



## **UNIVERSAL FABRICATIONS (COVENTRY) LTD – TERMS AND CONDITIONS PURCHASE**

### **1. INTERPRETATION**

- 1.1. In this Agreement:  
"Conditions" means these terms and conditions;  
"Contract" means an Order accepted by the Seller to which these Conditions shall apply;  
"Order" means the Buyer's purchase order to which these Conditions fully apply;  
"Seller" means Universal Fabrications (Coventry) Ltd.  
"Buyer" means the person, firm or company to be supplied with the Goods by the Seller;  
"Business Day" means a day other than a Saturday, Sunday or public or bank holiday in England;  
"Delivery Address" means the Buyer's delivery address stated in the Order;  
"Goods" means the goods (including any instalment of the goods or any part of them) described in the Order;  
"Price" means the price of the Goods and/or the charge for the Services;  
"Services" means the services (if any) described in the Order;  
"Specification" includes any plans, drawings, data or other information relating to the Goods or Services, a copy of which is incorporated to the Order by reference;  
"Writing" includes email and comparable means of communication and the word "Written" shall be construed accordingly;
- 1.2. Any reference in these Conditions to a statute or provision of a statute shall be construed as a reference to that statute or provision as amended, re-enacted or extended at the relevant time.

### **2. SCOPE**

These Conditions shall prevail over any inconsistent terms or conditions referred to in the purchaser's order or in correspondence or elsewhere unless specifically agreed to in writing by both parties and any conditions or stipulations to the contrary are hereby excluded or extinguished.

### **3. BASIS OF PURCHASE**

- 3.1. Acceptance of the Order must be indicated by the Seller accepting the Buyer's Order in writing. The Order constitutes acceptance of Seller's offer to sell Goods and/or Services subject to these Conditions. On acceptance of the Order, the Contract comes into existence.
- 3.2. Quotations by the Seller shall not constitute an offer and the Seller reserves the right to withdraw or amend the same at any time prior to acceptance of the Buyer's Order. The issuing of any form of tender must not be interpreted as acceptance of any pre-contract terms, conditions or special clauses whatsoever. Such matters remain subject to negotiation.
- 3.3. These Conditions apply to all Contracts. By placing an Order with the Seller the Buyer agrees to deal with the Seller on these Conditions to the exclusion of all other terms, conditions, warranties or representations.
- 3.4. No variation of or addition to the Order or these Conditions shall be binding unless specifically agreed in Writing between the authorized representatives of the Buyer and the Seller.
- 3.5. The Seller's employees or agents are not authorized to make any representations concerning the Goods unless confirmed in writing by the Managing Director of the Seller. In entering into the Contract the Buyer acknowledges that it does not rely on, and waives any claim for, breach or any representations which are not so confirmed (unless such representations are made fraudulently). The Buyer irrevocably and unconditionally waives any right it may have to claim damages and/or rescind the Contract as a result of any misinterpretation whether or not contained in the Contract unless such misrepresentation is made fraudulently.
- 3.6. Any advice or recommendation given by the Seller or its employees or agents to the Buyer or its employees or agents as to the storage, application or use of the Goods which is not confirmed in writing by an authorized technical representative of the Seller is followed or acted upon entirely at the Buyer's own risk and accordingly the Seller shall not be liable for any advice or recommendation which is not so confirmed.
- 3.7. Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Seller shall be subject to correction without any liability on the part of the Seller.

### **4. SALE AND PURCHASE**

- 4.1. The Buyer agrees to purchase the Goods from the Seller and the Seller agrees to sell the Goods to the Buyer. The Seller reserves the right to refuse to accept an order from the Buyer and such refusal shall be at the absolute discretion of the Seller.
- 4.2. The Buyer shall not be entitled to cancel in whole or in part any order which the Seller has accepted or its acceptance of any quotation of the Seller in either case whether orally or in writing without the Seller's written agreement.

- 4.3. If the Seller agrees to such cancellation, the Buyer shall reimburse the Seller for all costs, losses and expenses incurred by it as a result of the cancellation.
- 4.4. The Seller reserves the right to make any changes in any specification relating to the Goods which are required to conform to any applicable safety or other requirements or which do not materially affect the quality or performance of the Goods.
- 4.5. All specifications, drawings and technical documents designed by the Seller and/or supplied to the Buyer by the Seller are supplied solely for the use of the Buyer in connection with the Goods and such specifications, drawings and/or technical documents are exclusive intellectual property of the Seller and therefore shall not be communicated to any third party without the prior written consent of the Seller.
- 4.6. In the event of any drawing issue changes issued by the Buyer after the acceptance of the Purchase Order by the Seller, the Seller reserves the right to requote the part(s).
- 4.7. The quantity, quality and description of the Goods and the Services shall, subject as provided in these Conditions, be as specified in the Order and/or in any applicable specification supplied by the Buyer to the Seller or agreed in Writing by the Buyer.
- 4.8. The Seller shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging, packing and delivery of the Goods.
- 4.9. The Seller engages with approved suppliers and sub-contractors only and such disclosing their identities does not fall under the obligations of the Contract. The Seller is able to provide these identities to the Buyer upon specific request.
- 4.10. The Seller shall ensure that at all times it has and maintains all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under the Contract.
- 4.11. The Seller shall not unreasonably refuse any request by the Buyer to visit their premises and check the Goods during manufacture, processing or storage at the premises of the Seller or any third party prior to dispatch. The Seller shall provide the Buyer with all facilities reasonably required for inspection and testing, however are not expected to complete any additional testing and inspection unless the Buyer has fully paid for these services.
- 4.12. If as a result of inspection or testing it transpires that the Goods do not comply in all respects with the Contract and the Buyer informs the Seller within twenty-one days of inspection or testing, the Seller shall take steps to rework the parts, however by doing so no additional penalty charges can be applied to the Seller.

### **5. PRICE OF GOODS AND SERVICES**

- 5.1. The Price of the Goods and Services shall be as stated in the Order and shall unless agreed otherwise be:
  - 5.1.1. exclusive of any applicable value added tax (which shall be payable by the Buyer subject to receipt of a valid VAT invoice); and
  - 5.1.2. inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Delivery Address.

### **6. TERMS OF PAYMENT**

- 6.1. The Seller shall be entitled to invoice the Buyer on or at any time after delivery of the Goods or performance of the Services and each invoice shall quote the Buyer's Order reference number.
- 6.2. However, if the Goods are collected by the Buyer the Seller shall be entitled to invoice the Buyer for the price of the Goods at any time after the Seller has informed the Buyer that the Goods are ready for collection.
- 6.3. Each invoice shall be priced in accordance with the Order and sent to the address specified in the Order.
- 6.4. Unless otherwise stated in the Order or a shorter period is prescribed by law, the Buyer shall pay the Price of the Goods and Services within:
  - 6.4.1. Thirty days after the end of the month of receipt by the Buyer of a proper invoice; or, if later
  - 6.4.2. After acceptance of the Goods or Services by the Buyer.
- 6.5. Payment of invoices shall be made in Sterling to the bank account nominated in Writing by the Seller to the Buyer.
- 6.6. After the completion of the thirty days after the end of the month of receipt by the buyer, unless a different term of payment agreed in the Contract, the Seller shall have the right to form any overdue payments subject of interest at bank of England base rate plus 8%.
- 6.7. The Seller reserves the right of ownership of all manufactured parts and the right to collect the Goods at any point until the Buyer completes full payment of the price of the Goods, providing a five days notice prior collection.
- 6.8. The Seller reserves the right, by giving notice to the Buyer at any time before delivery, to increase the price of the Goods to reflect any increase in the cost to the Seller which is due to any factor beyond the control of the Seller, such as, without limitation, significant increase in the costs of materials or sub-contract processes, any change in delivery dates, or any delay caused by the instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions, and is not eligible to be penalized for these issues.
- 6.9. No increase in the Price may be made without the prior consent of the Buyer in Writing. If a price increase is agreed, Seller shall give Buyer not less than seven days' notice of the date upon which the increase shall become effective.
- 6.10. The Seller does not accept back charges in situations such as, without limitation, poor performance, late delivery, parts not confirmed to drawing, issues with sub-contract finishing.

## 7. DELIVERY

- 7.1. The Goods shall be delivered to, and the Services shall be performed on the date or within the period stated in the Order, to/at the Delivery Address or as instructed by the Buyer prior to delivery, and during the Buyer's usual business hours or as instructed by the Buyer.
- 7.2. Where the date of delivery of Goods or the performance of the Services is to be specified after the Order, the Seller shall give the Buyer reasonable notice of the specified date.
- 7.3. The Seller shall ensure that the Goods are marked in accordance with the Buyer's instructions as communicated to the Seller prior to delivery, any applicable regulations and requirements of the carrier, and properly packed and secured in such manner as to enable them to reach their destination in good condition and in accordance with the Specification.
- 7.4. A packing note quoting the date and reference number of the Order, the type and quantity of the Goods is to be provided.
- 7.5. The Buyer shall be entitled to reject any Goods delivered which are not in accordance with the Contract and shall not be deemed to have accepted the Goods until the Buyer has had a reasonable time (being a period of at least five days) to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods become apparent.
- 7.6. The Buyer shall not be obliged to return to the Seller any packaging or packing materials for the Goods, whether or not any Goods are accepted by the Buyer.
- 7.7. Goods delivered in excess of specified requirements shall not be charged to the Buyer and may be returned to the Seller at the risk and expense of the Seller.

## 8. RISK AND TITLE

- 8.1. The risk in the Goods remain the Seller's until delivery to the Buyer is complete, then upon delivery ownership shall pass to the Buyer in accordance with the Contract. If any Goods are validly rejected by the Buyer, the property and the risk therein shall remain in or thereupon revert to the Seller.

## 9. WARRANTIES AND LIABILITY – THIS IS WHERE WE ARE

- 9.1. The Seller shall not be liable for any shortage in quantity delivered nor for any defect in the quality nature or condition of the Goods nor for the failure of the Goods to comply with the specification unless a claim in writing shall have been lodged with the Seller by the Buyer
  - a) In case of shortage, within three days of delivery and
  - b) In case of defects, within seven days of delivery.In this respect the Buyer is obliged to check the quality, safety and all other properties of the Goods and to hold the Seller harmless against any claims and in the event no such claim is lodged the Buyer shall not be entitled to reject the Goods and the Buyer shall be bound to pay the price as if the Goods had been delivered in accordance with the Contract. This clause applies specifically to delivery of the Goods.
- 9.2. In the event of any shortage defect or failure as foresaid the Seller shall make good the shortage and/or at the Seller's sole discretion replace free of charge any Goods found to be defective by reason of faulty material or workmanship provided that as a condition thereof the Seller may require that the Goods concerned are returned to the Seller's work carriage paid within one month of discovery of the defect
- 9.3. Except in respect of death or personal injury caused by the negligence of the Seller being negligence defined by Section 1 of the Unfair Contract Terms Act 1977) the liability of the Seller to the Buyer by reason of any representation implied warranty or other term of any duty under common law or under any contract for any common law or under any contract for any consequential loss or damage (whether for loss or profit or otherwise) costs claims and expenses or for any other loss damage or injury whatsoever which may arise from the suitability of the Goods, defective material, faulty workmanship or otherwise shall in no case exceed the invoiced value of the Goods delivered from which the loss or damage arises. Any information or recommendation by the Seller in relation to the Goods is given in good faith but the Seller shall not be liable to the Buyer in respect of any loss or damage arising therefrom howsoever caused.
- 9.4. The Seller shall be under no liability if the price of the Goods has not been paid in full by the due date for payment.
- 9.5. The Buyer shall indemnify the Seller in relation to any costs reasonably incurred by it in dealing with any invalid claim by the Buyer.
- 9.6. The above warranty is given by the Seller subject to the following conditions:
  - 9.6.1. The Seller shall be under no liability in respect of any defect in the Goods arising from any drawing, design or specification supplied by the Buyer;
  - 9.6.2. The Seller shall be under no liability in respect of any defect arising from fair wear and tear, willful damage, negligence, abnormal working conditions, failure to follow the Seller's instructions (whether oral or in writing), misuse or alteration or repair of the Goods without the Seller's Written approval;
  - 9.6.3. The Seller will not be held responsible for consequential losses regardless of how any such costs are incurred.

## 10. FORCE MAJEURE

- 10.1. Neither party shall be liable to the other or be deemed to be in breach of the Contract by reason of any delays in performing, or any failure to perform any of its obligations in relation to the Goods or the Services if the delay or failure was beyond that party's reasonable control, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable, provided that the Seller shall use all reasonable endeavours to cure any such events or circumstances and resume performance under the Contract.

## 11. TERMINATION

- 11.1. The Buyer shall be entitled to cancel the Contract in whole or in part by giving notice to the Seller at any time prior to delivery, in which event the Seller shall discontinue all work on the Contract and the Buyer's sole liability shall be to pay such fair and reasonable compensation for work-in progress at the time of termination, but such compensation shall include loss of anticipated profits or any consequential loss.
- 11.2. The Buyer shall be entitled to terminate the Contract with immediate effect and without liability to the Seller by giving notice to the Seller at any time if the Seller:
  - 11.2.1. has appointed to it an administrator or administrative receiver;
  - 11.2.2. suffers bankruptcy orders being made against all of its partners; or
  - 11.2.3. suffers a change of control in relation to which the Buyer has not provided its prior written consent.
- 11.3. The Seller shall be entitled to cancel the Contract or suspend any further deliveries under the Contract without any liability to the Buyer and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 11.4. Termination shall not affect any of the parties' rights and remedies that have accrued as at termination. Clauses which expressly or by implication survive termination shall continue in full force and effect.

## 12. INSURANCE

- 12.1. The Seller shall maintain in force, with a reputable insurance company, public liability insurance to cover such heads of liability as may arise under or in connection with the Contract, and shall, on the Buyer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.
- 12.2. Any materials, tools or patterns sent to the Supplier by the Buyer must be insured against any loss, damage or undue deterioration through neglect, which may occur whilst in Seller's custody.

## 13. COMPLIANCE

- 13.1. The Seller shall, at all times, in its dealings with the Buyer comply with:
  - 13.1.1. the Bribery Act 2010
  - 13.1.2. the Buyer's Ethics Policy
  - 13.1.3. all other applicable competition laws and regulations,
  - 13.1.4. and the Seller will not, through any act or omission, cause the Buyer to be in breach of any such laws or regulations and any breach of any such laws or regulations shall be considered a material breach of the Contract which shall give the Buyer an immediate right to terminate this Contract.

## 14. NOTICES

- Any notice required to be given thereunder in writing shall be deemed to have been duly given if sent by pre-paid first class post or email addressed to the party concerned at its principle place of business or last known address.

## 15. GENERAL

- 15.1. Any notice required or permitted to be given by either party to the other under these Conditions, shall be in Writing addressed to that other party at its registered office address or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice and shall be sent by recorded delivery, commercial courier. A notice shall be deemed to have been received: if sent by recorded delivery, at 9:00 am on the second working day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.
- 15.2. No waiver by the Buyer of any breach of the Contract by the Seller shall be construed as a waiver of any subsequent breach of the same or any other provision.
- 15.3. A person who is not party to the Contract shall not have any rights under or in connection with it.
- 15.4. Any variation to the Contract, including the introduction of any additional terms and conditions, shall only be binding when agreed in Writing.
- 15.5. The Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with, the laws of England.
- 15.6. The Seller and the Buyer irrevocably submit to the jurisdiction of the courts of England and Wales.