

GENERAL TERMS AND CONDITIONS OF UNICA GLOBAL B.V.

General Terms and Conditions of Unica Global B.V. (Unica) with its registered office in Wierden, the Netherlands, registered at the Dutch Chamber of Commerce under no. 67855350.

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Article 1. Definitions

- 1.1 Agreement: sales, purchase or distributor agreement created between UNICA and any Other Party as a result of a verbal and/or written confirmation of a quotation by the Other Party and subsequent written confirmation by UNICA.
- 1.2 Incoterms: the latest version of a series of commercial terms governing international commercial transactions as defined and published by the International Chamber of Commerce (ICC) at the time of concluding any Agreement.
- 1.3 Other Party: the purchasing party or the party that has the intention to purchase goods from UNICA.
- 1.4 UNICA: Unica Global B.V.

Article 2. Applicability

- 2.1 All transactions, and all legal acts between UNICA and any Other Party will be subject to these General Terms and Conditions.
- 2.2 Applicability of any General Terms and Conditions of the Other Party is herewith explicitly denied.
- 2.3 If UNICA expresses its agreement with the applicability of derogations from these General Terms and Conditions, all other terms will remain in force. Derogations and/or supplemental clauses can be invoked by the Other Party only if and in so far explicitly

accepted by UNICA in writing.

- 2.4 The Incoterms will prevail in the interpretation of the terms of transport and delivery used in quotations and Agreements.

Article 3. Conclusion of the Agreement

- 3.1 The Agreement will be created after written confirmation by UNICA of an order made on the basis of a quotation issued by UNICA.
- 3.2 In case of a conflict between these General Terms and Conditions and the Agreement, the latter will take precedence.
- 3.3 Any quotation by UNICA shall not be binding to UNICA and shall only be considered to be an invitation to the Other Party to place an order.
- 3.4 UNICA shall be entitled to refuse, or refuse to execute, orders without stating reasons, unless agreed otherwise in an Agreement.

Article 4. Delivery

- 4.1 A contracted period of delivery will not be an absolute deadline, unless contracted otherwise. In the event of untimely delivery, the Other Party will notify UNICA of such default in writing. Failure to perform by a shipping agency hired by UNICA, that could not be reasonably foreseen by UNICA, shall be considered force majeure.
- 4.2 Deliveries are EXW (Ex Works).
- 4.3 The Other Party will be obliged to accept the goods at the contracted moment or within the contracted period. In last-mentioned event, UNICA will establish the date of delivery.

Article 5. Price and Payment

- 5.1 Payment will be made in full before delivery.
- 5.2 All prices are exclusive of any VAT, sales tax, customs duties and/or any other charges, duties, or taxes imposed by any (local or foreign) authority.
- 5.3 UNICA can from time to time impose price increases or decreases to reflect general market conditions and or changes in costs related to the sale of the product, unless laid down otherwise in the Agreement.
- 5.4 Failure to pay before expiration of the period stated in the defaulting notice will cause the Other Party to be in default and UNICA will be entitled to charge an interest of 3% per month over the invoice amount for the duration of the delay.
- 5.5 If, even after expiry of a final notice of payment issued by UNICA, the Other Party has not paid in full, it must compensate UNICA for any and all judicial and extrajudicial costs with a minimum of 15% of the remaining unpaid amount of the invoice.
- 5.6 Payments made by the Other Party will consistently serve to first settle all interest and costs payable and then claimable oldest invoices, even if the Other Party states that the settlement relates to

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a later invoice.

Article 6. Retention of Title

- 6.1 Subject to the provisions in paragraphs 2 and 3, title to the goods will transfer to the Other Party when delivery is made.
- 6.2 UNICA will reserve title to all goods delivered to the Other Party until such time that the Other Party has satisfied all its obligations under the Agreement. Reservation of title will also apply to any claims of the Other Party with respect to UNICA for non-performance of the Other Party in one or several of its obligations towards UNICA. All costs associated with returning title will be for account of the Other Party.
- 6.3 As long as title to the delivered goods has not transferred to the Other Party, the latter will not be entitled to pledge the goods or grant any third party any other right thereto, subject to the provisions stated below in paragraph 5.
- 6.4 The Other Party will be bound to store the goods delivered under reservation of title with due care and as identifiable property of UNICA.
- 6.5 If the Other Party fails to perform its payment obligations towards UNICA, or gives UNICA due grounds to fear that the Other Party will fail to perform these obligations, then UNICA will be entitled to repossess the goods delivered under reservation of title. Following repossession, the Other Party will be credited for the market value, which in no event will exceed the original purchase price, less the costs entailed in the repossession.
- 6.6 The Other Party will be permitted to sell or transfer the goods delivered under reservation of title to third parties in the context of the regular operations of its business.

Article 7. Use of Brands and Trade Names

- 7.1 The Other Party will not use brands, trade names and trademarks that are the property of UNICA without the UNICA's prior written permission.

Article 8. Intellectual property

- 8.1 The intellectual property rights in the products delivered, manufactured or conceptually developed by UNICA or any of its affiliates shall vest in UNICA.
- 8.2 The Other Party shall warrant that it will not infringe (and that it will not allow third parties to infringe, or enable infringement of) intellectual property rights of UNICA or its suppliers, for instance by copying, processing or counterfeiting products of UNICA.

Article 9. Quality

- 9.1 The goods will satisfy the relevant quality requirements that can normally be expected, where the product specifications typically provided with the product(s) can be regarded as minimal requirements.
- 9.2 Deficiencies to all or part of the delivered consignment will not give the Other Party the right to refuse the entire consignment.

Article 10. Complaints

- 10.1 Complaints must be submitted in writing to UNICA within 15 days after delivery of the goods.
- 10.2 In this context, the Other Party will be obliged to make an accurate and detailed report of its objections and submit such report to UNICA within 15 days after delivery.
- 10.3 No liability will be accepted for complaints submitted to UNICA after the expiration of abovementioned period, unless the Other Party can show that it was reasonably unable to submit the com-

plaint within the stated period.

- 10.4 Complaints will not be accepted if goods delivered by UNICA have been sold on to a third party or if they are in any way handled or altered in nature and/or composition, damaged in whole or in part, packaged or not stored, transported or retained in accordance with the statutory regulations or standards imposed by practice. Neither will complaints by the Other Party be accepted if it has not performed its obligations under the Agreements vis-à-vis UNICA.
- 10.5 Moreover, no liability will be accepted if the expiration date has passed. The expiration date can typically be found in the specifications provided with the product.
- 10.6 If complaints have been lodged in a timely correct and well-founded manner, UNICA may opt to replace the Products, or to give a discount on the price, releasing UNICA from its obligations and any further liability.
- 10.7 Returning of delivered goods to UNICA, for whatever reason, requires prior written permission by UNICA. The goods will continue to be for account and risk of the Other Party.

Article 11. Force Majeure

- 11.1 If either party is prevented from performing its obligations due to a situation of force majeure, then it will be required to inform the Other Party forthwith of such situation in writing.
- 11.2 During a situation of force majeure, deliveries and other obligations of UNICA will be suspended. If this period exceeds two months then UNICA will be competent to dissolve the Agreement without judicial intervention and without being liable for damages.
- 11.3 If, at the start of the situation of force majeure UNICA has already satisfied part of its obligations or is able to satisfy only part of its obligations because of such a situation then it will be entitled to invoice the part already delivered or deliverable separately, and the Other Party will be bound to settle this invoice as if it were a separate agreement.
- 11.4 For the purpose of this Article, "Force Majeure" means, in relation to either party, any circumstances beyond the reasonable control of that party (including, without limitation a complete or partial disturbance of a party's business or that of the suppliers from whom it procures raw materials or accessories to be delivered, by an act of God, war, riot, lockout, fire, storm, flood, explosion, shortage of materials, interference by military authority, compliance with the laws, regulations or orders of any Governmental authority of any country, obstruction of the railway traffic or of the conveyance with other means of transport or lack of the same, shipwreck, means of transport getting lost or out of order).

Article 12. Dissolution

- 12.1 If the Other Party fails to satisfy any of the obligations under the Agreement or fails to respond to a one-week default notice, then UNICA will be competent to dissolve the Agreement without judicial intervention. In such an event, the Other Party will be liable for damages incurred by UNICA. Payment obligations relating to work or deliveries already performed will remain enforceable.
- 12.2 If, in the event of non-performance of its obligations attributable to the Other Party, UNICA adopts (extra) judicial measures then the associated costs will be for account of the Other Party.
- 12.3 Without prejudice to the Other Party's existing payment obligations, the Agreement will be dissolved without judicial intervention and without any default notice at the moment the Other Party has been declared bankrupt, files for suspension of payment or, as a result of seizure, receivership or otherwise, loses control over

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its capital or parts thereof, unless the receiver or administrator acknowledges the obligations under this Agreement as debt of the estate.

Article 13. **Liability**

- 13.1 UNICA will only accept liability for damage incurred by the Other Party resulting from an attributable non-performance of its obligations, if and in so far such liability is covered by its insurance, up to the amount of any payment made by its product liability insurer.
- 13.2 If for any reason the insurer fails to pay, then UNICA's liability will be limited to the invoice amount, excluding VAT, sales tax or any other taxes and duties.
- 13.3 Notwithstanding the provisions in paragraphs 1 and 2, UNICA will accept no liability for damages resulting from exceeding the period of delivery due to altered circumstances and will accept no liability for damage resulting from the Other Party's deficient cooperation, information or materials.
- 13.4 In the event of a tort on the part of UNICA or its subordinates, UNICA will only be liable for compensation of damages due to death or physical injury. In these cases, the liability will be limited to the maximum covered by the insurance policy.
- 13.5 UNICA will not be liable, or will be entitled to indemnification by the Other Party, for violation of patents, licences or other rights of third parties as a result of using information supplied to him by or on behalf of the Other Party for the performance of the order.
- 13.6 If a complaint proves well founded then UNICA will be bound, such at the discretion of UNICA, to replace the goods free of charge by similar goods or to release the Other Party in whole or in part from the obligation to pay the invoice value of the goods.
- 13.7 In the instance stated in paragraph 6, the Other Party will not be competent to dissolve the Agreement or suspend the performance of its obligations under the Agreement towards UNICA.
- 13.8 The Other Party will hold UNICA harmless against claims by third parties, unless the Other Party shows that these claims are the direct result of actions or omissions on the part of UNICA.

Article 14. **Good faith and fair dealing**

- 14.1 In carrying out their obligations under the Agreement, Parties will act in accordance with good faith and fair dealing.
- 14.2 The provisions of the Agreement, as well as any statements made by the Parties in connection with this relationship, shall be interpreted in good faith.

Article 15. **Disputes**

- 15.1 Parties shall make efforts to amicably settle any dispute or difference arising out of or resulting from these General Terms.
- 15.2 Disputes that cannot be resolved in mutual consultation will be exclusively brought before the competent court in Almelo, the Netherlands.
- 15.3 All agreements and ensuing obligations will be subject exclusively to the laws of the State of New York, United States of America, and will be governed by the Vienna Sales Convention (United Nations Convention on Contracts for the international Sales of Goods (CISG 1980), and to the extent that such questions are not covered by CISG, by reference to the rules and principles of law generally recognized in international trade as applicable to international contracts of sale.

Article 16. **Confidential information**

- 16.1 Confidential Information is information that has been supplied to

the other Party with an indication that it is confidential or of which the receiving party should reasonably understand that it is of a confidential nature, provided such information is not in the public domain

- 16.2 Each party agrees not to disclose to third parties any confidential information disclosed to him by the other party in the context of the Agreement.