

# General Terms and Conditions Unite

## Preamble

Unite is a procurement solution for catalogue-based purchasing for private businesses and public sector companies, which is tailored to the needs of the Buyer. These General Terms and Conditions and the Unite Code of Conduct (available at <https://unite.eu/en-gb/unite-coc>) form the legal basis for cooperation with our business partners.

These General Terms and Conditions follow a modular structure. They comprise the General part (Part A), which contains provisions that apply to all contracts, regardless of the type of services agreed.

They also include the following special provisions that apply to the various types of contract and, in the event of any discrepancies, take precedence over the provisions in Part A:

Part B for the User Agreement and API

Part C for the purchase of goods

Part D for the sale of goods

## Part A – General

### 1 Definitions

**1.1** 'Unite' is the company referred to on <https://unite.eu/en-gb/contractual-partners> or in the individual agreement with the Company which is providing the services offered in the respective Contract Territory.

**1.2** 'Buyer'/'Customer' is the Company that purchases goods or services from Unite or a Supplier.

Insofar as Unite commits to 'Buyer Loyalty', this means that Unite acts on behalf of the Buyer and protects the Buyer's interests.

**1.3** 'Supplier' is the Company which Buyers or Unite purchase goods or services from.

**1.4** 'Company' means a Supplier or Buyer. The definition of 'Company' includes the public sector, i.e. public authorities or corporations under public law.

**1.5** 'Third Party' means any entity that is not a Company.

**1.6** The 'Parties' are Unite and the Company.

**1.7** 'Affiliated Company' of a Party means any legal entity, person or organisation (each an 'Affiliated Company'),

- (1) which is controlled by the respective Party or
- (2) which controls the respective Party or
- (3) is controlled by the same Affiliated Company which also controls the respective Party.

In this context, 'control' means the direct or indirect ownership of at least 50% of the voting rights in such a Company or the contractually or otherwise granted authority to appoint the management of the respective Party.

**1.8** 'Contract Territory' is the territory in which Unite provides the respective services.

**1.9** 'Items' are goods or services that Buyers purchase from Unite or Suppliers.

### 2 Inclusion of the General Terms and Conditions

**2.1** Unless agreed otherwise, the contractual relationship between the Parties is exclusively governed by these General Terms and Conditions as amended. The General Terms and Conditions can be viewed and printed at <https://unite.eu/en-gb/terms-of-use>.

**2.2** An inclusion of the Company's general terms and conditions is hereby excluded. Deviating or contradictory terms and conditions shall only form part of the contract if they were explicitly discussed during the contract negotiations and have been expressly acknowledged in writing. Even if no objection is made to statements that claim the inclusion of such terms and conditions (such as references to that effect on company stationery, by embedding them in supplier portals, order forms, delivery notes or similar), this does not imply consent to their inclusion. Consent to the inclusion of general terms and conditions is also not considered as granted on the basis of implied behaviour, especially not by the provision of or unconditional acceptance of the agreed service or payment.

### 3 Access requirements

**3.1** Unite is not available to consumers and can only be accessed by natural and legal persons or partnerships with legal capacity that are exercising their commercial or independent professional activity when concluding legal transactions via Unite, as well as by freelancers, authorities, corporations under public law or registered associations.

**3.2** Natural persons acting as companies or on behalf of companies must be over the age of 18.

### 4 Electronic communication

Unite and the Company agree that all contractually relevant statements may be submitted in written form or electronic form.

### 5 Liability

**5.1** Regardless of the legal grounds, Unite shall be fully liable for any damages arising from death, physical injury or damage to health resulting from a breach of obligations by Unite, its legal representatives or vicarious agents.

**5.2** Furthermore, Unite shall also be liable without restriction for any other damages resulting from an intentional or grossly negligent breach of obligations committed by Unite, its legal representatives or vicarious agents.

**5.3** In the case of other damages attributable to ordinary negligence, Unite shall be liable if it has infringed a material contractual obligation; however, its liability is limited to the sum of foreseeable damages at the time when the agreement (in particular User Agreement, Purchase Contract) was concluded and that is typical given the nature of the agreement, subject to a maximum of €5 million per claim. Material contractual obligations are obligations whose performance is essential for the proper execution of an agreement, whose performance the respective Company may reasonably rely on, and the breach of which would jeopardise the achievement of the contractual purpose.

**5.4** In all other respects, liability is excluded.

**5.5** The limitations and exclusion of liability shall also apply in favour of Unite's vicarious agents and legal representatives.

**5.6** The above provisions shall not apply if a defect has been fraudulently concealed or a guarantee has been given for the quality of an Item or in a case of liability under product liability legislation.

**5.7** The above provisions shall apply to the same extent to the Company as well as to the Affiliated Companies of the Parties.

## 6 Limitation of liability in the event of reduced capacity/availability, data loss

**6.1** Unite cannot be held liable for a reduced capacity or availability of Unite's services (e.g. system failures, non-accessibility, non-availability, data loss) that have not been caused by Unite, particularly in cases caused by circumstances which are beyond Unite's control (e.g. disruptions or outages of the telecommunications network). Moreover, Unite cannot be held liable if such cases have been caused by technical or operational aspects which are within Unite's control but do not cause the number of hours of availability in any calendar year to fall below 99.5%. Previously announced maintenance work outside usual business hours as well as at weekends and on national holidays shall not be deemed an outage. In such cases, reduced capacity or availability does not constitute inadequate performance by Unite.

**6.2** The Company shall be responsible for establishing and maintaining appropriate data backup systems. Unite can only be held liable for data losses if the Company could not have avoided these data losses despite using appropriate data backup systems.

## 7 Electronic invoicing

Unless otherwise agreed, invoices shall be issued in electronic form. The Company consents to electronic invoicing.

## 8 Payment terms

**8.1** Invoices from Unite shall be due immediately upon issue without any deductions, unless Unite and the Company agree otherwise.

**8.2** In the event of late payment, all receivables shall be due immediately, including those for which Unite has granted the Company a period of credit.

## 9 Sanctions and export control regulations

**9.1** The Parties shall comply with all applicable national, international or supranational sanctions, embargo and export control regulations (jointly referred to as 'sanctions and export control regulations'). The Company shall observe this provision both when using Unite's services and in the event of any resale, export, transfer or reuse of purchased items.

**9.2** The Company warrants that neither the Company nor any of its Affiliated Companies or financial institutions are included on any sanctions list or are owned or controlled by any person named on such a list, including but not limited to the sanction lists maintained by the United Nations, the Organisation for Security and Co-operation in Europe, the European Union and its Member States, Switzerland, the United Kingdom or the United States of America. The Company shall notify Unite without delay of the inclusion of the Company and/or any of the aforementioned Third Parties on any sanctions list and shall cooperate with Unite in investigating and/or reporting such action to the relevant authorities, which may be done at Unite's sole discretion.

**9.3** Unite shall not be liable for any refusal to supply goods or services due to the inclusion of the Company and/or any of the above third parties on any sanctions list. If Unite believes in good faith that the Company intends to violate, has violated or causes Unite to violate any sanctions and export control regulations, Unite may terminate any contract with the Company with immediate effect,

notwithstanding any other contradictory provision of the contract with the Company. In the event of such a termination, Unite shall be released from any liability and obligations arising from the contract with the Company.

**9.4** The Company shall indemnify Unite against any claims, costs, expenses and damages incurred by Unite as a result of a breach of this clause. This indemnity shall apply equally to executive employees, board members, employees, legal representatives and deputies of Unite and its Affiliated Companies. The indemnification obligation shall continue to apply even after the business relationship between Unite and the Company has ended.

## 10 Personal data

The Company shall – within its sphere of responsibility and at its own expense – ensure compliance with the applicable national and international regulations on data protection, in particular the General Data Protection Regulation (GDPR), as well as any potential subsequent or supplementary regulations. Information on data processing by Unite can be viewed and printed at <https://unite.eu/en-gb/privacy>.

## 11 Confidentiality

**11.1** 'Confidential Information' means all information and documents of the other Party which have been marked as confidential or must be treated as confidential in light of the circumstances, in particular information about operational procedures, business relations and expertise.

**11.2** The Parties agree to maintain confidentiality regarding the Confidential Information and take appropriate measures to ensure its protection. Confidential Information provided by the other Party may not be used beyond the duration of this agreement and must be returned or copies thereof destroyed upon request or at the latest after the agreement has ended, unless statutory or official retention obligations apply. Each Party shall inform the other Party if they suspect that an unauthorised Third Party has gained knowledge of the Confidential Information or that the Confidential Information has been used without authorisation or this is to be expected.

**11.3** This confidentiality obligation shall not apply to any information which

- (1) the Party was demonstrably aware of, or was made aware of, by a Third Party at the time the contract was concluded with the respective Party, without this representing a breach of any non-disclosure agreement, legal provisions or official regulations;
- (2) was public knowledge at the time the contract was concluded with the respective Party or was publicly disclosed afterwards, without this being attributable to a breach of the contract with the respective Party;
- (3) is disclosed to Affiliated Companies, employees or authorised representatives of the other Party to the extent that they require this information to complete the contract with the respective Party. Recipients of the disclosed information must commit to maintain the same extent of confidentiality;
- (4) must be disclosed due to legal obligations or by order of a court or a public authority. Insofar as permissible and possible, the Party that is subject to the disclosure obligation shall give the other Party prior notice of this and offer the other Party the opportunity to act against this disclosure;
- (5) is disclosed by employees of the disclosing Party to the competent authorities when fulfilling or exercising rights defined in compliance guidelines and/or legal regulations;

- (6) is passed on to consultants who are legally or contractually bound to at least the same extent of confidentiality as regulated in these provisions.

The Party that invokes any of the exceptions defined above shall bear the burden of proof.

**11.4** Employees may only receive Confidential Information if this is necessary for fulfilling the obligations incumbent on the respective Party (need-to-know basis) and provided that these employees are likewise subject to confidentiality.

**11.5** The disclosing Party holds all rights of ownership, use and exploitation with respect to the Confidential Information. The recipient Party shall not acquire any ownership or – with the exception of the intended use as defined in the User Agreement – any other usage rights to the Confidential Information based on these General Terms and Conditions or otherwise due to implied behaviour. The recipient Party shall refrain from any form of commercial utilisation or copying of the Confidential Information outside of the contractual use of Unite's services or having it utilised or copied by third parties. In particular, the recipient Party shall not use the Confidential Information to gain a competitive advantage over the disclosing Party or Third Parties.

**11.6** These confidentiality provisions shall continue to apply for three years after the commercial relationship has ended.

## 12 Neutrality

Unite complies with the following principles of loyalty and neutrality and ensures that its Affiliated Companies also uphold these principles:

**12.1** In the event that Unite commits to Buyer Loyalty vis-à-vis the Buyer, Unite shall act on behalf of and in the interests of the Buyer vis-à-vis the Suppliers and shall uphold the following neutrality principles in accordance with the Buyer's criteria.

**12.2** If an Item is available from multiple Suppliers, a Supplier shall be selected according to fair, transparent and non-discriminatory criteria (Supplier neutrality). As the seller, Unite shall be subject to the same criteria without receiving any advantages.

**12.3** If a sale is made by Unite, Unite shall not gain any competitive advantage resulting from the data that it may gain access to by providing the technical infrastructure over Suppliers who sell directly to the Buyer.

**12.4** If the Buyer does not select any specific criteria for search results, these will be displayed according to fair, transparent and non-discriminatory criteria. It is not possible to obtain a better ranking in exchange for financial or other incentives. As the seller, Unite shall be subject to the same criteria without receiving any advantages.

**12.5** Unite shall not be influenced by the actions of Suppliers that are taken outside the platform. The Code of Conduct for our business partners (available at <https://unite.eu/en-gb/unite-coc>) remains unaffected.

## 13 Subcontracting

**13.1** Unite is entitled to instruct Affiliated Companies and Third Parties to provide the contractual services. Unite shall be responsible for the proper fulfilment of the contractual services and shall be liable for its vicarious agents to the same extent as its own negligence.

**13.2** If and to the extent that a subcontracting agreement includes the handling of personal data, this shall be done in accordance with the applicable data protection regulations.

**13.3** Unite shall provide the Company upon request with a list of all Affiliated Companies that are being used to provide the services including a description of the respective services.

## 14 Set-off, assignment, retention

**14.1** The Company may only offset or exercise retention rights if its claim is undisputed or legally established or if it relates to a counterclaim arising from the same contractual relationship. The Company's counterclaims shall remain unaffected in the event of a faulty delivery.

**14.2** The Company may only assign, transfer, encumber or otherwise authorise Third Parties to exercise rights and obligations arising from this agreement and/or the individual contracts concluded in accordance with this agreement with Unite's consent, unless the assignment is agreed between Affiliated Companies.

## 15 Jurisdiction, governing law, language

**15.1** The exclusive place of jurisdiction for all disputes arising out of or in connection with any agreement with Unite or regarding the conclusion and validity thereof is the registered office of Unite.

**15.2** All agreements concluded with Unite in accordance with these General Terms and Conditions, including the formation thereof, shall be governed by the applicable law at the place of Unite's registered office. The UN Convention on Contracts for the International Sale of Goods is excluded.

**15.3** These General Terms and Conditions are available in multiple languages. In the event of conflicts or different interpretations of the different language versions, the German version (available at <https://unite.eu/de-de/terms-of-use>) shall apply to Unite's contractual partners with registered office in Germany, Austria and the German-speaking regions of Switzerland. For all other cases, the English version (available at <https://unite.eu/en-gb/terms-of-use>) shall apply.

## 16 Amendments to the General Terms and Conditions

The Company will be notified of any reasonable changes to non-essential terms of these General Terms and Conditions. These changes shall be deemed to have been accepted if the Company continues to use the services provided by Unite after the changes have come into effect and does not terminate the contract with Unite. Unite will draw attention to these consequences in its notification. Unite will only implement such changes for valid reasons, in particular due to new technical developments, regulatory changes, or other reasons of similar importance.

## Part B – User Agreement/API

The following provisions shall apply when using Unite's services and in addition to the provisions of Part A – General.

### I User Agreement

#### 1 Subject of the Agreement

The subject of the User Agreement is the use of Unite's procurement solutions outside of specific procurement processes; the provisions in Part C (Buyer) and D (Supplier) shall apply to specific procurement processes. Unite offers Companies suitable channels to book further individual products and user services, which may be subject to a fee.

#### 2 Use of Unite's services

**2.1** By using Unite's services, the Company signifies its acceptance of these General Terms and Conditions.

**2.2** When using Unite's services, the Company shall neither breach any applicable legal regulations nor these General Terms and Conditions.

**2.3** Prior registration is required to access all services offered by Unite. Upon registration, an agreement is concluded between Unite and the Company (hereinafter referred to as the 'User Agreement') regarding the use of Unite's services based on these General Terms and Conditions and any service/product descriptions.

**2.4** For the duration of the User Agreement and in accordance with the provisions of these General Terms and Conditions, Unite grants the Company a global, non-exclusive, free of charge, non-transferrable, non-sublicensable right to use Unite's services in the context of the subject of the agreement.

**2.5** In order to access the Unite platform, products or product interfaces, the Company shall be responsible for ensuring that it meets the (required) technological requirements, in particular for ensuring appropriate hardware and operating system software, an internet connection as well as a standard, up-to-date internet browser. Unite shall inform the Company about the current system requirements upon request; details are also available at <https://unite.eu/en-global>.

### 3 Crawling

The content provided by Unite or Third Parties, including but not limited to texts, graphics, logos, images and video clips, is protected by applicable copyright and database protection law. The contractual partner is not permitted to use the content for any purpose other than the intended display of the content. In particular, without express consent from the respective rights holder, it is forbidden:

- for the Company or Third Parties to reproduce or use this content;
- to use automated programmes, such as crawling or extraction programmes, to extract or reproduce substantial parts of the offers and services provided by Unite or Affiliated Companies;
- to create and/or publish its own database that contains large parts of the offers, services or conditions of the services provided by Unite;
- to carry out any modification, reverse engineering, disassembly, reconstruction, decompiling or copying of the content provided by Unite or Third Parties.

The Company shall bear the burden of proof that consent has been received from the rights holder.

### 4 Registration/company integration/responsibility for login data

**4.1** Data requested by Unite during the registration and company integration process must be stated correctly and completely. In the event of any changes to the submitted data after registration or company integration, the Company shall inform Unite of these changes without delay.

**4.2** The Company shall be responsible for ensuring the confidentiality of the login data for its Unite account. The Company may not pass on login data to Third Parties.

**4.3** The Company agrees that it shall be responsible for all actions that are authorised via its Unite account. The Company shall not be responsible for the actions of Third Parties, provided that it has taken all necessary and appropriate precautions to ensure that its Unite login data is kept confidential and stored securely.

**4.4** The Company shall inform Unite without delay if it suspects that an unauthorised Third Party has obtained its login data or used the login data without permission, or that such action is to be expected.

### 5 Consequences of a breach of obligations

**5.1** Unite is entitled to take one or more of the following measures if there is any indication that the Company has not complied with or has breached legal regulations, Third-Party rights, the General Terms and Conditions, or any other agreements between Unite and the Company (e.g. the Code of Conduct):

- (1) Instruct the Company to desist from or rectify such conduct;
- (2) Delete the affected content;
- (3) Limit the available features of Unite;
- (4) Temporarily suspend the Company's access;
- (5) Permanently suspend the Company's access. Unite is entitled to permanently prohibit the Company from using Unite and block any future attempts at registration ('permanent suspension') as soon as Unite has terminated its agreement with the Company or if there are compelling reasons for doing so, which justify an immediate termination of the User Agreement by Unite.

**5.2** When deciding on these measures and the order in which they are to be applied, Unite must take into consideration the legitimate interests of the Company, especially if there is any indication that the Company is not responsible for or bears only limited responsibility for the breach. In the event of a temporary suspension, having given the Company a fair hearing, Unite shall decide in due course and at its reasonable discretion whether to reinstate the Company, and shall notify the Company of its decision.

### 6 Duration and termination of the User Agreement

**6.1** The User Agreement is concluded for an indefinite period.

**6.2** The Company may terminate the User Agreement at any time, unless a longer notice period has been agreed based on further contractual obligations.

**6.3** Unite may terminate the User Agreement at any time with a notice period of three months to the end of a calendar month. The right to suspend access remains unaffected.

**6.4** The right to terminate the User Agreement for good cause remains unaffected.

**6.5** Unite reserves the right to delete a user account and terminate the User Agreement in the event of permanent inactivity.

### II API Terms of Use

If the Company is directly connected to Unite via an application programming interface (API), these API Terms of Use shall apply in addition to Parts A. (General) and B.I (Platform Terms of Use) of the Unite General Terms and Conditions. In the event of any discrepancies, the API Terms of Use shall take precedence. The API Terms of Use can be viewed at <https://unite.eu/en-gb/api-terms>.

## Part C – Buyer provisions

The following provisions shall apply to Buyers when placing orders with Unite and shall apply in addition to the provisions of Part A – General.

### I Single creditor procurement solution

Unite's single creditor procurement solution is a service model tailored to the Buyer. It requires a separate agreement with the Buyer. The provisions of Part A – General and the provisions on

purchasing from Unite defined in Part C.II, as well as the following provisions, shall apply to the single creditor procurement solution.

## 1 Procurement order

**1.1** The Buyer instructs Unite to assess the possibility of procuring certain Items according to the Buyer's specific criteria, e.g. price, delivery time, supplier qualification, and, if successful, to procure these Items for the Buyer ('Contract for Services'). In processing this order, Unite remains loyal to the Buyer and acts exclusively in the Buyer's interests.

**1.2** The Customer's order constitutes an offer to Unite to conclude a Contract for Services.

**1.3** Once the order has been received, Unite sends an order confirmation without delay. This confirmation does not yet constitute acceptance of the Contract for Services.

**1.4** The Contract for Services is concluded

**1.4.1** upon receipt of the invoice, and no later than upon dispatch of the ordered Items.

**1.4.2** in exceptional cases by express declaration of acceptance by Unite.

**1.5** If Unite fails to identify an offer to procure the Items in accordance with the Buyer's criteria, Unite shall notify the Buyer in written form. In such a case, Unite shall not be subject to any further obligations.

**1.6** If Unite successfully identifies an offer to procure the Items in accordance with the Buyer's criteria, Unite shall sell the ordered Items to the Buyer in accordance with the conditions defined in Part C.II (Purchasing from Unite).

## 2 Fee

**2.1** The fee to be paid by the Buyer shall be regulated exclusively in a separate agreement between Unite and the Buyer.

**2.2** The Buyer shall pay Unite commission for the orders processed. Commission shall be due for each Contract for Services that has been effectively concluded via Unite. Commission shall not be due for incomplete orders. Commission may be included in the Item price.

## 3 Price determination/auctioning

**3.1** Unite is entitled to conduct an electronic auction between the Suppliers' offers to determine the offer that best meets the Buyer's criteria. In doing so, the Item price shall be determined in a reverse auction process between the minimum and maximum price specified by the Supplier.

**3.2** Unite and the Buyer can agree that the auction should only include offers from certain Suppliers that Unite has pre-selected in accordance with the Buyer's criteria.

## 4 Disclosure

If Unite and the Buyer have agreed to do so, Unite shall disclose to the Buyer the Supplier's name and the price at which Unite orders from the Supplier. The Buyer shall ensure that the disclosed sales prices of the Suppliers are not passed on to unauthorised Third Parties.

## II Purchasing from Unite through merchant business transactions

Unite gives Buyers the opportunity to order directly from Unite's retail selection. Unite does not have its own warehouses. Shipments are sent directly to the Buyer by the Supplier as drop shipments.

## 1 Conclusion of contract

**1.1** The Buyer's order constitutes an offer to Unite to conclude a purchase contract based on the terms and conditions indicated in the order.

**1.2** Once the order has been received, Unite sends an order confirmation without delay. This confirmation does not yet constitute acceptance of the contract.

**1.3** The contract is concluded:

**1.3.1** upon receipt of the invoice and no later than upon dispatch of the ordered Items;

**1.3.2** in exceptional cases by express declaration of acceptance by Unite.

**1.4** In the event of an incomplete delivery, the contract will only be concluded for the part of the order which has been shipped.

## 2 Item description

**2.1** The images presented to the Buyer by Unite are non-binding and do not constitute an agreement regarding the quality of the respective Items.

**2.2** Prices are quoted as net prices excluding the applicable rate of statutory value added tax (sales tax), unless the price quoted is expressly indicated as a gross price.

**2.3** In the event of incorrect pricing or a significantly inaccurate description of the Items presented to the Buyer, both Unite and the Buyer shall be entitled to withdraw from the contract, notwithstanding any existing statutory objection rights. Such a withdrawal must be declared without delay once the reason for withdrawal has come to the respective Party's attention. In the event of a withdrawal, claims for compensation are excluded to the extent permitted by law.

## 3 Availability

**3.1** The indicated delivery periods and availabilities are based on data which Unite has received from Suppliers and refer to business days from Monday to Friday. They constitute non-binding information on expected delivery periods and availability.

**3.2** If the delivery of an Item is delayed, Unite shall notify the Buyer without delay. In this case, the Buyer is entitled to withdraw from the contract and is no longer bound by its order, unless the Buyer has agreed to accept a delayed delivery or the Item has already been delivered.

**3.3** Unite shall inform the Buyer without delay if an Item is unavailable. In this case, both the Buyer and Unite may withdraw from the contract and are no longer bound by the order. However, this only applies to Unite if Unite is not responsible for the Item being unavailable.

## 4 Delivery terms

**4.1** Unite's business model means that partial deliveries are inherent to the system. The Buyer agrees to accept partial deliveries unless it can demonstrate that this is economically unacceptable for the Buyer. In this case, the Buyer may withdraw from the contract.

**4.2** Deliveries are made in accordance with Incoterms 2020 DPU (Delivered At Place Unloaded). Contrary to Incoterms 2020 DPU, the Buyer shall bear all costs of transporting the Items to the named place of destination, including the unloading costs.

**4.3** If Items are to be delivered to an island, this may incur additional costs, which will be charged to the Buyer.

**4.4** In accordance with the provisions in the General part of these General Terms and Conditions, the Buyer shall be responsible for compliance with sanctions laws, in particular export control



regulations, and shall cover all associated costs. Compliance with export control regulations means that the Buyer is not permitted to sell or deliver any goods purchased from Unite directly or indirectly to any Third Parties or countries if this would violate these sanctions laws. It is the Buyer's sole responsibility to inform itself about any applicable sanctions laws and export control regulations. Unite can only guarantee compliance with the relevant regulations in the country of delivery.

**4.5** Unite is not obliged to issue to or obtain for the Buyer an individual Supplier's or a long-term Supplier's declaration.

### **5 Duty to inspect and notify defects**

**5.1** The Buyer shall inspect an Item without delay following receipt, to the extent that this can be expected during the ordinary course of business. If a defect is discovered, it must be reported to Unite without delay, and no later than one week following receipt of the Item.

**5.2** A Buyer failing to provide such notification of a defect in good time shall be deemed to have accepted the Item, unless the defect in question could not have been found during such an inspection.

**5.3** If a defect subsequently appears, this must be notified without delay following its discovery; the Item will otherwise be deemed to have been accepted, notwithstanding such a defect.

**5.4** The Buyer's rights are sufficiently protected by submitting notification of defects in good time.

**5.5** If Unite has fraudulently concealed any defects, Unite may not invoke the provisions defined in this section.

### **6 Warranty**

**6.1** If an Item is faulty, Unite shall, at its discretion, remedy the defect

- (1) by repairing the Item and removing the defect
- or
- (2) by replacing the delivered faulty Item with a non-faulty Item.

**6.2** If Unite delivers a non-faulty Item to the Customer by way of replacement, Unite may demand the return of the faulty Item.

**6.3** If two or more replacement Items delivered within a reasonable period are also faulty, the Buyer shall be entitled to withdraw from the contract or reduce the purchase price. Further claims by the Buyer are excluded, unless Unite is responsible for the fault.

**6.4** Unite's acceptance of an Item returned by the Buyer does not imply an automatic recognition of the Buyer's entitlement to a warranty claim. Unite shall first verify if such an entitlement exists.

**6.5** Independent warranties issued by the manufacturer and/or the Supplier of the delivered Items remain unaffected.

**6.6** The Buyer's rights under this section shall expire one year after delivery of the Item, unless the Supplier has granted Unite a longer warranty period. In this case, the warranty period that is more favourable for the Buyer shall apply. If Unite has fraudulently concealed the defect in the Item, the statutory warranty period shall apply.

### **7 Retention of title**

**7.1** Delivered Items shall remain Unite's property until the purchase price has been paid in full.

**7.2** The Buyer is not entitled to pledge Items that are subject to retention of title, to assign them as collateral, or to grant Third Parties any other rights of collateral to the Items. Should a Third Party nevertheless acquire rights to an Item, the Buyer here and now assigns all rights it acquires thereby to Unite. Unite accepts this

assignment. The Buyer shall inform Unite without delay if the Item concerned has been or is about to be pledged, seized, or otherwise disposed of by a Third Party. Furthermore, the Buyer shall inform Unite without delay if an application for the opening of insolvency proceedings has been filed.

**7.3** The Buyer is entitled to process and/or sell the Item in the ordinary course of business. The retention of title extends to the full value of the products created by processing, mixing or combining the Item, for which Unite shall be deemed to be the manufacturer. If Unite's ownership right remains during the processing, mixing or combination with third-party goods, Unite shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. In all other respects, the same shall apply to the resulting product as to the goods delivered under retention of title. If the Item is sold, the Buyer shall assign to Unite the claims against Third Parties that arise from the further sale in full or in the amount of any possible co-ownership shares of Unite (as a result of processing, mixing or combining items). Unite accepts this assignment.

**7.4** If the realisable value of the securities exceeds Unite's claims by more than 10%, Unite shall release securities at Unite's discretion upon the Buyer's request.

## **III Direct purchasing by the Buyer from the Supplier**

### **1 Contractual relationship**

**1.1** The following provisions shall apply when the Buyer orders directly from the Supplier without Unite as the seller. This does not constitute a Contract for Services.

**1.2** In this case, Unite is only the contractual partner for the services provided, but not the seller of the Supplier's Items. Unite does not act as a representative of the Companies. The contracting Companies shall have sole responsibility for ensuring compliance with all legal provisions and/or official rulings of the legal system that applies to the contract to be concluded by using Unite's services. Even if Unite sends an order notification, this shall not alter the direct contractual relationship between the Buyer and the Supplier.

**1.3** As a rule, the contractual terms and conditions agreed between the Buyer and the Supplier shall apply. In the absence of such an agreement, the legal provisions shall apply to the Buyer's orders from the Supplier.

### **2 Invoicing by Unite**

If the Supplier commissions Unite or an Affiliated Company of Unite ('Invoice Issuer') with invoicing and payment processing, the following shall apply:

**2.1** Before the first order is made, Unite shall inform the Buyer that Unite itself or an Affiliated Company (i) issues invoices to the Buyer in the name of and for the account of the Supplier and (ii) accepts payment and forwards the Buyer's payment – via a payment service provider if required by law – to the Supplier.

**2.2** Only payments made to the account specified by the Invoice Issuer constitute full discharge of the Buyer's debt to the Creditor/Supplier. In such cases, payment shall not be made directly to the Supplier, unless the Invoice Issuer has transferred payment processing to the Supplier following an unsuccessful dunning process.

## **Part D – Supplier regulations**

The following provisions shall apply to Suppliers who sell items to Buyers via Unite as seller or in their own name and shall apply in addition to the provisions of Part A – General.

## I General provisions

### 1 Obligations of the Supplier

**1.1** The Supplier shall provide Unite with a catalogue that can be displayed online in electronically readable form in a data format to be specified by Unite.

**1.2** The Supplier shall observe and comply with the following requirements:

**1.2.1** The Supplier shall be responsible for the marketability of the Items displayed in its catalogue and for ensuring that the requirements for offering and/or placing the Items on the market, in particular via an online platform, are met.

**1.2.2** All Items offered and supplied must comply with the applicable European regulations and directives, their transposition provisions into national law and other relevant national legal provisions of the Contract Territory in their current version.

### 2 Granting of usage rights

**2.1** The Supplier shall grant Unite a free of charge, simple, revocable usage right to the product catalogue and its content, in particular the product images and descriptions, that is limited to the duration of the contract and the use of Unite's services for the purposes defined in the contract. The granted usage right shall include the right to use, reproduce, distribute, present, make publicly accessible, display, edit and reformat all data provided. The data provided shall be processed solely for the purpose of improving the product presentation by Unite. Unite shall not change the Supplier's brands or product images in such a way that they no longer correspond to their original form (with the exception of making size adjustments, provided that the aspect ratios are observed and no falsification is to be assumed).

**2.2** Unite may only sub-licence the granted usage right to Affiliated Companies and Cooperating Partner Companies. 'Cooperating Partner Companies' refer to a service provider for e-business solutions which, by working with Unite, provides its customers with access to Unite's services via a Unite API and/or the Cooperating Partner Company's system.

**2.3** In the case of a non-catalogue-based integration, the Supplier shall transfer to Unite a free of charge, simple, global usage right, which is limited to the duration of the contractual relationship, to its content incorporated by Unite; in particular to product images and descriptions, to all works, parts of works, databases, primarily for reproduction, distribution and revision purposes, including the right to make this content available online.

**2.4** The Supplier shall be responsible for the actual correctness, completeness and legal admissibility of the information, images, Item descriptions and other content in the catalogue provided. The Supplier guarantees that the catalogue provided to Unite and the information, images, Item descriptions and other content contained therein do not infringe any Third-Party rights. The Supplier also guarantees that it is entitled to use Third-Party content to create the catalogue and grant Unite the necessary rights for the purpose of implementing this agreement.

**2.5** The usage right to the catalogue also includes the use of catalogue content to advertise and/or search for/find the platforms or Items in search engines. Furthermore, the Supplier shall grant Unite the usage right to the Supplier's name and brand(s) in connection with the catalogue and the Supplier's Items. There is no obligation to name the creator.

### 3 Customer data

The Supplier shall use the customer data provided by Unite solely for the purpose of processing the order. For any further use, the

Supplier shall be responsible for ensuring the lawfulness of the processing of any personal data in accordance with Art. 5, 6 GDPR or other applicable national and international data protection regulations.

### 4 Indemnity

#### 4.1 In the event that a Third Party

(1) makes a claim against Unite in connection with the Supplier's failure to fulfil its assurances, warranties or obligations arising from an agreement with Unite or in connection with the ordering of Items

or

(2) makes a claim against Unite on the basis of legal provisions relating to the Supplier's Items,

the Supplier shall indemnify Unite against such claims and release Unite from any associated costs, expenses and damages, including reasonable costs of legal defence.

**4.2** Insofar as the Supplier is obliged to indemnify Unite against claims for damages by Third Parties, it agrees, upon Unite's request, to defend Unite against such claims at its own expense and by following Unite's instructions, or to support Unite in its defence.

**4.3** This indemnity shall apply equally to executive employees, board members, employees, legal representatives and deputies of Unite and its Affiliated Companies.

**4.4** The indemnification obligation shall continue to apply following termination of the User Agreement.

### 5 Termination of the agreement

**5.1** The agreement between Unite and the Supplier is concluded for an indefinite period. The agreement can be terminated in written form with a notice period of three months to the end of the month.

**5.2** Notwithstanding a termination of this agreement, the parties agree that orders that have not yet been completed at the time the termination takes effect shall be duly processed in accordance with this agreement.

## II Sales to Unite

### 1 Obligations of the Supplier

**1.1** The Supplier shall offer all Items listed in the catalogue in the selected delivery areas and ensure delivery to the Customer (by way of drop shipments) within the delivery period specified in the catalogue.

**1.2** Upon Unite's request, the Supplier shall provide a Supplier's declaration for Items with preferential origin status.

**1.3** The Supplier shall actively observe the Item requirements specified by Unite (available at <https://unite.eu/en-gb/item-requirements>) and ensure that the Items offered in the Supplier's catalogue comply with these requirements. Unite shall inform the Supplier of any changes/additions to the overview in written form.

**1.4** The Supplier shall obtain and maintain a general liability insurance policy that includes product liability insurance and covers a minimum sum of €5 million per claim for personal injury or property damage and shall provide proof of such coverage upon Unite's request. The existence of such an insurance policy shall not result in a limit to the sum of Unite's claims against the Supplier.

## 2 Conclusion of contract, order processing, cancellation right

**2.1** The contractual relationship for the purchase of Items from the catalogue shall remain exclusively between Unite and the Supplier. The Supplier shall ship the Items (by drop shipment, i.e. by fulfilling its obligations towards Unite) directly to the Customer.

**2.2** As a rule, Unite shall be the sole point of contact for both the Buyer and the Supplier. All direct communication, including its content, between the Supplier and the Buyer must be reported to Unite without delay.

**2.3** By presenting its catalogue, the Supplier invites Unite to submit an offer to conclude a purchase contract for the Items displayed in the catalogue. Unite's order with the Supplier constitutes a binding offer to enter into a purchase contract in accordance with the criteria indicated by the Supplier, such as price, availability and delivery time. The purchase contract for the ordered Items shall be concluded between the Parties without requiring an express acceptance of the offer by the Supplier, unless the Supplier immediately rejects the order. Irrespective of this, the Supplier shall send an electronic order confirmation to Unite without delay after receiving an order.

**2.4** Following conclusion of the purchase contract, the Supplier shall send an electronic notification to Unite without delay in the event that any delays in delivery, lack of availability or other disruptions and/or deviations from the agreed order arise. In such a case, Unite shall be entitled to withdraw from the purchase contract for the (partial) delivery that is not being provided.

**2.5** The Supplier shall send the Items directly to the Buyer named in the order and shall notify Unite without delay of the time of delivery to the carrier and, where possible, delivery to the Buyer by means of an electronic delivery notification. The shipment notification to the Buyer shall also contain the data stated in the delivery note that is sent to the Buyer and enables tracking/tracing of the shipment. The delivery note shall comply with Unite's specifications.

**2.6** The Supplier shall invoice Unite directly for Unite's order. The Supplier shall not invoice the Buyer.

**2.7** Unite shall be entitled to refuse payment until the Supplier has completed the delivery in full. In the event that the Supplier has only partially delivered the order, Unite shall also be entitled to refuse payment until the delivery has been made in full, unless this is contrary to good faith in light of an insignificance of the outstanding partial delivery.

**2.8** Should the Buyer wish to return Items, regardless of the legal grounds, the Buyer shall do so directly to the Supplier by following instructions provided by Unite.

## 3 Place of performance and transport risk

**3.1** The place of performance for Unite's payment obligations is Unite's registered office.

**3.2** Delivery shall take place in accordance with Incoterms 2020 DPU (Delivered At Place Unloaded), where the named place of destination is the delivery address specified by the Customer for the order, unless the Supplier has provided a different delivery instruction in the Item description. Contrary to Incoterms 2020 DPU, Unite shall charge the Buyer all costs of transporting the Items to the named place of destination, including the unloading costs.

## 4 Item prices

**4.1** The Supplier may amend the current catalogue, the Item prices or offer conditions to be displayed at any time by sending Unite a

catalogue update. The changes shall take effect when Unite integrates the catalogue update provided by the Supplier (go-live).

**4.2** Irrespective of this, orders made by the Buyer in the Buyer's order system prior to the catalogue update, but which are only transmitted to the Supplier after the catalogue update through an intermediate approval procedure of the Buyer via Unite, may contain the conditions that applied prior to the catalogue update.

**4.3** Unite analyses the purchase prices that are charged by the Supplier to Unite and reports them in pseudonymous and aggregated form to other Suppliers for price reporting purposes.

## 5 Warranty

**5.1** In the event that an Item is faulty, Unite may assert the following warranty claims:

**5.1.1** Unite may demand rectification of the fault or delivery of a non-faulty Item to the Buyer by way of replacement. The Supplier shall bear the costs incurred for the replacement, in particular the expenditure for transport, tolls, labour and material.

**5.1.2** The Supplier may refuse Unite's chosen form of replacement if such a replacement is impossible or only possible at disproportionate cost. In doing so, the value of the non-faulty Item, the extent of the fault and the question of whether a different form of replacement could be used without incurring any significant disadvantages for Unite must be considered. In such a case, Unite's claim shall be limited to the other form of replacement.

**5.1.3** In the event that the Supplier delivers a non-faulty Item to the Buyer as replacement, the Supplier may demand the return of the faulty Item from Unite.

**5.1.4** If the replacement is faulty, Unite shall be entitled to withdraw from the contract or make a reasonable reduction to the purchase price.

**5.1.5** This shall not affect warranty claims, in particular claims for compensation in accordance with the respective legal requirements.

**5.2** Warranty claims shall apply regardless of an immediate notification of defects as customary in commercial practice.

**5.3** The Parties shall work together to address any warranty and guarantee claims asserted against Unite to ensure that the claims are settled as quickly and efficiently as possible. Insofar as the Supplier provides services or takes legal action vis-à-vis the Buyer regarding warranty and/or guarantee claims asserted against Unite, which result in a settlement of the Buyer's claims asserted against Unite, the Supplier shall be released in this respect from any corresponding warranty and/or guarantee obligations in its commercial relationship with Unite.

**5.4** If the Supplier fulfils its obligation to supply a replacement, the limitation period for the Item delivered as a replacement shall start anew following its delivery, unless the Supplier has expressly and correctly reserved the right to supply the replacement as a gesture of goodwill in order to avoid disputes or in the interest of continuing the Supplier relationship.

## 6 Single creditor procurement solution

**6.1** With the single creditor procurement solution, the Buyer and Unite can agree that Unite shall disclose to the Buyer the name of the Supplier and the price at which Unite orders from this Supplier. In such a case, Unite shall obligate the Buyer to ensure that the disclosed sales prices of the Supplier are not passed on to unauthorised Third Parties.

**6.2** Prices shall only be disclosed if the Supplier has expressly agreed to their disclosure in general or in relation to the respective Buyer.



## **7 Price determination/auctioning**

**7.1** Unite can conduct an electronic auction between the Suppliers' offers to determine the best price. In doing so, the Item price shall be determined in a reverse auction process between the minimum and maximum price specified by the Supplier.

**7.2** Regardless of the pricing, participation in the auction can be made dependent on the Supplier meeting certain pre-defined criteria by Unite, possibly on behalf of the Buyer, such as delivery time, certifications, etc.

**7.3** Unite shall provide the Supplier with clear instructions on the applicable criteria before completion of the auction.

## **III Direct sales to customers**

In the event that the Supplier sells directly to the Buyer without using Unite as seller, the following provisions shall apply in addition to Part A of these General Terms and Conditions and Section I of this Part D.

**1** The Supplier shall settle all objections, defences and service disruptions arising from individual orders that are based on contracts with the Customer directly and without delay with the Buyer. The Supplier shall fulfil all existing warranty and guarantee obligations directly vis-à-vis the Buyer. The Supplier is obliged vis-à-vis Unite to handle any corresponding warranty and guarantee claims that are wrongly asserted against Unite.

**2** As a rule, the contractual terms and conditions agreed between the Buyer and the Supplier shall apply. In the absence of such an agreement, the legal provisions shall apply to the Buyer's orders from the Supplier.