receipt of the goods at the specified place of delivery is crucial for determining compliance.
- 4.3 If delivery is not agreed "free domicile" at the place of delivery specified by us, the Supplier must arrange for the provision of goods in a timely manner, taking into account the usual loading and shipping times. Delivery dates set for call-off deliveries are binding according to the same principles if the Supplier does not object to them immediately.
- 4.4 In case of any excess delivery not agreed upon we shall have the right to either accept the excess goods delivered, and adjusting the value date of the invoices, or to store them at the Supplier's expense until they are collected by the Supplier, or to return them at the Supplier's expense.

- 4.5 The Supplier shall not be allowed to make deliveries to us before the agreed delivery time. However, if the Supplier delivers before the agreed time, we retain the right to store the goods at the Supplier's expense until the agreed delivery time, or to return the goods at the Supplier's expense.
- 4.6 Partial deliveries will only be accepted if expressly agreed upon.
- 4.7 If the Supplier does not fulfil his obligations within the agreed time, they shall be liable in accordance with the statutory provisions, unless otherwise provided below.
- 4.8 In case of delayed delivery, we are entitled to claim a contractual penalty. This penalty shall amount to 0.25% per calendar day of delay, but in total not more than 5% of the total net order value. We shall be entitled to claim this contractual penalty until the time of final payment, even if we do not expressly reserve the right to do so upon acceptance of the delayed delivery. The contractual penalty shall be charged in addition to any default damages payable by the Supplier. The Supplier must notify us immediately of any expected delays in delivery or a possible failure to deliver in whole or in part, stating the reasons and the alleged duration of the delay. Such notification shall not, however, release the Supplier from their responsibility to meet the delivery dates.
- 4.9 If our failure to accept or receive goods is due to force majeure, industrial action or other events beyond our control, we may demand delivery in whole or in part at a later date; in this case the Supplier is not entitled to assert any claims against us. If, however, the delivery extension exceeds a period of more than six months, each contracting party shall be entitled to withdraw from the contract. In this case also, no contractual partner may assert any claims against the other contractual partner.
- 4.10 A retention of title by the Supplier shall only become part of the contract if the retention of title expires upon payment of the price agreed for the reserved goods, and we are authorised to resell and/ or further process the goods in the ordinary course of business. Any further retention of title by the Supplier is not accepted. In particular, no processing within the meaning of § 950 BGB (German Civil Code) shall take place for the Supplier.

5. Payment

- 5.1 Unless otherwise agreed with the Supplier, payment shall be made within 14 days less 3% discount from the net invoice amount or within 30 days net. The payment period shall not begin until the goods have been received in accordance with the contract, including proper delivery notes and invoices.
- 5.2 Invoices shall be submitted to us in duplicate, and must include our order number. The Supplier shall be responsible for all consequences arising from non-compliance with this obligation, unless they can prove that they are not responsible for this.
- 5.3 The Supplier is not allowed to assign claims against us without our prior consent. This does not apply to monetary claims, however.
- 5.4 The time of payment does not bear any influence on the Supplier's warranty obligations or our right to complain. In the event of defective delivery, we shall be entitled to withhold payment proportionately to the value until proper performance is carried out.
- 5.5 The Supplier has a right to set-off and/or a retention right only in the case of counterclaims which have been legally established, or are undisputed, or are ready for decision in proceedings pending at law.

6. Quality assurance

The delivered goods must comply with the respective applicable domestic and foreign statutory provisions, and with the regulations and guidelines of authorities, professional associations and trade associations, and must fulfil the latest state-of-the-art standards and the properties and quality requirements specified in the order. The Supplier is obliged to inform us in writing of any restrictions on use and/ or declaration obligations for the delivered goods.

7. Liability for defects

- 7.1 In any event, the obligation to inspect and notify defects shall arise when the goods have been received at the destination specified, accompanied by the proper documents (in particular shipping note and delivery note). We are entitled to notify the Supplier of any defect within 12 working days of goods receipt, and in case of hidden

defects we are entitled to notify the Supplier within 12 working days of discovery of the relevant defect.

- 7.2 In the event of delivery of defective goods, the Supplier is obliged, at our request, to sort out the defective goods and to ensure subsequent remedy or subsequent delivery within a reasonable period of time set by us. In this case, the Supplier is obliged to bear all expenses in connection with this. The Supplier is not entitled to refuse the type of subsequent performance requested by us. If subsequent performance is refused, fails, is unreasonable by us, or in the event that the same goods are once more delivered in a defective condition, we are entitled to reduce the purchase price or to withdraw from the contract.
- 7.3 The limitation period for claims for defects shall end three (3) years after the transfer of risk. In the event of defects in a building, or a building item, which have caused the material defect, the statutory periods shall apply.
- 7.4 In case of replacement deliveries and/ or rectification of defects, the limitation period for replaced and/or repaired parts shall re-commence upon replacement or rectification; unless we have to assume, based on the conduct of the Supplier, that the Supplier did not feel obliged to take such action, but made the replacement delivery or rectification of defects only as a gesture of goodwill or for similar reasons.
- 7.5 Services under the contract for work and services need to be formally accepted and approved by us. The Supplier shall, in a timely manner, notify us in writing once he is prepared for the acceptance process. Any conclusive or fictitious acceptance is expressly excluded.

8. Liability

- 8.1 Insofar as the Supplier is responsible for a defective product, they are obliged, upon first request, to indemnify us against any claims for damages by third parties, to the extent that the cause lies within the Supplier's area of control and organisation and thus, the Supplier's liability extends to any external relationship.
- 8.2 Within the scope of his liability for damages within the meaning of Section 8.1, the Supplier is also obliged to reimburse any expenses arising from, or in connection with, a product recall which was rightfully instigated by us or by our customer. We shall- as

far as possible and reasonable, and in a timely manner - inform the Supplier about the content and scope of the necessary recall measures and give him the opportunity for a statement. Other legal claims shall remain unaffected by this.

8.3 The Supplier undertakes to maintain product liability insurance with an appropriate cover for personal injury and property damage; if we are entitled to further claims for damages, these shall remain unaffected. Upon request, the Supplier is obliged to provide a copy of the insurance policy at any time or, upon request, an up-to-date confirmation of insurance coverage.

9. Industrial property rights of third parties

9.1 The Supplier undertakes to ensure that no industrial property rights or other rights of third parties are infringed in connection with any delivery.

9.2 If claims are made against us by a third party for this reason, the Supplier is obliged to indemnify us from these claims upon first written request; this does not apply if the Supplier is not responsible for the infringement of third-party rights. In the event of indemnification, we are not entitled to strike any deals with this third party without the Supplier's consent. This especially includes the conclusion of a settlement.

9.3 The Supplier's obligation to indemnify us extends to all expenses which we necessarily incur from, or in connection with, a third-party-claim.

9.4 The period of limitation is 36 months, calculated from the time of transfer of risk.

10. Confidential documents

10.1 We reserve the right of ownership to the illustrations, drawings, calculations and other documents provided to the Supplier; the same applies to our copyrights insofar as the documents may be protected by copyright at all. The documents shall not be made available to third parties without our express written consent. They are to be used exclusively for purposes pursuant to our purchase order. The Supplier shall return these documents to us upon written request or, at the latest and unrequested, once the order is completed. The Supplier has no right of retention regarding these documents.

10.2 Should the Supplier disclose any information in these documents to their sub-suppliers

or subcontractors - with our prior written consent – they are obliged to commit their subcontractors and sub-suppliers to the same confidentiality. Commercial and technical data which have become public knowledge are excluded from the confidentiality obligations.

11. Other obligations of the Supplier

11.1 The Supplier is obliged to at least pay the minimum wage in accordance with the Minimum Wage Act of 11.08.2014 to the staff involved in the performance of the commissioned services under the underlying contract. We reserve the right to demand written proof of payment of the minimum wage from the Supplier at any time in the course of the work or services ordered; in this case, the Supplier is obliged to submit proof in writing as soon as possible, but no later than within three working days following receipt of the request.

11.2 The Supplier shall indemnify us against all claims relating to a violation of the provisions of the Minimum Wage Act, either by the Supplier, or one of their subcontractors.

11.3 Notwithstanding any other rights of termination or withdrawal, we are entitled to withdraw from the contract with immediate effect or to terminate the contract if the Supplier, and/or their subcontractors, culpably violate the above provisions or the Minimum Wage Act (*Mindestlohngesetz*) of 11.08.2014. The Supplier is obliged to compensate us for the damage caused by the withdrawal or termination. Claims of the Supplier for non-performance are excluded. In all other respects, the consequences of withdrawal and termination shall be governed by the statutory provisions.

12. Final provisions

12.1 All agreements must be made in writing. Amendments and supplements to this contract, including this written form clause, must also be made in writing. The same applies to subsidiary and additional agreements. Oral agreements or assurances given by our employees shall not legally bind us.

12.2 Should a provision of this contract be or become invalid in whole or in part, the invalidity of this provision shall not affect the validity of all other provisions of this contract. The ineffective provision shall be replaced by a legally valid provision which

comes closest in economic terms to the regulatory purpose of the ineffective provision.
The same applies to any loopholes in this contract.

12.3 The relations between us and the Supplier shall be governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods.

12.4 If the Supplier is a businessperson, a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from the contractual relationship shall be our place of business. We are, however, also entitled, at our discretion, to bring an action at the place of performance of the delivery obligation or at the Supplier's place of business.

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- Umfotec GmbH

[Address]

[Print date]

"I hereby certify that the
above translation from German
into English is true and correct"

Mülheim, the 04.05.2020

Andrea Christmann

Certified translator for English

for the district of the Higher Regional Court of Düsseldorf

