

Standard Ordering Terms Umicore Autocat Poland Sp. z o.o. (August 2016)

1. **General terms**
Umicore Autocat Poland Sp. z o.o., with its registered seat in Nowa Ruda (postcode: 57-402), at 31 Słupiecka Street, entered in the Register of Entrepreneurs of the National Court Register, maintained by the District Court for Wrocław – Fabryczna in Wrocław, IX Commercial Division of the National Court Register, under the entry number KRS:0000498584, NIP [taxpayer ID]: 1070028949, REGON [enterprise ID]: 147119649 share capital: PLN 2.289.350,00. ("**Umicore**") and the Supplier/ Contractor/ Service Provider acting as a professional commercial entity within its area of specialisation ("**CO**") (together "**the Parties**") enter into an agreement for supply of goods and/or services to be produced, created, delivered and/or provided to Umicore by the CO, within remuneration and on terms and conditions stipulated in these Standard Ordering Terms ("**SOT**"). The SOT shall constitute binding model, in accordance with an art. 384 of the Civil Code.
2. **Conclusion of the Contract**
 - 2.1 Umicore's offer inquiry presented to CO for making an offer for specific goods and/or services, shall not constitute Umicore's offer in accordance with Civil Code.
 - 2.2 In order to purchase the goods and/or services from CO, Umicore shall present the CO with a written under pain of nullity order that shall include all material aspects of the future agreement (specify the goods and/or services to be procured, remuneration of CO, terms of payment and other possible obligations of the Parties, if applicable) ("**the Order**"). Unless otherwise explicitly stipulated in the Order and/or SOT, Umicore shall not be responsible for any additional charges, costs, payments, taxes etc. other than/above the remuneration stipulated in the Order. CO is not entitled to make any representations/statements on behalf of Umicore. This SOT is an inseparable element of any Order made by Umicore to CO with regards to any supply of goods and/or services to be produced, created, delivered and/or provided to Umicore by the CO. The Order shall be sent in 2 identical copies.
 - 2.3 The Order might only be accepted by the CO in its entirety, without reservations nor addendums and shall be accepted via sending one signed under pain of nullity copy of the Order to the Umicore's address, current at the moment of sending the copy (specified in National Court Register or specified explicitly by Umicore). The Order is valid for the period of 2 weeks from its sending by Umicore – to avoid any doubt, Umicore at its sole discretion is entitled to revoke the Order at any time within the period of its validity but before receiving the acceptance as stipulated in the preceding sentence.
 - 2.4 Any Order as well as any acceptance of an valid Order received by Umicore that together constitute an agreement for supply of specific goods and/or providing services under this SOT ("**Contract**") shall only be signed by a duly authorised representative of respectively Umicore and/or CO. This also applies to any other exchange of statements that under this SOT or under applicable law are to be made in writing under pain of nullity. Umicore will provide CO with a list of authorised representatives. In case of any doubt it shall be deemed that any employee acting on behalf of CO is authorised to sign documents on behalf of CO.
 - 2.5 Any CO's offer made to Umicore shall be considered accepted only upon prior presenting the Order by Umicore to CO and CO acceptance, on the terms as stipulated in this section 2 (it also applies to offers made in permanent business relations).
 - 2.6 To avoid any doubts the Parties confirm that any contract templates, general terms, ordering terms etc. of CO are explicitly excluded. Any unaccepted by Umicore in writing under pain of nullity modification of an CO's offer, Contract, SOT or Order, made by CO, is considered as null and void.
3. **Correspondence**
In all CO correspondence, the Order number and Order date must be indicated together with the material number if indicated in the Order.
4. **Execution**
 - 4.1 The CO is obliged to maintain a quality control system such as that pursuant to at least EN ISO 9000 et seq. and/or ISO 14001.
 - 4.2 In order to verify proper execution of the Contract by the CO, including fulfilling the quality standards by CO, Umicore is authorised to check the CO's system by way of quality audits ("**Audit**") that may be conducted every 4 months. In case of justifiable suspicion of infringement of CO's obligations under the Contract, the limitation stipulated in the previous sentence does not apply.
 - 4.3 Audits shall be carried out by the Umicore or independent auditor chosen by Umicore ("**Auditor**").
 - 4.4 Umicore will inform the CO about the planned date of Audit, with 7 days prior e-mail notice.
 - 4.5 The CO is hereby obliged to provide the Auditor with all necessary documentation connected to performance of the Contract and access to premises used for that purpose.
 - 4.6 Umicore shall bear the costs of the Audits provided that the Audit does not reveal any infringements or if the revealed breach is not material, that is it neither results in lowering quality of the service/goods provided, manner of thereof, nor causes any danger to whomever. Otherwise the cost of the Audit shall be covered by CO. If the Audit reveals any infringement Umicore may call the CO to change/improve the system within additional time period set by Umicore. Upon the lapse of such time period, Umicore may withdraw from the Contract.
 - 4.7 For CO's improper performance of the obligations stipulated in the section 4 hereof, that is in particular for not allowing the Auditor to properly carry on an Audit, for impeding the Audit or for refusal to change/improve systems of CO according to section 4.6 above, the CO shall pay Umicore a contractual penalty amounting to 0.1 % of the net value of any Orders in force and/or performed within the last 3 months for each day of delay. The assertion of additional damage claims beyond the contractual penalty stipulated above is not excluded. To avoid any doubt the Parties confirm that, in particular if lack of compliance of CO with this provision causes Umicore to withdraw from the Contract, section 12.3 of this SOT applies.
5. **Subcontractors**
Engagement of any subcontractors by the CO requires each time prior written consent of Umicore under pain of nullity. The CO must impose on any subcontractor all obligations with regards to the tasks assumed and must ensure such compliance with them as it itself assumed in relation to Umicore. The CO is responsible for actions of its subcontractors like for its own.
6. **Shipping**
 - 6.1 The CO shall deliver the goods and/or provide services to the place of delivery/service indicated in the Order, according to the INCOTERMS rule of "carriage paid to" (CPT). When shipping, the relevant rates, transport and packing regulations of the railway, road transport, sea carriage and air traffic etc. must be observed, in particular with respect to any regulations on customs and dangerous goods. In addition, shipping options most favourable for Umicore shall be selected unless Umicore have explicitly given specific instructions on shipping. In case of a doubt, the CO shall contact Umicore to determine the details of shipping/performance.
 - 6.2 In the transportation documents, in addition to the shipping address, the Order information (Order number, Order date, place of delivery and performance, the name of recipient and material number where applicable) shall be indicated. The delivery items must be labelled according to the provisions of the Hazardous Substance Ordinance and ECEU Guidelines for Hazardous Materials/Substances if applicable. The CO is obliged to supply Umicore at least 7 days prior to delivery with all requisite product information in Polish and/or English, e.g. safety datasheets, processing instructions, labelling regulations, work safety measures etc., all in their currently valid wording. All information including drawings and other documents indispensable for installation, operation, maintenance and/or repair of the delivered goods must be made available by the CO upon delivery, without specific request and within the remuneration specified in the Order.
- 6.3 Where subcontractors are engaged, the latter shall identify the CO (not Umicore) as customer in all shipping documents and correspondence between subcontractors and CO and shall indicate CO's order information.
- 6.4 On the loading units (upwards of 1 metric ton), the unit weight must be affixed in a well visible and permanent manner.
- 6.5 The CO is only entitled to make partial deliveries upon prior consent of Umicore, given in writing under pain of nullity.
- 6.6 Only packaging complying with the objectives and requirements of the Polish environmental law, in particular with the Act on packaging and waste packaging management in its current version shall be applied and accepted.
- 6.7 Where for deliveries by the CO waste products within the meaning of environmental law are generated beyond the packaging, the CO must process or remove such waste, except where otherwise agreed in writing under pain of nullity, at its own expense in accordance with the provisions of environmental laws. To the furthest extent permitted by legal provisions in force, all environmental law obligations connected to the performance of the Contract shall be carried out by the CO and Umicore shall be exempted from any liability arising thereof.
7. **Delivery date, default in delivery**
 - 7.1 The date of delivery/ service provision agreed upon in the Order shall be binding and, in case of delivery of the goods, understood as the date of arrival "carriage paid to" (CPT) at the place of delivery and performance. The CO is obliged to inform Umicore immediately, not later than within 48 hours, via e-mail and subsequently in writing if any circumstances occur or become known to it, from which it emerges that the date of delivery/ service provision possibly cannot be kept.
 - 7.2 The CO is obliged to familiarize itself with all and any information regarding the purpose of the goods and/or services ordered by the Umicore to assure that the goods and/or services entirely fit that purpose.
 - 7.3 Shall the CO need any documentation/ information regarding the delivery/ service to be provided by Umicore it shall immediately inform Umicore in writing and via e-mail, under pain of nullity, about such need. CO may cite the obstacles to delivery/ providing services, if Umicore, asked by CO to provide the documentation/ information specified in previous sentence, would not provide them to CO in 5 working days while being in possession. In the event of a default in delivery/ providing services the CO shall pay Umicore a contractual penalty at the rate of 0.1% of the net Order value for each workday of delay, however, not exceeding 5% in total. Assertion of further damages by Umicore beyond the contractual penalty stipulated above is not excluded.
8. **Performance certification and acceptance**
Any performance certification/ confirmation, including acceptance protocols, envisaged by the Contract and the acceptance need to be recorded in writing, under pain of nullity.
9. **Weights/quantities**
For weight discrepancies, the weight as determined by Umicore at inspection upon receipt applies, unless the CO show that the weight was correctly determined according to a generally recognised method at the time when risk passed. The same applies to quantities mutatis mutandis.
10. **Prices, invoices and terms of payment**
 - 10.1 The prices agreed upon in the Contract are to be understood as "carriage paid to" (CPT), which means including also cost of packing and shipping to the place of delivery or performance, as well as cost of installation, if agreed upon, increased by the amount of due VAT. The term of payment shall be 14 or 30 days from the receipt of a regular invoice at the Umicore's invoicing address indicated in the Order, provided that previously the goods/services were delivered/ provided in the place of delivery/ service provision (place of signing the acceptance protocol). Umicore will inform CO about the preferred term of payment not later than on the date when an invoice has to be issued according to the law – lack of information shall implicate the 30-days-period. In each case when the payment term chosen by Umicore is 14 days, the net price on invoice shall be reduced by 2 % by CO in respect to the price/remuneration determined in the Contract.
 - 10.2 Invoices shall be issued by the CO with accordance to legal provisions in force, in duplicate with the second copy clearly marked as such. The Order number, material number and payment term as agreed by the Parties, with accordance to section 10.1. above shall be indicated on the invoices. The amounts invoiced shall be clearly associated with individual Order items. Invoices have to be issued in PLN and shall indicate VAT separately. The invoice must be sent/delivered separately from the goods/services to the invoice address indicated in the Order.
 - 10.3 The Parties exclude CO's right to claim statutory interest stipulated in art. 359 of the Civil Code. The time of payment has no effect on the implied warranty for defects and/or CO's quality warranty. Effectuation of the payment does not imply that Delivery/service is found to be in order.
 - 10.4 If CO's registered office is situated outside the territory of the Republic of Poland, the remuneration due to CO may be subject to withholding tax. In such situation remuneration of CO shall be reduced by the amount of the withholding tax calculated and deducted by Umicore in accordance with applicable legal regulations in force. If pursuant to a double taxation treaty ("**DTT**"), concluded between the Republic of Poland and the country of CO's registered office, it is allowed not to deduct or deduct reduced withholding tax, Umicore at its own discretion may not deduct or deduct reduced withholding tax (depending on the provisions of DTT), provided that prior to date of remuneration payment CO provides Umicore with proper certificate of residence issued by a competent tax authorities in the country of CO's registered office, which is accepted by Umicore, and CO meets all statutory/legal requirements, in particular submits necessary declarations etc.
11. **Notice of defect**
In case of delivery of the goods, obligation of Umicore to inspect the goods upon receipt shall be restricted to check the quantity and identity thereof, as well as for evident defects and transport damages. Umicore may report such divergences, defects and damages within six workdays upon delivery, while other hidden defects are to be reported within six workdays upon their discovery, where in both cases, sending a written notice and/or e-mail or fax within the specified term will suffice to meet the deadline.
12. **Claims for defects**
 - 12.1 The CO shall supply the delivered items or the service (specific works /construction works) rendered free from any physical or legal defects. The goods /specific works /construction works or services are deemed to be free of defects if they have the agreed quantity and character, in particular if they comply in particular with all conditions and requirements stipulated in respect of quantity, quality and nature, purpose, as well as regarding packing or contents. Unless agreed otherwise, the goods /specific works /construction works or services shall meet the state-of-the-art technical and quality standards and all relevant statutory and regulatory requirements. The approval by Umicore of drawings or participation in the inspection of any item ready for shipment does not imply that Delivery / service is found to be in order, does not mean either acknowledgment of quality or modification of a quality agreement or acceptance, and does not exempt the CO of his obligations specified above.
 - 12.2 In the event of a defective delivery/ specific works or defective service/ construction works performance, Umicore may claim, in the period of implied warranty for defects, at its discretion, free of charge amendment (repair of the defect) or free of charge replacement (delivery of new goods or rendering of services free of defects). If a term set by Umicore for removing the defects (repairing or replacement) has passed with no avail, Umicore shall be authorized to remedy the defects at the expense of the CO, withdraw from the Contract, reduce remuneration and/or demand damage and/or expense compensation.
 - 12.3 For the improper performance / non-performance of the obligations of the CO, the CO shall pay Umicore a contractual penalty amounting to 10% of the net Order value affected with the non-performance/improper

- performance. The withdrawal from the Contract and/or the assertion of additional damage claims beyond the contractual penalty stipulated above is not excluded.
- 12.4 To avoid any doubt any rights under the Contract regarding claims for improper performance, untimely performance, partial performance or non-performance of the obligations of CO hereunder does not limit nor exclude the rights Umicore arising out of applicable legal provisions in force.
- 12.5 The Parties unanimously broaden Umicore's rights under implied warranty for defects in the way that stipulated by legal provisions in force period under implied warranty for defects („Period“) shall extend as follows. Period for whole product/ service/ subject matter of delivery shall suspend during removing the defect by CO (that is from the notifying the CO by Umicore about defect to the full removal of defect) and shall not expire before the elapse of three following months after full removal of defect. The period shall start afresh for the part of product/ service/ subject matter of delivery accordingly repaired or replaced.
- 13. Insurance**
The CO shall hold a liability insurance coverage with terms current in the trade and conducted business including terms customarily used in such business, for the time of Contract validity, including the period of implied warranty for defects and/or CO's quality warranty, with minimum coverage of € 2 million per claim event and shall give proof thereof and insurance premium payments upon demand of Umicore. Lesser coverage amounts in individual cases may be agreed between the Parties in writing, under pain of nullity.
- 14. Entering the plant grounds or construction site**
When entering, on foot or by vehicle, the plant ground or construction site, the instructions of professional staff of Umicore must be followed. Entering the plant grounds or the construction site on foot or by vehicle must be announced on time. The regulations of the Roadway Code must be observed. Where services are rendered on the plant grounds or construction site, the relevant factory or construction site rules apply.
- 15. Disclaimer of liability**
Neither Umicore nor its employees, authorised representatives and agents are liable to CO, its subcontractors, employees, authorised representatives and/or agents for any damages, including loss of profit and consequential loss unless the damage has been caused by them intentionally. Umicore and its employees, authorised representatives and agents are not liable to CO for any damages caused under the tort law unless legal provisions in force explicitly stipulate otherwise. In any case of establishment of any civil (in particular contract/torts) liability of Umicore, its employees, authorised representatives and/or agents, such liability is limited only to actual losses (no loss of profit and/or consequential damages etc.) and in any case shall not exceed the value of 10% of the latest net Order in force or PLN 50,000,00 (whichever lower).
- 16. Confidentiality**
The CO is obliged to maintain the confidentiality of all information, knowledge and documentation received from Umicore or becoming known to it in any other way on activity of Umicore or on the activity of any affiliated company (Umicore Company), such as technical and other data, measurements, techniques, operational experience, trade secrets, know-how, blueprints and other documentation (information), not to make them available to third parties and to use them exclusively for the purpose of processing the Order in question. This does not apply to cases where the information was already known or gets to the knowledge of the CO without any violation of a contractual obligation being caused by the CO or by a third party. The confidentiality obligation ends three years after completion of the Order concerned, if the information has not previously been made public. The CO obligates itself to immediately return to Umicore all physically transmitted information such as documentation, patterns, samples or similar things when once requested to do so without retaining copies or notes as well as immediately destroying upon request of Umicore its own notes, compilations and evaluations containing information and to confirm the same to Umicore in writing. Umicore possess ownership and intellectual property rights to all above mentioned information.
- 17. Advertising material**
Reference to business relations maintained with Umicore in information and/or advertising materials is only allowed to CO upon explicit written, under pain of nullity consent of Umicore.
- 18. Planning documents and other documentation**
- 18.1 All drawings, drafts, designs etc. drawn by the CO according to specifications of Umicore that may constitute a "work" under Polish Copyright Act of 4th February 1994 ("Works") shall pass into unlimited ownership of Umicore within the remuneration of the CO under the Contract. The CO hereby represents, that if as a result of performing the Contract it creates a Work, within its remuneration transfers to Umicore all proprietary rights to the Works, effectively on all known fields of exploitation, in particular:
- within the scope of fixation and reproduction of the work: the production of copies of the Work by way of using any specific technique, including the printing, reprographic, magnetic storage and digital technique;
 - within the scope of trade in the original Work or the copies on which the work was fixed: the distribution, lending or rental of the original or the copies;
 - within the scope of dissemination of the Work in a manner other than as specified in previous sentence: public performance, exhibition, presentation, communication, broadcasting and re-broadcasting, as well as making the Work available to the public in a manner allowing every person to have access to such work in a place and at a time of his own choice (including by telecommunication and computer networks and the Internet);
 - distribution of the original or copy (dissemination), entering to the memory of the computer, server or memory of any other device, lending or rental of the original or the copy;
 - making individually or by any third party modifications in the Work, as well as any derivative Work, translations, adaptations, re-arrangements or another alterations of the Work;
 - placing the Work in the resources of the computer, the Internet or other computer network, using the Work during public shows;
 - using the Work fixed in any form including printing form or stored in material mediums.
- 18.2 CO shall ensure that each person involved in the creation process of a Work shall refrain from exercising their moral rights towards any Work, including not requiring Umicore to label Works with their names and/or to request respective authors for any control/supervision/inspection.
- 18.3 The planning documents shall be handed over to Umicore at delivery date specified according to section 7 hereinabove together with any further documents agreed upon and/or documents necessary for operation and maintenance, such as source codes, operation manuals or assembly instructions (other documentation). As improper fulfilment of obligations stipulated in the previous sentence constitutes one of examples of nonperformance of material obligations of CO, without prejudice to any further rights that Umicore may have according to the law or the Contract, Umicore is entitled to withhold any payments due under the Contract until the complete hand-over of all planning documents and other documentation papers will be accomplished.
- 19. No assignment**
CO undertakes not to cede, assign or otherwise transfer its rights and/or obligations under the Contract in whole or in part without the prior consent of Umicore given in writing, otherwise null and void. Umicore will not refuse to give its consent without justified reasons. CO hereby consents that Umicore may cede, assign and/or otherwise transfer its rights and/or obligations under the Contract in whole or in part upon written notice to CO. Subject to the previous sentence the Parties unanimously agree that no entity, other than a Party hereto, may demand any rights or benefits under the Contract from the other Party.
- 20. Competent Court and applicable law**
- 20.1 The exclusive place of jurisdiction is the place of legal seat of Umicore. However, Umicore is also entitled to sue the CO at the place of legal seat of CO or any of its branch offices.
- 20.2 The Polish law will apply. The United Nations Convention on the International Sale of Goods (CISG) signed on 11 April 1980 is not applicable. If not regulated otherwise herein, clauses usual in the trade are to be construed/applicable according to the ICC Paris INCOTERMS in the latest published version.