

CONDITIONS OF SALE

1. GENERAL

(a) In these Conditions “the Seller” means Universal Motors UK Ltd. The person or company who has placed an order with the Seller is referred to as “the Buyer” which expression shall include the principal on whose behalf the person or company placing the order may be acting as agent.

(b) The Buyer’s order is accepted subject to these Terms and Conditions ONLY which shall override any terms and conditions stipulated by the Buyer whether referred to or contained in his enquiry or order form or otherwise. These conditions apply to the contract to the exclusion of any other terms that the Buyer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The placing of an order with the Seller shall be deemed to be an acceptance of the Seller’s Terms and Conditions. No variation to the Seller’s Terms and Conditions shall be binding upon the Seller unless expressly agreed to by a Director of the Seller in writing.

(c) Any order placed by the Buyer constitutes an offer by the Buyer to purchase the goods in accordance with these conditions. The Buyer is responsible for ensuring that the terms of any order and any applicable specification are complete and accurate.

(d) The order shall only be deemed to be accepted when the Seller issues a written acceptance of the order, at which point the contract shall come into existence.

(e) Performance of the contract by the Seller is subject to availability of goods and material from time to time.

2. DRAWINGS, SPECIFICATIONS ETC.

All promotional material, advertising matter, plans, designs, drawings, specifications, illustrations, details, booklets, catalogues or other written or printed matter whatsoever supplied by the Seller are supplied only for the purpose of general guidance and represent generally goods or materials or devices specified but not necessarily the goods or materials or devices the subject of the Seller’s quotation or tender and shall not form part of any contract based thereon.

3. DELIVERY

(a) Where the Seller has expressly agreed in writing or otherwise a delivery or despatch date, this is an estimate only and the Seller accepts no liability in circumstances for any loss or damage resulting from late delivery or despatch whether due to negligence or otherwise.

(b) Any delay in delivery or despatch caused by delay in the Buyer’s instructions or by any delay in transit or by any cause whatsoever beyond the Seller’s reasonable control shall entitle the Seller to an extension of the delivery or despatch date (as the case may be) by a period equal to the period of delay of the nature referred to above.

(c) In the matter of despatch and delivery, time shall never be of the essence of the contract.

(d) Delivery will occur at the place specified in the acceptance of order or if no place specified at the place to which the goods the subject of the order would normally be despatched (the Delivery Location).

(e) Delivery is completed on the completion of unloading of the goods at the Delivery Location.

(f) If the Buyer fails to accept delivery of the goods within three days of them arriving at the Delivery Location then delivery of the goods shall be deemed to have been completed at 9am on the third day after the day on which the goods were delivered to the Delivery Location.

(g) If the Seller cannot leave the goods at the Delivery Location then it shall have the right but not the obligation to store the goods until actual delivery takes place. In these circumstances the Seller shall charge the Buyer for all related costs and expenses (including insurance)

(h) In the event that the Seller agrees to repair or replace goods or materials, or carry out any services on behalf of the Buyer, any time specified for the delivery or despatch of any such goods or materials or services shall be extended for such period as the Seller may require.

(g) All responsibility on the Seller's part shall cease when the goods the subject of the contract are despatched from the Seller's premises.

4. PRICES

(a) The price of the Goods shall be the Seller's quoted price or, when no price is quoted, the price listed in the Seller's published price list valid as at the date of acceptance of the order. All price quotations issued by the Seller are valid for a period of 30 days unless otherwise indicated therein by the supplier. Prices quoted or published do not include packaging, transport and insurance.

(b) The price of the Goods is based on information available to the Seller at the time it gave its quotation or accepted the Buyer's order and if between that date and the date on which the Goods are to be delivered there should be any increase in the cost to the Seller due to any factors beyond its control (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in the costs of labour materials or other costs or manufacture) or any changes to the specifications which are requested by the Buyer, the price may at the absolute discretion of the Seller be adjusted to take account of such increase by giving notice to the Buyer at any time before delivery.

(c) The Seller's prices do not include any value added tax or other taxes relating to the manufacture, transportation, export, import, sale or delivery of the Goods and the amount of any such taxes which the Seller may be required to pay may be added to the invoice or separately invoiced to The Buyer.

(d) All goods are sold ex Works (as that term is defined in ICC Incoterms as revised from time to time) unless otherwise agreed, and packaging will be charged at cost price. If the Buyer wishes goods to be packaged in a special manner it shall pay any additional costs of such packaging. Where the Seller agrees to deliver the Goods otherwise than at the Seller's premises the Buyer shall be liable to pay the Seller's charges for transport, packaging and insurance.

- (e) The costs of returnable containers will be charged to the Buyer in addition to the price of the goods, but full credit will be given to the Buyer provided they are returned undamaged to the Seller before the due payment date.
- (f) All payments by the Buyer to the Seller shall be made without any deduction or set-off.
- (g) All payments by the Buyer shall (unless otherwise stipulated by the Seller) be in the currency designated in the appropriate invoice.
- (h) In any case where Goods are sold CIF or FOB or on the basis of other international trade terms the meaning given to such terms in the ICC incoterms (as revised from time to time) shall apply except where inconsistent with any of the provisions in these conditions.
- (i) The Seller reserves the right to charge a Small Value Order charge on orders of less than £100 or such other Small Value Order limit ruling from time to time and/or to apply its normal trade discounts to any Small Value Order.

5. PAYMENT

- (a) Payment in full of the Seller's invoice shall be made no later than 30 days following the end of the month stated as the date of the invoice.
- (b) Time for payment shall be of the essence of the contract and interest at the rate of 4% over HSBC Bank PLC's base rate from time to time shall be payable on any overdue payments and shall run from the date payment is due until the date payment in cleared funds is made as well after judgment as before.
- (c) Payment shall not be withheld pending the settlement of any dispute.
- (d) If the Buyer fails to pay for the goods on the due date (or fails to pay any instalment, in which case the whole outstanding balance shall immediately become due) or if the Buyer goes into receivership or is declared bankrupt (or any equivalent thereof) or enters into a composition with its creditors, or if the Buyer being a company, goes into liquidation or into receivership or is otherwise declared insolvent or prohibited from trading then the Buyer shall immediately notify the Seller thereof and shall, upon demand made orally or in writing by or on behalf of the Seller deliver the goods or cause the goods to be delivered up to the Seller or to their order.

6. LIABILITY

- (a) Subject to sub-clause (b) below under no circumstances whatsoever will the Seller be liable in contract or otherwise for any loss or damage of whatsoever kind or howsoever caused or for anything done or omitted to be done in connection with the Buyer's order or any work in connection therewith.
- (b) The Seller will only be liable for defects due to faulty materials or workmanship which may appear within two weeks after delivery of the goods from the Seller and of which notice is given



immediately to the Seller by the Buyer but such liability will not extend to defect arising out of a design or specification stipulated by the Buyer. In the event of any defect due to faulty materials or

workmanship appearing within two weeks after delivery from the Seller and upon immediate notice thereof to the Seller, the Seller may entirely at his own discretion either: -

- (i) Replace any defective goods or
- (ii) remedy any defect or
- (iii) refund the purchase price of the goods if paid or of any defective part thereof after deducting such sum as the Seller considers appropriate having regard to the extent, if any, to which the goods may have been used or interfered with by the Buyer.
- (c) In the event of the Buyer acquiring goods from or through the Seller which the Seller has itself acquired in substantially the same form, or actually in the same form, from a manufacturer, whether such goods are used by the Seller as a component part of a larger item ordered by the Buyer or not, the liability of the Seller to the Buyer in respect of the goods concerned shall not exceed the liability of the manufacturer to the Seller.
- (d) Responsibility for any damage caused to goods or materials during transit shall be that of the Buyer where the goods are sold ex Works. Where goods are sold CIF or FOB and where they are damaged in transit, the Seller shall only be liable if a written claim giving full particulars is received by the Seller within 48 hours of delivery and the Seller's liability shall be limited to the repair and/or replacement of goods or materials at its sole discretion upon return within two weeks of delivery of the damaged goods or materials to the Seller.

7. WARRANTY AND GUARANTEE

- (a) No guarantee or warranty, express or implied, as to the suitability or fitness for any purpose satisfactory quality or of the goods supplied by the Seller is given by the Seller. The Buyer shall only be entitled to the benefit of any such guarantee or warranty as given by the manufacturer or distributor supplier or any other third party to the Seller.
- (b) 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.
- (c) All limitations on the Seller's liability shall apply to any repaired or replacement goods supplied by the Seller.

8. PROPERTY

- (a) Notwithstanding any agreed terms of payment, the goods are not sold or delivered on credit but on condition that the ownership of the goods shall remain with the Seller and no property in the goods whether legal or equitable shall pass from the Seller until payment of the full price has been received in respect of: -

- (i) all goods the subject of this contract and
- (ii) all other goods the subject of any other contract between the Seller and the Buyer.
- (b) Until title to the goods has passed to the Buyer, the Buyers shall:-

(i) store the goods separately from all other goods held by the Customer so that they remain readily identified as the Sellers property;

(ii) not remove, deface or obscure any identifying mark or packaging on or relating to the goods;

(iii) maintain the goods in as new condition and keep them insured against all risks for their full price from the date of delivery

(iv) notify the Seller immediately if it becomes subject to any of the events listed in clause 10.1.

(v) give the Seller information relating to the goods as the Seller may require from time to time.

(c) Subject to clause 8 (d) the Buyer may resell or use the goods in the ordinary course of its business (but not otherwise) before the Seller receives payment for the goods. However if the Buyer resells the goods before that time:-

(i) it does so as principal and not as the Sellers agents; and

(ii) title to the goods shall pass from the Seller to the Buyer immediately before the time at which resale by the Buyer occurs.

(d) If before title to the goods passes to the Buyer, the Buyer becomes subject to any of the events listed in clause 10.1 then, without limiting any other right or remedy the Seller may have:-

(a) the Buyers right to resell the goods or use them in the ordinary course of its business ceases immediately; and

(b) the Seller may at any time:-

(i) require the Buyer to deliver up all goods in its possession that have not been resold or irrevocably incorporated into another product; and

(ii) if the Buyer fails to do so promptly enter any premises of the Buyer or any third party where their goods are stored in order to recover them.

9. CANCELLATION

(a) The cancellation of an order by the Buyer for any reason, be it incorrect ordering or otherwise, or the return of goods for whatever reason will only be accepted at the discretion of the Seller and in any event on condition that any costs or expenses incurred by the Seller as a direct or indirect result of such an event plus a minimum of 25% of the value of goods concerned are paid and all loss or damage resulting to the Seller by reason of such cancellation is made good by the Buyer to the Seller forthwith.

- (b) Acceptance of such cancellation will only be binding on the Seller if in writing.

10. TERMINATION

- 10.1 Without limiting its other rights or remedies, the Seller may terminate this Contract with immediate effect by giving written notice to the Buyer if:
- (a) the Buyer commits a material breach of any term of the Contract and (if such a breach is remediable) fails to remedy that breach within 5 days of that party being notified in writing to do so;
 - (b) the Buyer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business or, if the step or action is taken in another jurisdiction, in connection with any analogous procedure in the relevant jurisdiction;
 - (c) the Buyer suspends, threatens to suspend, ceases or threatens to cease to carry on all or a substantial part of its business; or
 - (d) the Buyer's financial position deteriorates to such an extent that in the Seller's opinion the Buyer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.
- 10.2 Without limiting its other rights or remedies, the Seller may suspend provision of the Goods under the Contract or any other contract between the Buyer and the Seller if the Buyer becomes subject to any of the events listed in clause 10.1 or the Seller reasonably believes that the Buyer is about to become subject to any of them, or if the Buyer fails to pay any amount due under this Contract on the due date for payment.
- 10.3 Without limiting its other rights or remedies, the Seller may terminate the Contract with immediate effect by giving written notice to the Buyer if the Buyer fails to pay any amount due under the Contract on the due date for payment.
- 10.4 On termination of the Contract for any reason the Customer shall immediately pay to the Seller all of the Seller's outstanding unpaid invoices and interest.

- 10.5 Termination of the Contract shall not affect any of the parties' rights and remedies that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract that existed at or before the date of termination.
- 10.6 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.

11. FORCE MAJEURE

The Seller shall not be liable to the Buyer in respect of any failure to perform its obligations under this contract due to circumstances beyond his control, which circumstances shall include but not be limited to weather conditions, fire, breakdown in the Seller's plant or machinery, floods, war, immobilisation requisitions, embargo, insurrection, currency restrictions, shortage or breakdown of transport material or plant, restrictions on the use of power, lockout, strike, stoppages, industrial dispute or acts of terrorism.

12. SERVICES AND ADVICE

Where the Seller provides or performs any services for, or gives any advice to the Buyer in relation to the goods sold, whether at the request of the Buyer or otherwise, the Seller shall not be liable to the Buyer in respect of any damage or loss whatsoever kind caused to the Buyer or to the property of the Buyer and arising out of the provision or performance of such services or the giving of such advice.

13. ENTIRE AGREEMENT

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

14. NOTICES

- (a) 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, or fax or email.



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- (b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause 1.1(a); 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 email, one Business Day after transmission.
- (c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

15. PROPER LAW

The proper law governing this contract is the Law of England.

06.2005