

Conditions of Sale

1. **DEFINITIONS:** in these conditions the following expressions shall have the following meanings insofar as the context shall admit:
 - 1.1 **“BUYER”** means the person who buys or agrees to buy the goods from the Seller.
 - 1.2 **“CONDITIONS”** means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Seller.
 - 1.3 **“DELIVERY DATE”** means the date specified by the Seller when the goods are to be delivered.
 - 1.4 **“GOODS”** means the articles, which the Buyer agrees to buy from the Seller.
 - 1.5 **“GUARANTEE PERIOD”** means the period of certain Goods that are under Guarantee as detailed from time to time on the Seller's website.
 - 1.6 **“PRICE”** means the price for the Goods excluding carriage, packing, insurance & VAT.
 - 1.7 **“SELLER”** means UAP Limited trading as Universal Imports.
 2. **CONDITIONS APPLICABLE.**
 - 2.1 These conditions shall apply to all contracts for the sale of Goods by the Seller to the Buyer to the exclusion of all other terms and conditions including any terms or conditions which the Buyer may purport to apply under any purchase order confirmation of order or similar document.
 - 2.2 Any quotation given by the Seller shall not constitute another for sale or a representation that the Goods are available for sale.
 - 2.3 All orders for Goods shall be deemed to be an offer by the Buyer to purchase Goods pursuant to these conditions.
 - 2.4 Acceptance of delivery of the Goods shall be deemed conclusive evidence of the Buyer's acceptance of these conditions.
 - 2.5 No variation of these conditions shall be applicable unless agreed in writing by the Seller.
 - 2.6 The Seller's employees or agents are not authorised to make any representations concerning the Goods unless confirmed by the Seller in writing.
 3. **PRICE AND PAYMENT**
 - 3.1 The price of the Goods shall be the price stipulated in the Seller's published trade price list current at the date of delivery of the Goods. The price is exclusive of VAT which shall be due at the rate, ruling on the date of VAT invoice.
 - 3.2 The Seller reserves the right by giving notice to the Buyer at any time before the delivery date 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 any foreign exchange fluctuation, currency regulation alteration of duties significant increase in the costs of labour materials or other costs of manufacture) any change in delivery dates quantities or specifications for the Goods which is requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Seller adequate information or instructions.
 - 3.3 Payment of the price and VAT shall be due on the 30th day following the issue of an invoice to the Buyer by the Seller. Time for payment shall be of the essence.
 - 3.4 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 4% above Royal Bank of Scotland plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgment.
 - 3.5 If the Buyer fails to make any payment on the due date then without prejudice to any of the Seller's other rights the Seller may:
 - 3.5.1 suspend or cancel deliveries of any articles due to the Buyer; and/or
 - 3.5.2 appropriate any payment made by the Buyer to such of the Goods (or Goods supplied under any other contract with the buyer) as the Seller may in its sole discretion think fit.
 - 3.6 The cost of pallets and returnable packing will be due from the Buyer in addition to the price but will be credited to the Buyer provided that they are returned to the Seller in good condition.
 4. **GOODS**
 - 4.1 The quantity and description of the Goods shall be set out in the Seller's quotation.
 - 4.2 All sizes referred to on price lists, estimates and brochures are approximate only.
 5. **WARRANTIES AND ACCEPTANCE OF GOODS**
 - 5.1 If the Buyer finds a material defect in the Goods within the Guarantee Period then the Seller will at its sole discretion as soon as reasonably practicable replace the defective goods or provide a credit note to the Buyer not exceeding the invoiced Price of the particular defective goods PROVIDED THAT:
 - (i) the Goods are duly maintained in accordance with the Seller's after care policy on their website
 - (ii) the Buyer informs the Seller within 72 hours the defect is discovered
 - (iii) the defect existed in the Goods at the time of delivery of the Goods or arose from faulty materials or workmanship, was not reasonably discoverable upon inspection at the time of receipt, and did not result from any modification or alteration of the Goods by the Buyer, or failure of the Buyer to comply with any instructions provided by the Seller
 - (iv) any trade marks or labels on the Goods have not been removed
 - 5.2 Where the Seller has the benefit of any warranty or guarantee in respect of the Goods, this warranty or guarantee shall replace the above guarantee in so far as the defect relates to such parts or components, and the Seller will use his reasonable endeavours to extend to the Buyer the benefit of that warranty or Guarantee.
 - 5.3 Except where the Buyer is a consumer, all terms, conditions and warranties (whether implied or made expressly) whether by the Seller or its servants or agents or otherwise (other than those express warranties set out in the current edition of the Seller's specification) relating to the quality and/or fitness for purpose of the Goods or any of the Goods are excluded to the fullest extent permitted by law.
 - 5.4 The specification and design of the Goods (including the copyright, design right or other intellectual property) in them shall as between the parties be the property of the Seller. Where any designs or specifications have been supplied by the Buyer for manufacture by or to the order of the Seller than the Buyer warrants that the use of those designs or specifications for the manufacture, processing, assembly or supply of the Goods shall not infringe the rights of any third party.
 - 5.5 The Buyer shall notify the Seller in writing of any alleged shortage in quantity, damage or failure to comply with the description or sample of the Goods within 72 hours of delivery and if the Seller does not receive such notification the Buyer shall be deemed to have examined the Goods and accepted.
 - 5.7 After acceptance the Buyer shall not be entitled to reject Goods which are not in accordance with the contract.
 - 5.8 If the Buyer notifies the Sellers of any shortages as detailed in clause 5.7 above in the Goods which are not in accordance with the contract the Buyer shall nonetheless pay the full price for such Goods and the Seller's only liability shall be at its sole discretion as soon as reasonably practicable to make good any shortages, or refund to the Buyer the Price for the Goods.
 - 5.9 No Goods delivered to the Buyer which are in accordance with the contract will be accepted for return without prior written approval at the Seller in accordance with the Seller's returns authorisation procedure and on terms to be determinate at the absolute discretion of the Seller.
 - 5.10 If the Seller agrees to accept any such Goods for return the Buyer shall be liable to pay a handling charge of 20% of the invoice price. Such Goods must be returned by the Buyer carriage-paid to the Seller in their original shipping carton.
 - 5.11 Goods returned without the prior written approval of the Seller may at the Seller's absolute discretion be returned to the Buyer or stored at the Buyer's cost without prejudice to any rights or remedies the Seller may have.
 6. **DELIVERY**
 - 6.1 Delivery of the Goods shall be made by the Buyer collecting the Goods at the Seller's premises at any time after the Seller has notified the Buyer that the Goods are ready for collection or if some other place for delivery is agreed by the Seller delivering the Goods to that place.
 - 6.2 Any dates quoted for delivery of the Goods are approximate only and the Seller shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence. The Goods may be delivered by the Seller in advance of the quoted delivery date upon giving reasonable notice to the Buyer.
 - 6.3 Where the Goods are to be delivered in instalments each delivery shall constitute a separate contract and failure by the Seller to deliver any one or more of the instalments in accordance with these conditions or any claim by the Buyer in respect of any one or more instalments shall not entitle the Buyer to treat the contract as a whole as repudiated.
 - 6.4 If the Buyer fails to take delivery of the Goods or fails to give the Seller adequate delivery instructions at the time stated for delivery (otherwise than by reason of any cause beyond the Buyer's reasonable controls or by reason of the Seller's fault) then without prejudice to any other right or remedy available to the Seller the Seller may:
 - 6.4.1 store the Goods until actual delivery and charge the Buyer for the reasonable costs (including insurance) of storage; or
 - 6.4.2 sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price under the contract or charge the Buyer for any shortfall below the price under the contract.
 7. **FORCE MAJEURE**
 - 7.1 The Seller shall not be liable to the Buyer or be deemed to be in breach of the contract by reason of any delay in performing or any failure to perform any of the Seller's obligations in relation to the Goods if the delay or failure was due to any cause beyond the Seller's reasonable control. Without prejudice to the generality of the foregoing the following shall be regarded as causes beyond the Seller's reasonable control:
 - 7.1.1 Act of God explosion flood tempest fire or accident;
 - 7.1.2 war or threat of war sabotage insurrection civil disturbance or requisition;
 - 7.1.3 acts restrictions regulations bye-laws prohibitions or measures of any kind on the part of any governmental parliamentary or local authority;
 - 7.1.4 import or export regulations or embargoes;
 - 7.1.5 strikes lock-outs or other industrial actions or trade disputes (whether involving employees of the Seller or of a third party);
 - 7.1.6 difficulties in obtaining raw materials, labour fuel parts or machinery;
 - 7.1.7 Power failure or breakdown in machinery.
8. **PASSING OF PROPERTY AND RISK**
 - 8.1 The Goods shall be at Buyer's risk as from delivery.
 - 8.2 In spite of delivery having been made properly in the Goods shall not pass from the Seller until:
 - 8.2.1 the Buyer shall have paid the price plus VAT in full and in cleared funds; and
 - 8.2.2 no other sums whatever shall be due from the Buyer to the Seller whether in connection with the Goods or otherwise.
 - 8.3 Until property in the Goods passes to the Buyer in accordance with clause 8.2 the Buyer shall hold the Goods and each of them on a fiduciary basis as bailee for the Seller. The Buyer shall store the Goods (at no cost to the seller) separately from all other Goods in its possession and marked in such a way that they are clearly identified as the Seller's property and are insured to their full replacement value.
 - 8.4 Notwithstanding that the Goods (or any of them) remain the property of the Seller the Buyer may sell or use the Goods in the ordinary course of the Buyer's business but shall account to the Seller for the proceeds of such sale or otherwise of the Goods whether tangible or intangible including any insurance proceeds. Any such sale or dealing shall be a sale or use of the Seller's property by the Buyer on the Buyer's own behalf and the Buyer shall deal as principal when making such sales or dealings. Until property in the Goods passes from the Seller the entire proceeds of sale or otherwise of the Goods shall be held in trust for the Seller and shall not be mixed with other money or paid into any overdraft bank account and shall be at all material times identified as the Seller's money.
 - 8.5 The Seller shall be entitled to recover the price (plus VAT) notwithstanding that property in any of the Goods has not passed from the Seller.
 - 8.6 Until such time as property in the Goods passes from the Seller or the Buyer is in breach of clause 13 the Buyer shall upon request deliver up such of the Goods as have not ceased to be in existence or resold to the Seller. If the Buyer fails to do so the Seller may enter upon any premises (and the Buyer authorises the Seller to enter the premises to remove those Goods) owned occupied or controlled by the Buyer where the Goods are situated and repossess the Goods. On the making of such request the rights of the Buyer under clause 8.4 shall cease.
 - 8.7 The Buyer shall not pledge or in any way charge by way of security for any indebtedness any of the Goods, which are the property of the Seller. Without prejudice to the other rights of the Seller, if the Buyer does so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
 - 8.8 The Buyer shall insure and keep insured the Goods to the full price against all "risks" to the reasonable satisfaction of the Seller until the date that property in the Goods passes from the Seller, and shall whenever requested by the Seller produce a copy of the policy of insurance. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller shall forthwith become due and payable.
 - 8.9 The Buyer shall promptly deliver the prescribed particulars of this contract to the registrar of companies in accordance with the companies Act 1985 part X11 as amended and provide the original registration certificate to the Seller. Without prejudice to the other rights of the Seller, if the Buyer fails to do so all sums whatever owing by the Buyer to the Seller, shall forthwith become due and payable.
 - 8.10 In addition to any other right or lien to which the Seller may be entitled by law or pursuant to these Conditions the Seller shall be entitled to a general lien on all the Goods and the property of the Buyer in the Seller's possession whether paid for or not and a right of sale of such Good and property at the Seller's sole discretion for any unpaid money due under the terms of the dealings between the parties.
 - 8.11 The Seller shall have the right to put any goods or property over which it has lien into a saleable state (without prior notice to the Buyer) and to sell such goods or property by private treaty or otherwise on such terms as it shall consider appropriate. Out of the proceeds of such sale the Seller shall be entitled to retain a sum equivalent to all unpaid monies due to it from the Buyer as aforesaid together with the cost of putting the goods or property into a saleable state and the expenses of sale and shall pay the balance to the Buyer.
9. **LIABILITIES AND REMEDIES**
 - 9.1 Where the Buyer rejects any Goods then the Buyer shall have no further rights whatever in respect of the supply to the Buyer of such Goods or the failure by the Seller to supply Goods which conform to the contract of sale.
 - 9.2 Where the Buyer accepts or has been deemed to have accepted any Goods then the Seller shall have no liability whatever to the Buyer in respect of those Goods.
 - 9.3 The Seller shall not be liable to the Buyer for late delivery or short delivery of the Goods.
 - 9.4 The Seller shall not in any circumstances, notwithstanding anything to the contrary contained in the Conditions, be under any liability (whether for breach of contract or otherwise) for any direct, indirect, or consequential loss or damage, howsoever caused (other than death or personal injury resulting from the Seller's negligence) suffered by the Buyer or liabilities to third parties incurred by the Buyer as a result of any defect in the Goods under clause 5 or anything done or omitted to be done by the Seller
 - 9.5 In the event of any breach of this contract by the Seller the remedies of the Buyer shall be limited to damages. Under no circumstances shall the liability of the Seller exceed the Price of the Goods.
10. **PROPER LAW OF CONTRACT**

This contract is subject to the law of England and Wales and all parties accept the exclusive jurisdiction of the Courts of England.
11. **MISCELLANEOUS**
 - 11.1 All goods sold in retail packing may be resold by the Buyer only in the packaging supplied by the Seller and in no case may any trade mark other than those applied by the Seller be marked on or applied in relation to the Goods.
 - 11.2 No right of licence is granted under this contract of sale to the Buyer under any patent, trademark, copyright, registered design or other intellectual property right except the right to use or resell the Goods.
12. **NOTICES**

Any notice required to be served pursuant to this contract of the sale shall be in writing and served first class post or by hand on the Seller at its registered office or such other address as the Seller may from time to time notify to the Buyer and on the Buyer at the Buyer's registered office or principal place of business.
13. **INSOLVENCY**

If the Buyer fails to make payment for the Goods in accordance with this contract of sale or commits any other breach of this contract of sale or if any distress execution shall be levied upon any of the Buyer's goods or if the Buyer offers to make any arrangement with its creditors or commits an act of bankruptcy or if any petition in bankruptcy is presented against the Buyer or the Buyer is unable to pay its debts as they fall due or if being a limited company any resolution or petition to wind up the Buyer (other than for the purpose of amalgamation or reconstruction without insolvency) shall be passed or presented or if a Receiver Administrator Administrative Receiver or manager shall be appointed over the whole or any part of the Buyer's business or assets or if the Buyer shall suffer any analogous proceedings under foreign law all sums outstanding in respect of the Goods shall become payable immediately. The Seller may in its absolute discretion and without prejudice to any other rights which it may have:
 - 13.1 suspend all future deliveries of Goods to the Buyer and/or terminate the Contract without liability upon its part, and /or
 - 13.2 exercise any of its rights pursuant to clause 8.
14. **SET OFF AND COUNTER-CLAIM**

The Buyer may not withhold payment of any invoice or other amount due to the Seller by reason of any right of set-off or counter claim which the Buyer may have or allege to have or for any reason whatever.
15. **BACK ORDERS**

The Seller shall be entitled to a general lien on all Goods of the Buyer in the Seller's possession (including Goods of the Buyer which have been paid for) for the unpaid price of all goods sold to the Buyer by the Seller under this or any other contract.
16. **ARBITRATION**

Any dispute or question in relation to these conditions shall be referred to a single arbitrator to be agreed, or, failing agreement, to be appointed by the President for the time being of the Chartered Institute of Arbitrators and every such reference shall be deemed to be reference to arbitration within the meaning of The Arbitration Act 1950 or any statutory modification or re-enactment thereof.