

1 **INTERPRETATION**
 1.1 **Definitions.** In these Conditions, the following definitions apply:
Affiliate means, in relation to a body corporate, any subsidiary or holding company of such body corporate, and any subsidiary of any such holding company for the time being.
Business Day means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
Conditions means the terms and conditions set out in this document as amended from time to time in accordance with clause 14.6.
Contract means the contract between UMC and the Customer for the sale and purchase of the Goods in accordance with these Conditions.
Customer means the person or firm who purchases the Goods from UMC.
Force Majeure Event has the meaning given in clause 12.
Goods means the goods (or any part of them) set out in the Order.
Insolvency Event means, in respect of a party: (a) other than for the purposes of a bona fide reconstruction or amalgamation, such party passing a resolution for its winding up, or a court of competent jurisdiction making an order for it to be wound up or dissolved, or that party being otherwise dissolved; or (b) the appointment of an administrator of, or the making of an administration order in relation to, either party, or the appointment of a receiver or administrative receiver of, or an encumbrancer taking possession of or selling, the whole or any part of the entity's undertaking, assets, rights or revenue; or (c) that party making an application to a court of competent jurisdiction for protection from its creditors; or (d) that party being unable to pay its debts, or being capable of being deemed unable to pay its debts, within the meaning of section 123 of the Insolvency Act 1986; or (e) that party entering into any arrangement, compromise or composition in satisfaction of its debts with its creditors.
Intellectual Property Rights means all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or not) and all applications for the same which may now or in the future subsist anywhere in the world, including the right to sue for and recover damages for past infringements.
Order means the order by the Customer for the Goods, as set out in the purchase order form of the Customer.
Specification means any specification for the Goods, including any related plans and drawings, that is agreed in writing by the Customer and UMC.
UMC means Univer Manufacturing Company Limited (registered in England and Wales with company number 2208794) or any other name by which such corporate entity may be known in future.
 1.2 **Construction.** In these Conditions, the following rules apply: (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality); (b) a reference to a party includes its personal representatives, successors or permitted assigns; (c) a reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted; (d) any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; (e) a reference to a **holding company** or a **subsidiary** means a holding company or a subsidiary (as the case may be) as defined in the Companies Act 2006; and (f) a reference to **writing** or **written** includes faxes and e-mails.
 2 **BASIS OF CONTRACT**
 2.1 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.
 2.2 The Order constitutes an offer by the Customer to purchase the Goods in accordance with these Conditions. The Customer is responsible for ensuring that the terms of the Order and any applicable Specification submitted by the Customer are complete and accurate.
 2.3 The Order shall only be deemed to be accepted when UMC accepts the Order, at which point the Contract shall come into existence.
 2.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of UMC which is not set out in the Contract.
 2.5 Any samples, drawings, descriptive matter, or advertising produced by UMC and any descriptions or illustrations contained in the catalogues or brochures of UMC are produced for the sole purpose of giving an approximate idea of the Goods described in them. They shall not form part of the Contract or have any contractual force.
 2.6 A quotation for the Goods given by UMC shall not constitute an offer. A quotation shall only be valid for a period of 30 Business Days from its date of issue.
 3 **GOODS**
 3.1 The Goods are described in the catalogue of UMC.
 3.2 The Customer shall indemnify UMC against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by UMC in connection with any claim made against UMC for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the use of the Specification by UMC, to the extent that such liabilities, costs, expenses, damages and/or losses arise due to the Customer's involvement with the Specification. This clause 3.2 shall survive termination of the Contract.
 3.3 UMC reserves the right to amend any specification relating to the Goods if required by any applicable statutory or regulatory requirements.
 4 **DELIVERY**
 4.1 UMC shall ensure that each delivery of the Goods is accompanied by a delivery note which shows the date of the Order, all relevant reference numbers of the Customer and UMC, the type and quantity of the Goods (including the code number of the Goods, where applicable) and special storage instructions (if any).
 4.2 The Customer shall collect the Goods from the premises of UMC at Station Road, Bradford, West Yorkshire, BD1 4SF, England or such other location as may be advised by UMC prior to delivery (**Delivery Location**) within 28 calendar days of UMC notifying the Customer that the Goods are ready.
 4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.
 4.4 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. UMC shall not be liable for any delay in delivery of the Goods that is caused by a Force Majeure Event or the failure of the Customer to provide UMC with adequate delivery instructions or any other instructions that are relevant to the supply of the Goods.
 4.5 UMC may deliver the Goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate Contract. Any delay

in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.
 5 **INTELLECTUAL PROPERTY**
 The Customer acknowledges that UMC and/or its licensors own all Intellectual Property Rights in the Goods, together with any specifications, drawings, designs and other information disclosed by UMC to the Customer, and the foregoing constitute Confidential Information for the purposes of these Conditions.
 6 **QUALITY**
 6.1 UMC warrants that: (a) on delivery, any Goods manufactured by UMC shall (i) conform in all material respects with their description; and (ii) be free from material defects in design, material and workmanship; and (b) in respect of any Goods which are not manufactured by UMC, UMC will use reasonable endeavours to pass to the Customer the benefit of any warranties given to UMC by the relevant manufacturer(s).
 6.2 Subject to clause 6.3, UMC shall, at its option, repair or replace the defective Goods, or refund the price of the defective Goods in full if: (a) the Customer gives notice in writing to UMC within a reasonable time of discovery that some or all of the Goods do not comply with the warranty set out in clause 6.1; and (b) UMC is given a reasonable opportunity of examining such Goods; and (c) the Customer (if asked to do so by UMC) returns such Goods to the place of business of UMC at the cost of the Customer.
 6.3 UMC shall not be liable for failure of the Goods to comply with the warranty set out in clause 6.1 in any of the following events: (a) the Customer makes any further use of such Goods after giving notice in accordance with clause 6.2; or (b) the defect arises because the Customer failed to follow the oral or written instructions of UMC as to the storage, commissioning, installation, use and maintenance of the Goods or (if there are none) good trade practice regarding the same; or (c) the defect arises as a result of UMC following any drawing, design or specification supplied by the Customer; or (d) the Customer alters or repairs such Goods without the written consent of UMC; or (e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or (f) the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory requirements.
 6.4 Except as provided in this clause 6, UMC shall have no liability to the Customer in respect of the failure of the Goods to comply with the warranty set out in clause 6.1.
 6.5 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded from the Contract.
 6.6 These Conditions shall apply to any repaired or replacement Goods supplied by UMC.
 7 **RETENTION OF TITLE AND RISK**
 7.1 Risk in the Goods shall pass to the Customer on completion of delivery.
 7.2 Title to the Goods shall not pass to the Customer until UMC receives payment in full (in cash or cleared funds) for the Goods and any other goods that UMC has supplied to the Customer, in which case title to the Goods shall pass at the time of payment of all such sums.
 7.3 Until title to the Goods has passed to the Customer, the Customer shall: (a) store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the property of UMC; (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Goods; (c) maintain the Goods in satisfactory condition and keep them insured against all risks for their full price from the date of delivery; (d) not affix the Goods to any other goods or products without UMC's prior written consent; (e) notify UMC immediately if it becomes subject to an Insolvency Event; and (f) give UMC such information relating to the Goods as UMC may require from time to time.
 7.4 The Customer shall indemnify UMC against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by UMC in connection with any breach by the Customer of clause 7.3 (including, for the avoidance of doubt, any costs incurred by UMC in arranging for the removal of the Goods which have been affixed to other goods or products in contravention of clause 7.3).
 7.5 If, before title to the Goods passes to the Customer, the Customer becomes subject to an Insolvency Event, then, without limiting any other right or remedy UMC may have, UMC may at any time: (a) require the Customer to deliver up all Goods in its possession which have not been resold, or irrevocably incorporated into another product; and (b) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Goods are stored in order to recover them.
 8 **PRICE AND PAYMENT**
 8.1 The price of the Goods shall be the price set out in the Order, or, if no price is quoted, the price set out in the published price list of UMC in force as at the date of delivery.
 8.2 UMC may increase the price of the Goods to reflect any increase in the cost of the Goods that is due to: (a) any factor beyond the control of UMC (including foreign exchange fluctuations, increases in taxes and duties and/or increases in labour, materials and other manufacturing costs); or (b) any request by the Customer to change the delivery date(s), quantities or types of Goods ordered or the Specification; or (c) any delay caused by any instructions of the Customer or failure of the Customer to give UMC adequate or accurate information or instructions. Any such increase will either be negotiated between UMC and the Customer or be communicated by UMC on not less than 30 days' notice.
 8.3 The price of the Goods is inclusive of standard packaging and basic insurance during transit, but exclusive of special packaging for overweight or bespoke Goods.
 8.4 The price of the Goods is exclusive of amounts in respect of value added tax (VAT). The Customer shall, on receipt of a valid VAT invoice from UMC, pay to UMC such additional amounts in respect of VAT as are chargeable on the supply of the Goods.
 8.5 UMC may invoice the Customer for the Goods on or at any time after the completion of delivery.
 8.6 The Customer shall pay the invoice in full and in cleared funds by the end of the month following the month the invoice was dated. Payment shall be made to the bank account nominated in writing by UMC. Time of payment is of the essence.
 8.7 If the Customer fails to make any payment due to UMC under the Contract by the due date for payment, then the Customer shall pay interest on the overdue amount at the rate of 4% per annum above the base rate of Yorkshire Bank PLC from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.
 8.8 The Customer shall pay all amounts due under the Contract in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). UMC may at any time, without limiting any other

rights or remedies it may have, set off any amount owing to it by the Customer against any amount payable by UMC to the Customer.

9 **CONFIDENTIALITY**

9.1 Each party undertakes that it shall not disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except: (a) to those of its employees, officers, representatives or advisers who need to know such information for the purpose of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause; and (b) as may be required by law, court order or any governmental or regulatory authority.

9.2 No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement. Each party shall have in place industry-standard policies, procedures, training programmes and draft confidentiality agreements so as to ensure that its employees are able to identify and label confidential information disclosed by the other party and deal with it in accordance with the obligations imposed under this clause. Each party will upon reasonable written notice disclose to the other on a regular basis details of its policies, procedures and standard documents relating to confidentiality.

10 **TERMINATION, SUSPENSION AND COMMITTED COSTS**

10.1 If the Customer becomes subject to an Insolvency Event, UMC may terminate the Contract with immediate effect by giving written notice to the Customer.

10.2 Without limiting its other rights or remedies, UMC may suspend provision of the Goods under the Contract or any other contract between the Customer and UMC if the Customer becomes subject to an Insolvency Event or UMC reasonably believes that the Customer is about to become subject to an Insolvency Event, or if the Customer fails to pay any amount due under this Contract on the due date for payment.

10.3 On termination of the Contract for any reason the Customer shall immediately pay to UMC all of the outstanding unpaid invoices and interest of UMC.

10.4 Termination of the Contract, however arising, shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination.

10.5 Clauses which expressly or by implication survive termination of the Contract shall continue in full force and effect.

10.6 If the Customer cancels any Orders or decreases the volume of any Orders, then the Customer shall pay to UMC any third party costs incurred (or committed to) by UMC under or in connection with such Order(s) and which UMC is unable to recover from the relevant third party supplier. UMC will provide written evidence of the materials/parts/products and it is the responsibility of the Customer to ensure UMC is not left with stock that cannot be resold, credited and / or is bespoke to the Customer's application.

10.7 UMC operates a Goods Returns Policy, which is available to the Customer on request (ref. FX-22398).

10.8 Credit notes can only be raised once UMC has inspected the returned Goods and a reported action authorised by UMC technical department. UMC will not accept return of Goods from customers which then raise their own credit notes.

10.9 UMC reserves the right not to accept Goods back without written authorisation from a Director of UMC.

11 **LIMITATION OF LIABILITY**

11.1 Nothing in these Conditions shall limit or exclude the liability of UMC for: (a) death or personal injury caused by its negligence or the negligence of its employees, agents or subcontractors (as applicable); or (b) fraud or fraudulent misrepresentation; or (c) breach of the terms implied by section 12 of the Sale of Goods Act 1979; or (d) defective products under the Consumer Protection Act 1987; or (e) any matter in respect of which it would be unlawful for UMC to exclude or restrict liability.

11.2 Subject to clause 11.1: (a) UMC shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and (b) the total liability of UMC to the Customer in respect of all other losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed 100% of the price of the Goods under the Contract.

12 **FORCE MAJEURE**

Neither party shall be liable for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is caused by a Force Majeure Event. A Force Majeure Event means any event beyond a party's reasonable control, which by its nature could not have been foreseen, or, if it could have been foreseen, was unavoidable, including strikes, lock-outs or other industrial disputes (whether involving its own workforce or a third party's), failure of energy sources or transport network, acts of God, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, sonic boom, explosions, collapse of building structures, fires, floods, storms, earthquakes, loss at sea, epidemics or similar events, natural disasters or extreme adverse weather conditions, or default of suppliers or subcontractors.

13 **DISTRIBUTION RIGHTS**

13.1 The Customer acknowledges that UMC has entered into an agreement with the manufacturer of the Goods and licensor of the "Univer" brand in relation to the Goods. Under such agreement, UMC has been appointed (within the United Kingdom and the Republic of Ireland) as: (a) the sole distributor of the Goods; and (b) the sole licensee of the "Univer" brand in relation to the Goods. The Customer shall purchase the Goods only from UMC.

13.2 The Customer shall indemnify UMC against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of business, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by UMC in connection with any breach by the Customer of clause 13.1.

14 **GENERAL**

14.1 **Assignment.**

14.1.1 UMC may at any time assign, transfer, mortgage, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract.

14.1.2 The Customer may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights or obligations under the Contract without the prior written consent of UMC.

14.2 **Notices.**

14.2.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in

writing in accordance with this clause, and shall be delivered personally, sent by pre-paid first-class post or other next working day delivery service, commercial courier, fax or e-mail.

14.2.2 A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 14.2.1; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

14.2.3 The provisions of this clause 14.2 shall not apply to the service of any proceedings or other documents in any legal action.

14.3 **Severance.**

14.3.1 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Contract.

14.3.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

14.4 **Waiver.** A waiver of any right or remedy under the Contract or law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. No failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

14.5 **Third party rights.** Affiliates of UMC shall have the right to enforce the terms of the Contract under the Contracts (Rights of Third Parties) Act 1999. A person who is not a party to the Contract shall not have any rights to enforce its terms.

14.6 **Variation.** Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is in writing and signed by UMC.

14.7 **Governing law.** The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with the law of England and Wales.

14.8 **Jurisdiction.** Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

SIGNED FOR AND ON BEHALF OF UNIVER MANUFACTURING COMPANY LIMITED (UMC)

SIGNATURE

PRINT NAME

DATED

SIGNED FOR AND ON BEHALF OF (Customer)

SIGNATURE

PRINT NAME

DATED