

Universal Trade Frames Limited

Terms and Conditions of Sale

1 Definitions

“Company” means

Universal Trade Frames Limited (Company Number 3233824);

“Contract” means any contract between the Company and the Customer for the sale and purchase of Goods;

“Customer” means the person, firm or company whose order for the Goods is accepted by the Company;

“Goods” means any goods which the Company is to supply to the Customer (including any of them or any part of them).

2 General

2.1 Any quotation or estimate given by the Company is an invitation to the Customer to make an offer only and is valid for a period of 30 days only from its date. No order placed shall be binding on the Company until accepted by the Company.

2.2 All orders made by the Customer shall be an offer by the Customer to purchase the Goods subject to these Conditions. Receipt of the Goods by the Customer shall be deemed to be conclusive proof that the Customer has accepted these Conditions.

2.3 Unless otherwise agreed in writing by the Company, these terms and conditions are the only terms and conditions on which the Company is prepared to deal with the Customer and shall govern the Contract to the exclusion of all other terms or conditions including terms and conditions endorsed upon, delivered with or contained in the Customer's quotation, acknowledgement or acceptance of order, specification or similar document.

3 Existence of Contract

3.1 No Contract shall come into existence until the Customer's order (however given) is accepted by the Company's written acceptance.

3.2 These conditions shall be incorporated in the Contract to the exclusion of any terms or conditions stipulated or referred to by the Customer.

3.3 No variations or amendments of these terms and conditions or oral promise or commitment related to it shall be valid unless committed to writing and signed by or on behalf of both parties.

4 Cancellation

4.1 Orders for Goods which have to be made especially for the Customer will be charged in full unless written notice of cancellation is received not later than 2 weeks before the expected delivery date quoted in the Company's order acknowledgment and manufacture of them or any components for them has not commenced at the date of that notice. Orders for stock items may be cancelled by written notice at any time before the goods are allocated to the contract but if a

cancellation notice is received after the goods have been allocated to the contract then a packing and handling charge will be payable by the customer.

5 **Prices**

- 5.1 Unless the sale is stated to be at a fixed price, Goods are sold at the prices shown in the Company's price list current at the date of delivery of the Goods. The Company reserves the right to alter price lists without notice in order to reflect increases in the cost of materials, labour, transport, energy and other costs incurred in manufacturing and supplying Goods.
- 5.2 Prices of the Goods are stated exclusive of Value Added Tax or any other applicable tax or duty relating to the manufacture, transport, export, import, sale or delivery of the Goods which will be charged in addition at the rate applicable at the appropriate tax or other point (as appropriate) and which the Customer shall pay when it is due to pay for the Goods.
- 5.3 For consignments above £1,000, the Company shall pay the cost of carriage by normal road transport to destinations in the United Kingdom. The cost of carriage will be payable by the Customer for consignments below such limit or if any other form of transport is stipulated by the Customer.

6 **Delivery and Risk**

- 6.1 Subject to Condition 6.2 or unless otherwise agreed in writing, delivery of Goods shall occur when the Company (itself or through a carrier) delivers Goods to the Customer's premises at the point in time immediately prior to off-loading of Goods from the Company's (or carrier's) vehicle. The Customer is responsible for offloading Goods from the Company's (or carrier's) vehicle and will provide at the delivery point adequate and appropriate equipment and suitably experienced manual labour for such offloading.
- 6.2 Delivery of Goods to destinations outside the United Kingdom shall be made FOB as defined in Incoterms 2000.
- 6.3 Where it is agreed in writing that the Customer will collect Goods from the Company, delivery occurs when the Company notifies the Customer that the Goods are ready for collection.
- 6.4 If the Customer fails to take delivery of any Goods when they are ready for delivery or to provide any instructions, documents, licences or authorisations required to enable delivery of Goods on time (except because of the Company's fault) the Customer shall indemnify the Company against any reasonable cost incurred by the Company arising from the failed delivery.
- 6.5 Risk in Goods passes to the Customer on delivery.
- 6.6 The Company may make delivery of the Goods by instalments and invoice the Customer for each instalment despatched.
- 6.7 The Customer is responsible (at delivery) to check the amount of Goods supplied and to detail in writing any discrepancy on the delivery note.

7 **Title**

- 7.1 Title to and property in Goods supplied by the Company remains vested in the Company (notwithstanding delivery of and passing of risk in Goods) until the price of Goods and all

monies due from the Customer to the Company on any other account is paid or satisfied in full (in cash or cleared funds).

7.2 Until title and property in Goods passes, the Customer shall:-

- (a) store Goods separately from other goods of the Customer or any third party in a proper manner without charge to the Company and ensure they are clearly identified to be the Company's property;
- (b) hold Goods on a fiduciary basis as the Company's bailee;
- (c) maintain Goods in satisfactory condition insured on the Company's behalf for their full price against all risks; and
- (d) hold proceeds of the insurance on trust for the Company and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

7.3 The Company may at any time without prior notice to the Customer repossess and resell Goods if any events specified in Condition 13 occur or if any sum owed by the Customer to the Company under any Contract or on any account is not paid on the due date. For the purpose of exercising this, the Company, its employees or agents shall be granted an irrevocable licence to enter (at any time without prior notice to the Customer) freely any premises where Goods are or may be stored to inspect them or, where the Customer's right to possession has terminated, to recover them.

7.4 The Customer may resell the Goods before ownership has passed only on the following conditions:

- (a) any sale must be in the ordinary course of business at full market value and the Customer must account to the Company;
- (b) any sale must be of the Company's property and the Customer must only sell as principal when making such a sale.

7.5 If the Company cannot determine whether goods are the Goods, the Customer is deemed to have sold all goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.

7.6 The Company may recover payment notwithstanding that ownership of Goods has not passed from the Company.

8 **Performance**

8.1 The Company will use reasonable endeavours to comply with dates for delivery of the Goods requested, but unless otherwise agreed in writing, such dates are approximate and time shall not be of the essence. If no dates are specified, delivery will be within a reasonable time. If the Company having used reasonable endeavours fails to deliver by such dates, it will not be liable for any loss (including loss of profit), costs, damages, charges or expenses caused directly or indirectly by delay in delivery (even if caused by its negligence) nor unless such delay exceeds 60 days will any delay entitle the Customer to terminate or rescind the Contract.

8.2 If the Company is prevented or delayed from performing the Contract or any part thereof by any circumstances beyond its reasonable control including (without limiting the generality of the foregoing) acts of God, fire, explosion, flood, epidemic, accident, governmental actions, war,

riot, industrial action, inability to obtain materials or labour, power or machinery breakdown or failure or natural disaster, the Company shall not be liable in any manner or deemed in breach. Further performance shall be suspended as long as the Company is so prevented or delayed.

- 8.3 Where Goods are delivered by instalments, each such instalment shall be deemed to be sold or supplied under a separate Contract and no default in respect of any one instalment shall affect or prejudice due performance of the Contract as regards any other instalments.

9 Acceptance

- 9.1 Without prejudice to Condition 12, the Customer shall be deemed to have accepted Goods as being in conformity with its order and shall be bound to pay for them, unless written rejection is received by the Company within 14 days of delivery. Save as provided in Condition 12, Goods accepted cannot be returned and any claim which the Customer might otherwise have shall be deemed to have been waived.

- 9.2 Credit shall only be for returned goods which the Company expressly agrees may be returned and which in the Company's opinion are of satisfactory quality. Where Goods are returned for credit, the Company may charge a handling fee of 20% of the price of the Goods credited.

10 Payment

10.1

- (a) Unless otherwise agreed in writing, payment for Goods is due within 30 days of the invoice date. No payment is received until cleared funds are received;
- (b) Where delivery is by instalments, the Customer shall pay for each instalment on the terms set out in this Condition 10;
- (c) The Customer cannot set off against any monies due to the Company under the Contract, any amount claimed or due from the Company under the Contract or on any other account.

- 10.2 All sums payable to the Company under this Contract shall become due immediately on termination.

- 10.3 Payment shall be made in the currency and amount specified on the Company's invoice (net of any bank, transmission or other such charges).

- 10.4 If any sum payable under the Contract is not paid when due then without prejudice to the Company's other rights under these Conditions, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 8% per annum over HSBC Bank Plc base rate from time to time and the Company will be entitled to suspend all future deliveries of the Goods until the outstanding amount has been received.

- 10.5 All sums due under a Contract shall be paid in full without any deduction or withholding other than as required by law and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Company in order to justify withholding or deducting payment of any such amount in whole or in part. If any such deductions or withholdings are required by law or if the United Kingdom Inland Revenue brings any such sum into any charge to taxation (or into any computation of income, profit or gains for the purpose of any charge to taxation), such sum shall be increased by such additional amount as will ensure that, after such deduction, withholding or charge to taxation, as the case may be, the Company will receive the same amount

as it would have received in the absence of any such deduction, withholding or charge to taxation.

- 10.6 Where, as a result of the method by which the Customer uses to pay any sums due to the Company under any Contract, any third party has the right to deduct any fee or other amount from such payment, the amount payable by the Customer under the Contract shall be increased by such additional amount as will ensure that, after such deduction, the Company will receive the same amount as it would have received in the absence of any such deduction. For the avoidance of doubt, as at the date on which these Conditions were printed, the Company's bank charges a fee of 3% on all payments made by way of credit card and all payments made by the Customer by credit card and must be grossed up by such percentage (or such other percentage as from time to time notified by the Company to the Customer) in accordance with the terms of this Condition.

11 Drawings and Specifications

- 11.1 All drawings, descriptive matter, specifications, advertising, illustrations and dimensions in the Company's sales literature are approximate and will not form part of the Contract.
- 11.2 The Customer is responsible for ensuring that Goods are suitable for their purpose and the Company gives no warranty that Goods are suitable or fit for the purpose for which they are required.
- 11.3 The Company may change the specification, design, materials or finishes of Goods which are required to conform with any applicable safety or other statutory requirements.

12 Warranty and Limitation of Liability

- 12.1 Where Goods are shown, to the reasonable satisfaction of the Company, to be defective due to faulty materials or workmanship, the Company may either deliver replacement Goods free of charge or refund the price of the defective Goods PROVIDED that:-
- (a) the Customer notifies the Company in writing within 30 days of becoming aware or within 30 days of the date on which it should reasonably have become aware (whichever is earlier) of any such defect; and
 - (b) if the Company so requests, the Customer permits the Company to inspect the Goods.

The Customer shall only return defective Goods to the Company if the Company so requests.

- 12.2 The Company shall not be liable under Condition 12.1 if the defect arises:
- (a) from any design defect in any drawing, design or specification supplied or approved by the Customer; or
 - (b) because the Customer failed to follow the Company's oral or written instructions or (if there are none) good trade practice as to the storage, installation, commissioning, use or maintenance of the Goods.
- 12.3 The liability of the Company under Condition 12.1 is in substitution for and to the exclusion of any other claims (in contract or in tort) for direct loss or damage which the Customer has or may have for defective Goods.

- 12.4 Subject to Condition 12.3, the liability of the Company for any claims for direct loss or damage whether in contract or tort arising from or in connection with any act, omission, neglect or default of the Company its servants or agents in performance of the Contract (including, without limiting the generality of the foregoing, negligence, breach of any condition or warranty whether express or implied by statute, common law or otherwise) shall not exceed 100% of the invoice value (net of Value Added Tax) of the Goods.
- 12.5 The Company shall not be liable for any loss of profit, loss of goodwill or loss of business or any indirect or consequential loss or damage whatsoever (whether or not caused by the negligence of the Company) arising out of or in connection with the Contract.
- 12.6 Nothing in these Conditions shall limit or exclude liability of the Company in respect of fraudulent misrepresentation or in respect of death or personal injury resulting from the negligence of the Company, its employees or agents or exclude the conditions and warranties implied by Section 12 of the Sale of Goods Act 1979.
- 12.7 Except as set out in Condition 12, the Company hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, express (other than those set out in the Contract) or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.
- 12.8 Notwithstanding any other provision (other than Condition 12.6), in respect of Goods supplied but not manufactured by the Company, the Company gives only such guarantees and warranties (if any) as the Company enjoys and can enforce in respect of the Goods.

13 **Insolvency and Breach of Contract**

- 13.1 If any of the following events occur, are threatened or in the Company's opinion are reasonably likely to occur:-
- (a) the Customer shall breach the Contract and shall fail to remedy such breach (if capable of remedy) within thirty days of receipt of written notice to remedy from the Company; or
 - (b) any distress or execution is levied upon any of the property of the Customer; or
 - (c) the Customer (or where the Customer is a partnership any partner thereof) offers to make any arrangements for the benefit of its creditors or commits any act of bankruptcy; or
 - (d) the Customer (being a limited company) has a receiver appointed over the whole or any part of its property or proceedings are taken for the winding up of the Customer;

the Company may terminate the Contract or any other contract with the Customer or to make partial supplies of Goods.

- 13.2 Notwithstanding any such termination, the Customer shall pay the Company for all work done, materials used and Goods delivered up to and including the date of termination and shall indemnify the Company against any resulting loss incurred in connection with the non-performance of the Contract including the cost of any material, plant or tools used or intended to be used therefore and the cost of labour and other overheads including a percentage in respect of profit.
- 13.3 The termination of the Contract howsoever arising shall be without prejudice to the rights and duties of either party accrued prior to termination.

14 **Stillages**

Title and property in stillage packaging remains vested in the Company. The Customer shall maintain such packaging in good order and make such packaging available for collection within 5 working days of demand (at no cost to the Company). If the Customer fails to make such packaging available, the Company may charge for it or set off its value against any sums due to the Customer from the Company under this or any other Contract.

15 **General**

- 15.1 This Contract and these terms and conditions may only be varied in writing by a Director of the Company.
- 15.2 The parties to this Contract do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.
- 15.3 Time for performance of all obligations of the Customer is of the essence.
- 15.4 Each right or remedy of the Company under this Contract is without prejudice to any other right or remedy which the Company may have. Failure by the Company to enforce or partially enforce any provision of this Contract will not be construed as a waiver of any of its rights. Any clause or sub-clause of this Contract which is held by any competent authority to be unenforceable or unreasonable (in whole or in part) shall to the extent of such unenforceability or unreasonableness be deemed severable and the other provisions and the remainder of such clause shall not be affected.
- 15.5 The Company may assign, license or sub-contract all or any part of its rights or obligations under this Contract without the Customer's consent. This Contract is personal to the Customer who may not assign, license sub-contract, or hold on trust all or any of its rights or obligations under this Contract without the Company's prior written consent.
- 15.6 This Contract shall be governed by English law and the parties submit to the exclusive jurisdiction of the English courts.
- 15.7 The parties' communications about this Contract must be written, delivered first class post or fax to registered office (FAO: The Board of Directors) (or other address notified) and are deemed received, if post, 2 working days after posting (exclusive of day of posting), if by fax on a working day, at transmission if before 4.00pm or otherwise on the next working day.