

# THE MOSAIC FACTORY

## GENERAL CONDITIONS OF SALE, DELIVERY AND PAYMENT of UCI Union Ceramics International BV

**UCI Union Ceramics International BV also operates under the name The Mosaic Factory.**

### **General**

- 1.1. All references to "VENDOR" refer to UCI Union Ceramics International BV as supplier, vendor, contractor, subcontractor, supervisor or any other capacity. All references to "PURCHASER" refer to the current or prospective purchaser, the current or prospective client and the counter party of the seller in general.
- 1.2. These General Conditions of Sale and Delivery apply to all Vendor agreements in which the Vendor undertakes to deliver goods and/or services. Services also include any consultancy work performed, including, but not limited to, advising and drawing of patterns to which the above conditions also apply as these are deemed equal to the sale and delivery of goods.
- 1.3. The Vendor and Purchaser agree that once a contract is subject to the applicability of the following conditions, these shall also apply in full to subsequent transactions.
- 1.4. General Conditions, under whatever name, of the Purchaser shall not apply and are expressly rejected by the Vendor, unless accepted by the Vendor in writing.
- 1.5. Commercial terms used in quotations, order confirmations or otherwise must be interpreted in accordance with the International Rules for the Interpretation of Trade Terms produced by the International Chamber of Commerce (Incoterms) as in force at the time of concluding the agreement.

### **Agreement**

- 2.1. Quotations, price-lists and other Vendor communications are without obligation. Verbal commitments and agreements with Vendor employees do not bind the Vendor until and for as far they have been explicitly confirmed by the Vendor.
- 2.2. Any discrepancy between the Purchaser's order and the confirmation of the Vendor shall only be binding when explicitly confirmed by the Vendor.
- 2.3. Any additions, changes and further agreements to the agreement are valid only if agreed upon in writing.
- 2.4. The Vendor is entitled, if the situation so requires in its reasonable opinion, to demand advance payment or security and to provisionally postpone full or partial implementation of the agreement while awaiting the same.
- 2.5. If as a result of a situation of force majeure the delivery obligation of the Vendor cannot reasonably be fulfilled, the Vendor is entitled to postpone delivery. Force majeure of the Vendor means any shortcoming which is caused by circumstances beyond the control of the Vendor, including but not limited to:
  - a. Operational failure or business interruption of any kind, regardless of its origin.
  - b. Delayed or late delivery by any of the Vendor's suppliers or by third parties.
  - c. Transportation problems or impediments of any kind that hamper or impede transport to the Vendor's location or from the Vendor to the Purchaser.
  - d. Import and export restrictions of any kind.
- 2.6 The goods are sold and delivered subject to the standard tolerances for dimensions, quantity and weight, unless explicitly agreed otherwise.
- 2.7 The Vendor is not liable for errors in illustrations, sizes, weights, quality and/or prices or list prices of any kind whatsoever.
- 2.8 Annulment of an agreement concluded by the Purchaser can only take place with the prior written consent of the Vendor. If the Vendor agrees to the annulment, the Purchaser shall owe the Vendor compensation of at least 25% of the amount that the Purchaser would have paid upon implementation of the agreement, without prejudice to the Vendor's right to full compensation of costs and damages.

### **Delivery Time**

- 3.1. The agreed delivery times are always approximate and subject to unforeseen circumstances.
- 3.2. If delivery cannot take place at the agreed time or within the agreed period, the Vendor is entitled to partial deliveries and to a reasonable backorder delivery period.
- 3.3. Exceeding the delivery time does not entitle the Purchaser to annulment of the agreement and/or compensation, unless the Purchaser can prove intent or deliberate recklessness on the part of the Vendor and subject to the provisions of Art. 8.2.

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### Complaints and Liability

4.1. The Purchaser must inspect the goods immediately upon delivery for any deviations from what was agreed upon. Any complaints must be submitted in writing to the Vendor within ten working days of the delivery date. After the expiration of the aforesaid period, the delivered items shall be deemed as irrevocably and unconditionally accepted by the Purchaser. The Purchaser must make faulty items available to the Vendor. Filing of a complaint does not negate the Purchaser's payment obligations in respect of disputed matters. The Purchaser is obligated to report any hidden defects within ten working days after the discovery thereof or, at the latest, within three months after delivery. Any legal action is subject to forfeiture and must be commenced no later than one year after the timely submission of a complaint.

4.2. The quality requirements or quality standards of the goods to be delivered by the Vendor must have been explicitly agreed upon. Minor, common deviations (within the industry) or technically unavoidable deviations and differences in quality, colour, size or finish shall not to be regarded as a shortcoming and do not constitute grounds for annulment or damage compensation. The Vendor is not liable for any direct or indirect consequential damage.

4.3. a) Except as specified below under b., neither the Vendor, nor its employees, nor third parties engaged by the Vendor, can ever, for any reason whatsoever, be held liable for any damage to the Purchaser or any third party with respect to any delivery obligation, the delivery of goods, the delivered goods themselves or use thereof or any work or recommendations, including damage resulting from failure to properly meet a repair or redelivery obligation. Reimbursement shall also not be provided for transportation costs, travel and accommodation expenses, assembly or disassembly costs and/or installation or removal costs, loss of profits, business interruption, even if the Vendor has been advised of the possibility of such damages, unless the Purchaser can prove intent or deliberate recklessness on the part of the Vendor, in which case the Vendor shall not be held liable for compensation that goes beyond the direct damage suffered by the Purchaser.

b) The Vendor's liability in the event of an error or omission in the performance of the agreement, shall at all times be limited to redelivery or compensation of the invoice amount for the order, at the discretion of the Vendor.

4.4. The Vendor shall never be considered to be at fault, if:

- a. and for as long as the Purchaser is in default to the Vendor;
- b. the goods have been exposed to abnormal conditions or have been handled incompetently or without due care;
- c. the goods have been stored longer than normal and it is plausible that loss of quality has occurred.

4.5 The goods delivered by the Vendor conform to the agreed quality standards. Subject to the provisions of Article 4 paragraph 2, the Vendor does not and will never be deemed to have guaranteed that the goods delivered are suitable for the purpose for which the Purchaser wishes to treat, process or otherwise use them. Samples are provided only as an indication.

4.6 If this agreement concerns goods that the Vendor procures or has procured from third parties, the Vendor's responsibility and/or liability is limited to that for which the Vendor's supplier or third parties engaged by the Vendor, are responsible and/or liable.

4.7 The Purchaser shall indemnify the Vendor against any claims from third parties for compensation for losses or otherwise that relate directly or indirectly to any delivery obligation, the delivery of goods, the delivered goods themselves or the use thereof or any work or recommendations. Furthermore, the Purchaser shall indemnify the Vendor against any claims for compensation for losses or otherwise that relate directly or indirectly to the editing and/or (electronic) transmission of information provided by the Vendor. The indemnity as contained in this Article shall not apply in cases of intent or deliberate recklessness on the part of the Vendor.

### Transport

5.1. If the goods are ready for collection by the Purchaser and the Vendor has informed the Purchaser thereof, the Purchaser is obliged to immediately take possession of the same, regardless of the agreed mode of transport. Failure to meet this requirement entitles the Vendor to either store the goods at the expense and risk of the Purchaser, or to hold them in storage and to invoice the Purchaser, without the Purchaser having any right to refuse payment on account of pending collection, or to annul the agreement, as stipulated in Art. 8.

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5.2. The Purchaser is obligated to unload at the agreed place of delivery as fast as possible, and at its own risk and expense. In the event of failure to fulfil this requirement the provisions under Art. 5.1. apply.

5.3. The means of transport is at the discretion of the Vendor, without such detracting from the provisions under Art. 2.5.

5.4. Delivery is "ex works" (Incoterms), unless explicitly agreed otherwise.

### **Price and Payment**

6.1. The prices stated by the Vendor, whether oral or in writing or in a special quotation or otherwise, are based on data provided with the request and exclude VAT and sales and delivery charges as stipulated by the government and are based on delivery "ex works" (Incoterms). If one or more cost factors should be subject to an increase after the date of the agreement - even if this occurs due to foreseeable circumstances - the Vendor shall be entitled to increase the agreed price accordingly.

6.2. All payments are due within thirty days of delivery, net cash and without the Purchaser being entitled to any discount or settlement that was not explicitly agreed upon. Alternative payment arrangements must be agreed upon in writing. The Purchaser's right to make payment adjustments in respect of any claims against the Vendor is explicitly excluded.

6.3. The payment term in paragraph 2 of this article is a deadline. If this deadline is exceeded the Purchaser shall be considered to be in default, without having to serve notice. If the Vendor is of the opinion that the Purchaser is in a poor financial state or if it should be found that the Purchaser has filed for bankruptcy or suspension of payments or stated its intention to do so, the Purchaser shall be in default and all claims against the Purchaser shall become due immediately.

6.4. From the moment of default as stated in paragraph 3 of this Article, the Purchaser shall be liable to pay the statutory trade interest. If the Vendor has to implement legal or extrajudicial steps due to late payment, all resulting costs shall be borne by the Purchaser, which amounts to at least 15% of the outstanding amount, with a minimum of EUR 150, without prejudice to the right for full compensation.

6.5. The Vendor is entitled to choose the order of settlement of payments made by the Purchaser for deliveries, interest and/or costs due in favor of the Vendor, regardless of alternative instructions received or payments made.

6.6. The Vendor is entitled to postpone the delivery of goods if and for as long as the Purchaser should fail to fulfil any of its obligations towards the Vendor under the agreement, whether in part or in full, or if it should fail to do so in a timely manner.

### **Retention of Title**

7.1. All delivered goods shall remain the exclusive property of the Vendor until such time as the Purchaser fulfils all obligations arising from or relating to agreements where the Vendor has undertaken to deliver, including claims relating to penalties, interest and costs, costs due to loss of value and/or repossession of delivered goods. Until such time the Purchaser is obliged to separate the goods delivered by the Vendor from other goods and to store it, clearly identified as the property of the Vendor, to fully insure the goods and maintain this insurance and not to proceed with any treatment or processing of the goods.

7.2. If the Purchaser should fail to fulfil any of the obligations under paragraph 1 of this Article, or if there is reasonable fear that the Purchaser will not fulfil the aforementioned obligations, the Vendor is entitled, without having to serving notice, to immediately repossess the delivered goods, wherever they may be. The costs thereof shall be charged to the Purchaser.

7.3. For as long as the above claims have not been settled, the Purchaser shall not be entitled to dispose of the goods or encumber the goods with right of lien or possessory lien.

7.4. The Vendor assigns the Purchaser with ownership of the delivered goods as soon as the Purchaser has fulfilled all of its obligations towards the Vendor as stated in paragraph 1 of this Article, subject to the right of lien of the Vendor for the purpose of other claims that the Vendor holds against the Purchaser. The Purchaser shall provide its full cooperation with any actions required in this respect, upon the first request of the Vendor.

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### Annulment

8.1. The Vendor is entitled to terminate this agreement by registered letter with immediate effect, without requiring any judicial intervention, and without being liable to pay any compensation for damage, if:

- a. The Purchaser refuses, upon first request, to pay in advance or to provide adequate security, in the circumstances as referred to in Article 2 paragraph 4,
- b. The Purchaser applies for suspension of payment or files for bankruptcy or if a third party files for the bankruptcy of the Purchaser or if the Purchaser is dissolved;
- c. The Purchaser dies;
- d. The Purchaser should fail to fulfil any of its obligations under this agreement in a timely manner, or if it should fail to do so in full, and if it should fail to remedy the stated shortcoming within a period of 7 days of the request to do so.

8.2. Furthermore, only after force majeure on the part of the Vendor, as referred to in Article 2 paragraph 5, lasts for a period in excess of six (6) months, both the Purchaser and the Vendor are entitled to annul the agreement by registered letter and then only for those obligations that have not yet been fulfilled. In this case neither party shall be entitled to compensation as a result of the annulment or damage incurred.

### Disputes

9.1. Dutch law applies to all Vendor agreements. The provisions of the United Nations Convention on the International Sale of Goods (CISG) do not apply, nor shall any existing or future national or international regulation pertaining to the sale of tangible movable property. Such shall explicitly be ignored by the parties.

9.2. Any disputes arising between the parties shall be settled by the competent court in Den Bosch, unless another court has been declared competent under mandatory statutory rules.

9.3. Insofar as these General Conditions of Sale and Delivery are also available in a language other than Dutch, the Dutch text shall always prevail.

9.4. Our General Conditions of Sale, Delivery and Payment shall apply to all contracts concluded with us to supply goods and/or services, irrespective of the nature and content of the same. By placing an order or by awarding a contract the Purchaser shall be deemed to be in agreement with this. Other terms and conditions and different technical standards on the part of the Purchaser are hereby rejected, unless such deviations are accepted by us in writing as being special conditions. Also in this event our terms and conditions shall remain in force for the remainder.

These General Terms and Conditions were last amended and filed at the Chamber of Commerce for Central Netherlands on September 11, 2015.