

# Umicore Specialty Powders France : PURCHASING TERMS



## 1. General Information

Any order implies the acceptance without reserve by the supplier of all the terms of the purchase conditions. Any contrary provision that might be raised in objection by the supplier or a sub-contractor shall only modify the purchase conditions or the special conditions shown on the order after agreement by Umicore Specialty Powders France. The supplied products and equipment must comply with the data in the job specifications serving as references or with the specifications on the order form. The supplied merchandise must also comply with French standards and laws and the firm's standards, in particular as regards its technical characteristics and points relating to health, safety and the environment.

## 2. Insurance

The supplier must take out an insurance contract covering its legal liability in relation to the Products and keep it up to date. It undertakes to provide proof of this upon first request by the company Umicore Specialty Powders France.

## 3. Sub-contracting

The orders shall not be fully or partially executed by a sub-contractor of the supplier without the prior written agreement of the company Umicore Specialty Powders France. If Umicore Specialty Powders France agrees to sub-contracting by a third party, the supplier remains the sole responsible for the execution of the order.

## 4. Acknowledgement of receipt and shipment of the orders

Any order issued by our Purchasing Departments must be acknowledged with confirmation of the supplier's formal agreement to the conditions regarding price and delivery lead time, which it undertakes to respect for the order. A dispatch note must be drawn up in duplicate for any delivery of merchandise, even partial. One copy must accompany the parcel or frame in which the merchandise is packed and the other must be sent to our Purchasing Department. If the merchandise is divided into several parcels, a packing list must be attached to the shipment and placed, with the dispatch note or delivery slip, in the first parcels listed on the aforesaid packing list.

## 5. Order modification

The supplier must accept any technical or quantity modification that our firm can legitimately request in respect to the order deliverables, quantity, quality, delivery lead time or place of delivery.

## 6. Order invoicing

The invoices must be drawn up in triplicate. The amount of taxes (VAT, GST, etc.) must always be shown separately from the invoiced amount excluding taxes. The carriage and packaging costs, if they are invoiced to us, must also be indicated separately from the invoiced amounts excluding tax and including tax. The payment conditions and terms are specifically fixed on the order form sent to the supplier.

## 7. Ownership of the plans

The plans passed on at the time of our calls for tenders or orders must be returned to the company Umicore Specialty Powders France with the tender or invoice. These plans are and remain our property and cannot be used or communicated to third parties without our prior written authorisation.

## 8. Carriage and deliveries

The delivery lead time is an element inseparable from the other conditions of the order and is, therefore, indicated on the order form. The dates and lead times are essential requirements. The products to which the order relates travel at the supplier's costs and risks. The supplier is bound to include with the shipment a dated delivery form on its headed paper, indicating the order reference and itemising the deliverables. Unless contrary clause on the order form, all merchandise is only considered to have been delivered on the day of its effective reception in our factories. This date alone serves to determine the delivery lead times and payment dates. The respect of the delivery dates indicated on the order is obligatory. Consequently, any late delivery can be refused as of right and constitutes cancellation of the order without prejudice to damages that could be claimed on these grounds. Any delivery prior to the date specified on the order shall be considered to have been received on the agreed date and the payment shall be deferred accordingly. In the event that the deliveries are made late without our firm's prior written agreement, an indemnity of 1% of the amount of the delivery per day of lateness shall be deducted when the payment is made. This indemnity is limited to 10% of the amount of the delivery with a minimum deduction of 2% if the sum is less than 100 Euros excluding taxes. However, a 5-day period of grace shall be granted to the supplier failing to perform.

## 9. Prices

The prices are understood excluding tax, firm, definitive and non-reviewable, with wrapping and packaging included. No modification, even legitimate, of the prices that we have accepted on our order forms shall be imposed without our prior agreement in writing.

## 10. Transfer of ownership

In accordance with the special conditions of the order and without prejudice to other stipulations indicated on the order, the transfer of the ownership and risks of the products and equipment takes place on safe reception of the merchandise in our stores or upon full payment of the sum due to the supplier (if this payment is made before reception). The supplier formally undertakes to provide us with the guarantee that no patent or licence concerns the ordered and delivered merchandise which could lead to claims against us. It guarantees the free use and sale of the aforesaid merchandise both in France and abroad.

11. REACH: Registration, Evaluation, Authorisation and restriction of Chemicals.

11.1 The supplier warrants that it complies with Regulation (EC) No. 1907/2006 of the European Parliament and of the Council of 18 December 2006 ("REACH"), and namely:

(i) that the Substances contained in or composing the products sold under this Agreement have been or will be Pre-registered, Registered or, as the case may be, have been or will be the subject of an Authorization Request, by itself, its

Only Representative (if any), or by any Manufacturer, Only Representative or Importer involved upstream in the supply chain, within the required time periods and for the Client's Uses,

(ii) that it shall provide the client with all the safety data sheets in accordance with the provisions of Article 31 of REACH or, if such safety data sheets are not required, with all the information referred to in Article 32 or 33 of REACH,

(iii) or, if it is established outside the European Community and no Only Representative has been appointed by it or any other non-European manufacturer involved upstream in the supply chain, that it shall cooperate with the client and provide it with any useful information to enable the client to comply with REACH.

11.2 Notwithstanding any contrary clause contained in the supplier's general sales conditions or in any other commercial document, the supplier undertakes to hold the client harmless for any loss incurred (i) due to a breach of the warranties given above in Article 11.1 and (ii) due to any claim or action brought by a third party for compensation of any harm incurred by the latter and arising from the supplier's breach of the warranties given above in Article 11.1.

11.3 In addition, and without prejudice to the damages it may be entitled to obtain under Article 11.2 above, the client may terminate the agreement automatically and cancel any outstanding unfilled orders, without indemnities for the supplier. The capitalized terms referred to above shall have the meaning ascribed to them by REACH.

## **12. Non-conformity**

Any order delivered not in conformity shall be returned to the supplier that shall bear the costs and risks of this. Umicore Specialty Powders France shall then have the choice between cancelling the order in accordance with article 14 of these conditions or requesting the replacement of the merchandise not in conformity within a reasonable timeframe.

## **13. Guarantee**

The supplied merchandise is guaranteed against all hidden defects or faults. The supplier is bound to make good all pecuniary consequences of its legal liability in the event that legal action is taken against Umicore Specialty Powders France concerning bodily injury, material damage or consequential loss caused by its supplied merchandise. The contractual guarantee is fixed at a period of eighteen (18) months.

## **14. Cancellation by right**

Any order shall be cancelled by right in the event of full or partial non-fulfilment of the supplier's obligations. This cancellation shall take effect 10 days after formal notice by Umicore Specialty Powders France, sent by registered letter with request for acknowledgement of receipt, has produced no effect.

## **15. Applicable law and attribution of jurisdiction**

All our orders are governed by the provisions of French law. The Commercial Court of Grenoble (38000) is granted jurisdiction for all disputes relating to the formation or performance of the purchase agreement.