

# **General Terms and Conditions of Purchase**

Last revised: February 2019

## **1. Scope of validity**

These General Terms and Conditions of Purchase (hereinafter referred to as "Purchase Conditions") of Uhlmann Pac-Systeme GmbH & Co. KG, Uhlmannstr. 14-18, 88471 Laupheim, Germany (hereinafter referred to as "Uhlmann") shall apply exclusively and only in respect of entrepreneurs as defined in Section 14 of the German Civil Code (BGB) and to legal entities under public law or special funds under public law. The Purchase Conditions of Uhlmann shall apply exclusively; any General Terms and Conditions of Business of the Supplier that differ from, contradict or add to these shall only become a constituent part of this contract if and to the extent that Uhlmann expressly agrees in writing to their application. Consent is also required if Uhlmann accepts or pays for any goods or services provided by the Supplier when it is aware of any conditions of the Supplier that contradict or deviate from these Purchase Conditions. The relevant current version of these Purchase Conditions shall also apply to all future goods and services provided by the Supplier.

## **2. Contract conclusion**

All orders, agreements and delivery call-offs of Uhlmann, and any changes or additions to the orders, must be in written or text format unless otherwise agreed in individual agreements. An order shall be deemed accepted if the Supplier does not object to it within five working days after receipt of the order. Uhlmann is entitled to revoke orders free of charge if the Supplier fails to confirm the order with Uhlmann within two weeks after receiving it.

## **3. Prices/costs for offers**

The prices listed are fixed prices with DDP to the place of delivery (INCOTERMS 2010), including packaging but excluding value added tax. Any enquiries on submitting offers at the Supplier shall be non-binding for Uhlmann. The drawing up of offers by the Supplier shall be free of charge, in particular without charge for visits or the preparation of offers.

## **4. Sub-contractors**

The Supplier may only sub-contract work with Uhlmann's consent where this does not only involve the supply of saleable parts. Uhlmann may only refuse to give consent to this sub-contracting if there is a legitimate interest to do so. In the event of sub-contracting, the Supplier shall ensure that all services are provided properly and in full.

## **5. Payment, rights of set-off and retention**

Unless otherwise agreed, payments made within 60 days shall be net and without a discount. If payment is made via a bank transfer, the time of payment shall be the day on which the bank has received the transfer request from Uhlmann.

The Supplier shall submit an invoice for any goods or service provided which is separate from the shipment, specifying the order number used by Uhlmann and the order date, and providing proof of the value added tax. The payment periods shall begin upon receipt of a full, correct and auditable invoice, but not before receipt of the full delivery and/or acceptance of the service (where agreed). Payments shall not be considered acknowledgement of the receipt of goods or service in accordance with the contract.

Where prepayment has been agreed, the Supplier shall, if requested to do so, provide a reasonable security by way of an absolute guarantee, which is unlimited in time, from a major German bank, under waiver of the defence of failure to pursue remedies and payable upon first request.

The Supplier may only assign any claims arising from this contract to third parties with the prior written consent of Uhlmann. This excludes assignments to a credit institute as security for business loans or for the agreement of an extended retention of ownership.

Under statutory provisions, Uhlmann shall have the rights of set-off and retention and the right of defence of non-performance of the contract. Uhlmann is entitled, in particular, to retain any payments that are due if there are any outstanding claims against the Supplier arising from incomplete or defective performance. The Supplier has rights of set-off or retention only if its counterclaims have been established indisputably or by force of law.

## **6. Type of service, goods supplied, packaging**

Unless otherwise specified on a case-by-case basis, delivery using DDP to an agreed place of delivery (INCOTERMS 2010) shall be agreed. The Supplier shall therefore bear the risk of material damage up until acceptance of the goods by Uhlmann or by a party commissioned by Uhlmann at the site to which the goods are to be delivered in accordance with the terms of the contract. Partial deliveries are only permissible with the express written consent of Uhlmann and must be marked accordingly in the shipping documents. The Supplier undertakes to use environmentally-friendly packaging materials which can be recycled and/or disposed of cost-effectively. Where the Supplier undertakes to take back the used packaging in accordance with the German Packaging Ordinance (Verpackungsverordnung), it shall bear the costs of the return transportation and recycling. The packaging should ensure protection against damage, dirt and moisture during transportation and storage in such a way that assembly can take place at Uhlmann or a company commissioned by Uhlmann without any additional costs. All the important information regarding the content, storage and transportation must be affixed to the packaging so that it is clearly visible.

Goods shall generally be delivered in commercial disposable packaging. Where reusable packaging is used, the Supplier shall provide the packaging on loan. It shall be returned at the expense and risk of the Supplier. Where, as an exception, Uhlmann agrees to accept the packaging costs, these shall be charged at cost price, whereby this can be proven.

## **7. Delivery deadlines/contractual penalty**

The delivery time specified by Uhlmann in the order shall be binding for the Supplier unless other dates have been agreed following the order. If the Supplier can foresee that the agreed delivery times cannot be complied with, the Supplier shall immediately make Uhlmann aware of this in writing, specifying the reasons for and the expected duration of the delay. In the case of a default in delivery, Uhlmann is entitled to charge a contractual penalty of 0.2% of the net value of the goods in the delayed delivery per working day, but no more than 5% of the value of the goods. Any claims to compensation that go beyond this shall remain unaffected. The unconditional acceptance of delayed delivery or performance shall not represent the waiver of any claims to compensation asserted by Uhlmann due to delayed delivery or performance. In the event that goods are delivered earlier than the agreed delivery date, Uhlmann is entitled to store or return the delivered goods at the Supplier's expense and risk.

## **8. Force majeure/withdrawal from the contract**

In the event of delayed deliveries as a result of force majeure, the agreed delivery times shall be extended by the duration of the delay. Force majeure includes all external circumstances which cannot be influenced by the contracting parties, such as natural disasters, strikes, war, unrest, etc. Irrespective of this, the Supplier undertakes to immediately inform Uhlmann of any potential delays so that suitable measures can be taken to prevent damage or loss, where possible in good time and by mutual agreement. Uhlmann is entitled to fully or partially withdraw from the contract in the event of delayed delivery due to unavoidable events, where the delay causes interest in the performance to lapse.

## **9. Non-disclosure/document ownership**

All business and technical information (including documents, samples, models, business requirements, personal data and other knowledge, as well as information gained visually from visiting plants/facilities) made accessible to the Supplier by Uhlmann is to be kept secret vis-à-vis third parties if and so far as it is proven not to be public knowledge, and must only be made available to persons at the Supplier's operating facilities who are necessarily involved in the purpose of performing this contract and who are likewise obligated to maintain secrecy. All documents and resources handed over to the Supplier for performance of the contract shall remain the exclusive property of Uhlmann and shall be returned to Uhlmann, without being requested to do so, at the end of the contractual relationship or, if demanded by Uhlmann, demonstrably destroyed.

The Supplier shall only be permitted to make the business relationship with Uhlmann known to third parties with the prior, express and written approval of Uhlmann.

## **10. Quality assurance and incoming goods inspection/obligation to give notice of defects**

The Supplier undertakes to maintain a quality management system that is based on the latest technology. The Supplier shall perform inspections during production in accordance with its quality management system and final inspections of products which ensure that only goods without defects are delivered.

With regard to commercial inspection and notice of defect obligations, the statutory provisions in accordance with Sections 377, 381 of the German Commercial Code (HGB) shall apply

subject to the following conditions: Uhlmann's obligation to perform inspections shall be limited to defects that are identified upon sight during the incoming goods inspection, which includes delivery papers, as well as random quality control checks by Uhlmann. Furthermore, the inspection shall depend on whether the inspection is feasible in ordinary business procedures under consideration of the circumstances for each individual case. The obligation to give notice of defects which arise at a later time shall remain unaffected. In all cases, the notice provided by Uhlmann shall be considered prompt and in good time if received by the Supplier within ten calendar days.

## **11. Warranty**

The legal provisions on claims relating to material defects and defects of title shall apply without limitation unless otherwise specified below.

In urgent cases, Uhlmann is entitled to shorten, as deemed appropriate, the deadline for supplementary performance by the Supplier. If after the Supplier is notified of the defect, it is not willing or not able to provide supplementary performance in accordance with the deadline, Uhlmann is entitled to rectify the defect itself or have it rectified by a third party where this is required in order to prevent damage or loss.

Material defects and defects of title shall lapse after 36 months. The Supplier shall bear all costs incurred by Uhlmann which arise as a result of defective delivery or performance, in particular transport, handling, labour and materials costs, as well as any accommodation costs exceeding the normal amounts.

## **12. Retention of ownership**

Ownership of the goods shall be transferred to Uhlmann upon handover of the goods without restriction and without consideration of payment of the price agreed for the delivery or service. If in individual cases Uhlmann accepts an offer limited by payment of the purchase price upon transfer of ownership, the Supplier's retention of ownership shall expire at the latest upon payment. Any requested or extended retention of ownership of the Supplier shall be excluded. Uhlmann shall always be entitled to use and/or resell the goods supplied without any restrictions in the ordinary course of business.

## **13. Product liability**

In the case that a claim is asserted against Uhlmann under the German Product Liability Act (Produkthaftungsgesetz), the Supplier undertakes to release Uhlmann from any such claims at first request where the loss or damage has been caused by a defect in the goods supplied by the Supplier. However, in cases of fault-based liability, this shall only apply if the Supplier is attributable for the defectiveness. Where the cause of the loss or damage falls within the scope of risk or area of responsibility of the Supplier, the latter must prove that it is not attributable for the defectiveness.

In these cases, the Supplier shall bear all costs and expenses, including the costs of any legal proceedings or recall campaign. The statutory regulations shall also apply.

The Supplier undertakes to provide adequate product liability insurance at its own expense for the duration of the contractual relationship.

#### **14. Tools/drawings; auditing obligations and use**

All rights to moulds, tools, reproductions, plans, samples, drawings and similar (hereinafter referred to as tools) which have been manufactured and paid for at our expense and/or handed over to the Supplier by Uhlmann shall be exclusively assigned to Uhlmann. Rights of ownership shall be transferred to Uhlmann at the latest at the time of payment. The Supplier shall store, maintain, repair as well as protect and insure tools against unauthorised access, damage and destruction with the care taken when dealing with our own affairs. The duty of retention shall end two years after last use unless otherwise agreed. The Supplier shall have no right of retention in this regard.

The Supplier shall check any information provided by Uhlmann for completeness and correctness and notify us immediately of any errors. In the case of any incomplete or incorrect documents, the prior written consent of Uhlmann is required in order for the Supplier to rectify this, where rectification is subject to a charge.

Based on our documents, any machines and tools manufactured must be exclusively produced for Uhlmann, used for Uhlmann's orders and/or supplied to Uhlmann unless Uhlmann expressly agrees in writing to use by or for third parties and/or delivery to third parties.

#### **15. Proof of origin**

The Supplier undertakes to hand over to Uhlmann, upon request, the necessary certificates on the origin of the goods supplied. The Supplier shall be liable for ensuring the correctness and verifiability of these documents by the responsible authorities in accordance with the legal provisions on compensation.

#### **16. Third-party property rights**

The Supplier assures that no third-party property rights will be violated in connection with its supply of goods or services. In the case of an infringement of copyright despite contractual use by Uhlmann or its customers, the Supplier undertakes to provide the owner of the property rights with the necessary rights at its own expense. If a claim is asserted against Uhlmann by a third party due to an alleged infringement of property rights, the Supplier shall release Uhlmann from all claims upon initial request and bear all costs and expenses associated with the claim.

#### **17. Place of performance, place of jurisdiction, language of the contract and applicable law**

Unless otherwise agreed, the place of performance and place of jurisdiction for all disputes arising from or in connection with these Conditions is Ulm, Germany.

The language of the contract is exclusively German.

The law of the Federal Republic of Germany shall apply, with the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG).

#### **18. Severability clause**

If individual provisions of these Purchase Conditions are invalid, this shall not affect the validity of the remaining provisions. If a provision proves to be invalid or unenforceable, the parties shall undertake to replace the invalid provision with another provision which corresponds as closely as possible to the original legal and economic purpose of the invalid or unenforceable provision.

### **19. Business ethics and legal conformity**

The Supplier warrants that it will not partake either directly or indirectly in any form of corruption, violation of human rights, discrimination of its employees, forced labour or child labour.

The Supplier ensures that where provisions on a legal minimum wage apply, it shall meet the relevant applicable conditions. Furthermore, the Supplier shall comply with any applicable international minimum standards under labour law in terms of employee rights, working time and occupational health and safety.

The Supplier undertakes to comply with any applicable legal regulations on environmental protection and to make every effort to permanently reduce any negative impact on humans and the environment which may arise as a result of its business activities.

The Supplier shall ensure that any commissioned third parties meet the specified requirements during execution of the contract.

In the event of a significant violation of the obligations specified in this paragraph, Uhlmann shall be entitled to exercise an extraordinary right of termination.