



## **UNIPER UK General Terms and Conditions for purchases (07.01.2016)**

UNIPER UK Limited ("UNIPER") have placed an order (an "Order") to purchase goods and/or services from the party specified in the Order (the "Seller"). The goods, items, deliverables or services are specified in the Order (the "Goods") and the Seller agrees to sell the Goods to UNIPER on these terms and conditions (the "Conditions") which apply to the exclusion of all other terms and conditions, unless covered by a specific UNIPER contract, in which case the conditions in the specific UNIPER contract shall take precedence.

### **1. Safety**

The Seller shall comply with all health and safety legislation and any other documents, policies, procedures and reasonable requirements including security arrangements made known to it that apply to any of UNIPER's sites.

### **2. The Goods**

The Seller shall ensure that the Goods are new, free from defects in materials and workmanship, fit for their intended purpose and shall conform in all respects as to quality, quantity, specification and instructions contained in the Order or as advised by UNIPER and with all relevant statutory and regulatory requirements.

### **3. Delivery & Inspection**

The Seller, where applicable, shall enclose a packing and advice note with the Goods. The relevant Order number must be quoted on all notes and on all correspondence and invoices.

The Seller shall ensure that the Goods are delivered to the place or places and upon the dates specified ("Delivery Date") in the Order or as subsequently specified by UNIPER in writing.

Time for delivery shall be of the essence. If the Goods are not delivered on the Delivery Date UNIPER shall be under no obligation to accept delivery, but reserves the right to do so.

UNIPER has the right to inspect and test the Goods on delivery and shall not be deemed to have accepted the Goods until they have been inspected. If UNIPER do not carry out the inspection acceptance will be deemed as 7 Working Days after delivery unless a latent defect is found (and for the purposes of these Conditions, "Working Day" means a day other than a Saturday, Sunday or public holiday in England).

### **4. Late Delivery, Non-conformity & Rejection**

If in UNIPER's opinion the Goods do not conform with the Order or to any specifications advised to the Seller, UNIPER shall inform the Seller who shall immediately at its cost and within 10 Working Days take such action as is necessary to ensure conformity. UNIPER shall also have the right to require further testing and inspection. If the Goods are not delivered on the Delivery Date or the Goods have been damaged in transit or do not meet the requirements of Condition 2, UNIPER shall be entitled, in addition to any right to recover damages, to:

- a. cancel the Order in whole or in part and require re-payment of any amounts paid by UNIPER;



- b. reject the relevant Goods, including Goods already delivered which cannot be effectively and commercially used by reason of the non-delivery or defective Goods;
- c. refuse to accept any subsequent delivery of the Goods;
- d. recover from the Seller any costs reasonably incurred by UNIPER in obtaining substitute Goods from another Seller.

The Seller shall collect any Goods rejected under Condition 4. If the Seller fails to collect the Goods within 5 Working Days from the date of a notice advising of the rejection UNIPER may dispose of them or return them at the Seller's expense.

The parties shall use reasonable endeavours to resolve any disputes amicably but if a dispute is not resolved then either party may within 20 Working Days, give written notice to escalate the dispute to a meeting of higher management.

#### **5. Risk & Title**

The Goods shall be at the risk of the Seller until they are delivered in accordance with the Order when ownership shall pass to UNIPER. If UNIPER pays for the Goods prior to delivery, title to the Goods shall pass to UNIPER when payment is made and UNIPER may enter the Seller's premises to recover its Goods where the Seller has not delivered them or where the Seller is in liquidation, administration or otherwise unable to pay its debts when they fall due.

#### **6. Price, Invoices & Payment**

The price of the Goods shall be stated in the Order. The price shall be inclusive of all costs and charges incurred by the Seller in relation to the Goods and their delivery unless otherwise specified in the Order. All sums payable are exclusive of VAT. No variation in the price nor extra charges shall be accepted by UNIPER.

The Seller shall submit an invoice on or after the Delivery Date. UNIPER shall pay the undisputed sum(s) 60 days after receipt of the properly submitted Seller's invoice.

UNIPER does not accept any liability or interest charges as a consequence of late payment due to absence of the following information on the invoice:

- a) the Order number ;
- b) correct invoicing address;
- c) UNIPER's correct legal entity;
- d) the governing rate of VAT relating to the charges therein;
- e) the amount of VAT included in the gross value of the invoice; and
- f) supporting documentation in sufficient detail to verify the charges.



The Seller may submit electronic invoices to UNIPER via e-mail to [invoice-uk@uniper.energy](mailto:invoice-uk@uniper.energy) unless specified otherwise as an accounts payable e-mail address on the Order. An invoice is validly sent to UNIPER via email if it is in PDF format and no more than one invoice is submitted per e-mail.

If UNIPER fails to make a payment due in accordance with these Conditions, then the Seller shall be entitled to charge interest at the rate of 2% above the base rate of Barclays Bank from time to time from the date due until paid in full and calculated on daily basis.

UNIPER reserves the right to set off any amount owing at any time from the Seller to UNIPER against any amount payable by UNIPER to the Seller.

### **7. Intellectual Property Rights**

Subject to any pre-existing rights, where the Goods are customised or made to the requirements of UNIPER all intellectual property rights in work done by or on behalf of Seller for UNIPER relating to the Goods shall vest in UNIPER and the Seller warrants the Goods do not breach the intellectual property rights of any other person.

### **8. Liability & Indemnity**

The Seller shall indemnify UNIPER in respect of all damage or injury to any person including UNIPER and to any property and against all actions, suits claims, demands, costs, charges and expenses arising in connection therewith caused by;

- a. claims that the Goods infringe the intellectual property rights of any third party;
- b. breach of Condition 2 above or other warranty concerning the Goods whether express or implied by statute or otherwise or other breach of these Conditions;
- c. the negligence of the Seller, his subcontractors, employees or agents

The Seller shall maintain in force at its cost such insurance policies as are appropriate and adequate having regard to its liabilities under these Conditions.

Except in relation to UNIPER's obligation to pay, UNIPER's maximum aggregate liability in contract, tort or otherwise (including any liability for any negligent act or omission) howsoever arising out of or in connection with this contract is limited to the price of the Goods.

Nothing in this agreement shall exclude or limit either party's liability for death or personal injury or for other liability which cannot be excluded or limited by law.

UNIPER shall not be liable for indirect or consequential losses or damage of any nature whatsoever, including, but not limited to third party claims, lost management time, economic loss or other loss of business, production, revenue, profit, goodwill, loss of data and anticipated savings or tax mitigation or similar losses.

### **9. Cancellation**

UNIPER may cancel the Order in whole or in part by written notice which shall be effective immediately if the Seller:



- a. commits a material breach of any of its obligations which is incapable of remedy or fails to remedy, having been requested in writing to remedy or desist from such breach within a period of 14 days;
- b. becomes bankrupt or insolvent or makes an arrangement or composition with its creditors or has a winding up petition made against it, or has a liquidator or receiver appointed or enters into liquidation (whether voluntarily or compulsorily) other than for the purpose of amalgamation or reconstruction.

UNIPER may cancel the Order at any time before the Delivery Date forthwith on written notice without cause. Where it does so (other than where the Seller is in breach of contract or insolvent) UNIPER shall reimburse within 60 days any reasonable costs of the Seller already incurred for which there is documented evidence and where the Seller is unable to mitigate its loss.

#### **10. Confidentiality**

The specifications, patterns, drawings, documentation, prices, samples and information issued by UNIPER in connection with the Order are confidential and their use must be confined to the Seller, its subcontractors or employees solely for the execution of the Order. No use may be made of the UNIPER name or logo without the consent in writing of the Company whether in publicity or marketing material or otherwise.

#### **11. General Obligations**

The Seller shall not assign this agreement without the prior written consent of UNIPER

The Contracts (Rights of Third Parties) Act 1999 shall not apply and no person other than UNIPER and the Seller shall have any rights under it.

The waiver by either party of any breach of these Conditions shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach or any other provision.

No variation to the Order or these Conditions by either party shall be effective unless confirmed by UNIPER in writing.

These Conditions shall be subject to the laws of England and the Parties submit to the exclusive jurisdiction of the English Courts.