

UNITED BRANDS (CORPORATION) LTD. ("The Seller")

CONDITIONS OF SALE

1. APPLICATION

1.1 These Conditions alone shall govern and be incorporated in every contract for the sale of goods made by or on behalf of the Seller with any customer ("the Buyer"). They shall apply in place of and prevail over any terms or conditions. (Whether or not in conflict or inconsistent with these Conditions), contained or referred to in any documentation submitted by the Buyer or in correspondence or elsewhere or implied by trade custom, practice or course of dealing unless specifically excluded or varied in writing by a director or other authorised representative of the Seller and any purported provisions to the contrary are hereby excluded or extinguished.

1.2 Acceptance by the Buyer of delivery of the goods shall (Without prejudice to Condition 2 or any other manner in which acceptance of these Conditions may be evidenced) be deemed to constitute unqualified acceptance of these Conditions.

1.3 If, subsequent to any contract of sale which is subject to these Conditions, a contract of sale is made with the same Buyer without reference to any conditions of sale or purchase, such contract however made shall be deemed to be subject to these Conditions.

2. QUOTATIONS AND ACCEPTANCE

2.1 A quotation by the Seller does not constitute an offer and the Seller reserves the right to withdraw or revise the same at any time prior to the Seller's acceptance of the Buyer's order.

2.2 The Seller's acceptance of the Buyer's order (including telephone orders) shall be effective only where such acceptance is made on the Seller's printed Order Acceptance form duly countersigned by an authorised representative of the Seller.

3. PRICES

3.1 The prices payable for the goods shall be those set out in the Seller's list prices current at the time of despatch. The Seller shall have the right at anytime to withdraw any discount from its normal prices and/or to revise prices to take account of inflation and/or increases in costs (including without limitation) costs of any goods materials carriage labour or overheads the increase or imposition of any tax duty or other levy and any variation in exchange rates.

3.2 Unless otherwise specified VAT and any other tax or duties payable by the Buyer shall be added to the price.

3.3 Subject to Condition 4 any discount allowed to the Buyer shall be marked on the front of the Order form.

4. TERMS OF PAYMENT

4.1 Payment of invoices shall unless otherwise agreed in writing be made in full without any deduction or set-off within 28 days of the date of the invoice. Time of payment shall be of the essence of all contracts between the Buyer and the Seller to which these Conditions apply. The Seller reserves the right to suspend the provision of goods to the Buyer where any amounts are overdue under any contract with the Buyer until all such amounts have been paid.

4.2 Any extension of credit allowed to the Buyer may be changed or withdrawn at any

4.3 Interest shall be payable on overdue accounts at the rate of 2% per month to run from the due date for payment until receipt by the Seller of the full amount whether before or after judgment.

4.4 If in the opinion of the Seller the credit-worthiness of the Buyer shall have deteriorated or prior to delivery of the goods the Seller may require full or partial payment of the price prior to such delivery or the provision of security for payment by the Buyer in a form acceptable to the Seller.

4.5 Notwithstanding any purported contrary appointment by the Buyer all payments made by the Buyer to the Seller shall be apportioned first to goods which have been resold by the Buyer and to goods which remain in the possession or under the control of the Buyer.

4.6 If there is no other indebtedness and payment is made within 7 days of the date of invoice the Seller will allow the Buyer a discount of 1% of the net invoice value.

5. DELIVERY

5.1 Delivery or despatch dates mentioned on any quotation, order acceptance form or elsewhere are approximate only and not of any contractual effect and the Seller shall not be under any liability to the Buyer in respect of any failure to deliver on any particular date or dates. Time for delivery shall not be of the essence of any contract to which these Conditions apply and shall not be made so by the service of any notice.

5.2 Delivery shall be at the Buyer's premises unless otherwise stipulated or agreed by the Seller. The cost of delivery shall be included in the price but the Seller shall make an additional charge for delivery in the United Kingdom otherwise than by its normal carrier or for express delivery. The Buyer shall be solely responsible for unloading of goods at the point of delivery. Unless agreed in writing the Buyer shall unload and inspect the goods immediately on their arrival at the Buyer's premises. The Buyer shall indemnify the Seller against any and all claims liabilities costs or expenses arising as a result of the Seller or its sub-contractors assisting the Buyer in the unloading, loading or other removal of the goods from the point of delivery.

5.3 If the Buyer refuses or fails to take delivery of goods tendered in accordance with the contract or fails to take any action necessary on its part for delivery and/or shipment of the goods the Seller shall be entitled to terminate the contract with immediate effect, to dispose of the goods as the Seller may determine, and to recover from the Buyer any loss and additional costs incurred as a result of such refusal or failure (including without limitation storage costs from the due date of delivery).

5.4 Unless otherwise expressly agreed the Seller may effect delivery in one or more instalments. Where delivery is affected by instalments each instalment shall be treated as a separate contract governed by these Conditions.

6. RISK

6.1 Risk for the goods shall pass on delivery.

6.2 Any property of the Buyer in or under the Seller's possession or control and all property supplied to the Seller on behalf of the Buyer shall be held by the Seller at the Buyer's risk.

6.3 From the time of delivery until property in the goods passes to the Buyer in accordance with Condition 7 the Buyer shall insure the goods for their full value with a reputable insurance office. Upon request, the Buyer shall use reasonable endeavours to have the Seller's interest in the goods noted on the insurance policy. Until property in the goods passes to the Buyer the Buyer shall hold the proceeds of any claim on such insurance policy on trust for the Seller and shall forthwith account to the Seller with such proceeds.

7. TITLE

7.1 Notwithstanding delivery and passing of risk, the goods shall remain the property of the Seller until such time as the Buyer shall have paid to the Seller the agreed price (together with any accrued interest) (and all other amounts owed by the Buyer to the Seller in respect of any other contract for the sale of goods).

7.2 Until property in the goods has passed the Buyer shall be in possession of the goods in a fiduciary capacity and shall:-

(a) not part with possession of the goods otherwise than in accordance with Condition 7.6;

(b) take proper care of the goods and take all reasonable steps to prevent any damage to or deterioration of them;

(c) keep the goods free from any charge, lien or other encumbrance and store the goods in such a way to show clearly that they belong to the seller.

(d) Notify the Seller forthwith upon the happening of any of the events set out in Condition 15.1; and

(e) Give the Seller such information relating to the goods as the Seller may from time to time require.

The Seller reserves the right to repossess and re-sell any goods to which it has retained title and the Seller's consent to the Buyer's possession of the goods and any right the Buyer may have to possession of the goods shall in any event cease:-

(a) if any sum owed by the Buyer to the Seller (whether in respect of the goods or otherwise) is not paid to the Seller by the date when it is due; or

(b) upon the happening of any of the events set out in Condition 15.1; or

(c) if the Buyer commits a breach of any contract with the Seller.

7.4 The Buyer hereby grants an irrevocable right and licence to the Seller and its servants and agent to enter upon all or any of the Buyer's premises with or without vehicles during normal business hours for the purpose of inspecting and/or re-possessing goods to which it has retained title. This right and licence shall continue to subsist notwithstanding the termination for any reason of any contract which is subject to these Conditions and is without prejudice to any accrued rights of the Seller under such contracts or otherwise.

7.5 The Buyer is licensed by the Seller to process goods to which the Seller has retained title in such fashion as it may wish and/or to incorporate them in or with any other products subject to the express condition that the new product or products or any other chattel whatsoever containing any part of the said good shall become the property of the Seller and shall be separately stored and marked by the Buyer to show clearly that they belong to the Seller. The Seller shall hold the new product or products as trustee for itself and the Buyer and the Seller's interest as a beneficiary of the trust shall be equal to the total of all amounts owing by the Buyer to the Seller under any contract for the sale of goods.

7.6 Whilst the Buyer is in possession of the goods with the Seller's consent (but not otherwise) the Buyer may in the ordinary course of its business sell the goods provided that:-

(a) as between the Buyer and its sub-buyer or customer the Buyer shall sell the goods as principal and the Buyer shall not and shall not be empowered to commit the Seller to any contractual relationship with or liability to the sub-buyer or customer or any other person;

(b) as between the Seller and the Buyer, the Buyer shall sell the goods in a fiduciary capacity as agent for the Seller; and

(c) notwithstanding any agreed period of credit for payment of the price of the goods the Buyer shall pay the proceeds of such sales to the Seller forthwith upon receipt.

The Buyer acknowledges that as a consequence of its fiduciary relationship with the Seller it is under a common law duty to the Seller to hold the proceeds of any such sales on trust for the Seller and not to mingle such proceeds with any other monies of pay them into an overdrawn bank account, such common law duty being unaffected by and wholly independent of the terms of these Conditions:-

7.7 The Buyer agrees immediately upon being so requested by the Seller to assign to the Seller all rights and claims which the Buyer may have against its sub-Buyers or customers arising from such sales until payment is made in full as stated above.

7.8 Notwithstanding the provisions of this Condition 7 the Seller shall be entitled to bring an action against the Buyer for the price of the goods in the event of non-payment by the Buyer by the due date even though property in the goods has not passed to the Buyer and/or shall have the right by notice to the Buyer at any time after delivery to pass property in the goods to the Buyer as from the date of such notice.

8. VARIATIONS IN QUANTITY

The Seller shall be deemed to have fulfilled its contractual obligations in respect of any delivery even though the quantity may be up to 20% more or less than the quantity specified in the contract and in such event the Buyer shall pay for the actual quantity delivered.

9. THIRD PARTY RIGHTS

9.1 The Buyer shall indemnify the Seller against any and all claims liabilities costs and expenses incurred by or made against the Seller as a direct or indirect result of the carrying out of any work required to be done on or to the goods in accordance with the requirements of specifications of the Buyer involving any infringement or alleged infringement of any rights of any third party.

9.2 The Buyer shall notify the Seller forthwith of any claim made or action brought or threatened alleging infringement of the rights of any third party. The Seller shall have control over and shall conduct any such proceedings in such manner as it shall determine. The Buyer shall provide all such reasonable assistance as the Seller may request.

10. LIABILITY

10.1 The Seller shall not be liable to the Buyer-

(a) for non-delivery unless a written claim is received by the Seller within 7 days from the date of the Seller's invoice or advice note, whichever is the earlier;

(b) for shortages in quantity delivered in excess of those permitted by Condition 8 unless the Buyer notifies the Seller of any claim for short delivery within 48 hours of receipt of any goods;

(c) for damage to or loss of the goods or any part of them in transit (where the goods are carried by the Seller's own transport by a carrier on behalf of the Seller) unless the Buyer shall notify the Seller of any such claim within 48 hours of receipt of the goods or the scheduled date of delivery whichever shall be the earlier;

(d) for defects in the goods caused by fair wear and tear, abnormal or unsuitable conditions or storage or use or any act, neglect or default of the Buyer or of any third party;

(e) for other defects in the goods unless notified to the Seller within 1 month of receipt of the goods by the Buyer or where the defect would not be apparent on reasonable inspection within 6 months of delivery.

10.2 Where liability is accepted by the Seller under Condition 10.1 the Seller's only obligation shall be at its option to make good any shortage or non-delivery and/or as appropriate to replace or repair any goods found to be damaged or defective and/or to refund the cost of such goods to the Buyer.

10.3 The Seller shall not be liable for any loss, damage or liability of any kind suffered by any third party directly or indirectly caused by repairs or remedial work carried out without the Seller's prior written approval and the Buyer shall indemnify the Seller against any and all claims and costs arising on; of such claims to the extent that such repairs or remedial work have been performed by the Buyer or its agents.

10.4 The Seller's aggregate liability to the Buyer whether for negligence, breach of contract, misrepresentation or otherwise shall in no circumstances exceed the cost of the defective, damaged or undelivered goods which give rise to such liability as determined by net price invoiced to the Buyer) in respect of any occurrence or series of occurrences.

Subject to this Condition 10:-

(a) All conditions warranties and representations expressed or implied by statute common law or otherwise in relation to the goods are hereby excluded;

(b) The Seller shall be under no liability to the Buyer for any loss damage or injury, direct or indirect, resulting from defects in design, materials or workmanship or otherwise howsoever arising (and whether or not caused by the negligence of the Seller its employees or agents);

(c) The Seller shall have no liability for any indirect or consequential losses or expenses suffered by the Buyer, however caused, and including without limitation loss of anticipated profits, goodwill, reputation, business receipts or contracts, or losses or expenses resulting from third party claims.

10.5 The Seller's prices are determined on the basis of the limits of liability set out in this Condition. The Buyer may be given written notice to the Seller request the Seller to agree a higher limit of liability provided insurance cover can be obtained for such higher limit. The Seller shall effect insurance up to such limit and the Buyer shall pay upon demand the amount of any and all premiums. The Buyer shall pay upon demand the amount of any and all premiums. The Buyer shall disclose such information as the insurers shall require. In no case shall the Buyer be held to recover from the Seller more than the amount received from the insurers.

11. SPECIFICATIONS AND CONFIDENTIALITY

11.1 Unless expressly agreed in writing by the Seller all drawings, designs, specifications and particulars of weights and dimensions submitted by the Seller are approximate only and the Seller shall have no liability in respect of any deviation from them.

11.2 The Seller accepts no responsibility for any errors omissions or other defects in any drawings, designs or specifications not prepared by the Seller and the Seller shall be indemnified by the Buyer against any and all claims liabilities costs and expenses incurred by the Seller arising from them

11.3 Corrections to goods required by the Buyer following inspection and approval of proofs by the Buyer shall be at the Buyer's expense and will be charged for separately.

11.4 All drawings, designs, specifications and information submitted by the Seller shall be treated as confidential and shall not be disclosed to any third party without the Seller's written consent or used by the Buyer other than for purposes authorised by the Seller.

12. PACKAGING

12.1 The Buyer shall meet the cost any special packaging requested by the Buyer or any packaging rendered necessary by delivery by any means other than the Seller's normal means of delivery. The Buyer shall unless otherwise agreed be held solely responsible for the disposal of all packaging in accordance with all regulations (whether statutory or otherwise) relating to the protection of the environment.

12.2 The Seller shall be entitled to invoice the Buyer for the cost of all pallets and other returnable packaging material unless the same are returned to the Seller in good condition carriage paid within 28 days of the date of delivery.

13. FORCE MAJEURE

13.1 The Seller shall not be liable to the Buyer for any loss or damage which may be suffered by the Buyer as a direct or indirect result of the supply of goods by the Seller being prevented hindered delayed NACE or rendered uneconomic by reason of circumstances or event beyond the Seller's reasonable control ("force majeure circumstances") including but not limited to act of God war riot strike lock-out trade dispute or labour disturbance accident breakdown of plant or machinery fire flood storm difficulty or increased expense in obtaining workmen materials or transport or other circumstances affecting the supply of the goods or of raw materials by the Seller's normal source of supply or the manufacture of the goods by the Seller's normal means or the delivery of the goods by the Seller's normal route or means of delivery.

13.2 In force majeure circumstances the Seller may in its sole discretion terminate any contract for the supply of goods pursuant to these Conditions or cancel delivery of goods to the Buyer or may, with the agreement if the Buyer, deliver good at an agreed rate of delivery commencing after any suspension of deliveries.

13.3 If due to force majeure circumstances the Seller has insufficient stocks to meet all its commitments the Seller may apportion available stocks between its customers at its sole discretion.

14. SAMPLES

Any sample supplied to the Buyer are supplied solely for information and in no way import any express or implied conditions or warranties as to quality, description, fitness for purpose suitability or quantity and the Buyer shall be deemed to have satisfied itself as to such matters prior to ordering goods.

15. TERMINATION

15.1 If the Buyer (being an individual) enter into a voluntary arrangement or if a petition is presented for the making of a bankruptcy order against him or if he compounded with his creditors or if (Being a company) an application for an order is made or a resolution is passed for the winding-up of the Buyer otherwise than for the purposes of amalgamation or reconstruction previously approved in writing by the Seller) or if a meeting is called to approve the appointment of a liquidator to the Buyer or if a petition is presented to the Court for the appointment of a liquidator to the Buyer or if a receiver, manager, administrative receiver or an administrator is appointed or a petition is presented to the Court for the appointment of an administrator to the Buyer or over any part of the Buyer's undertaking or if circumstances arise which might entitle the Court or a creditor of the Buyer to appoint a receiver, manager, administrative receiver or administrator or which might entitle the Court to make a winding-up order or if the Buyer takes or suffers any similar or analogous action in consequence of debt or commits a breach of any contract between the Seller and the Buyer the Seller may without prejudice to any of its other rights stop any goods in transit and/or suspend further deliveries to the Buyer and/or exercise its rights under Condition 7 and/or by notice in writing by the Buyer terminate any contact with the Buyer.

15.2 Upon termination of any contacts pursuant to Condition 15.1 any indebtedness of the Buyer to the Seller shall become immediately due and payable and the Seller shall be relieved of any further obligation to supply any goods to the Buyer pursuant to such

16. ASSIGNMENT

None of the rights or obligations of the Buyer under these Conditions may be assigned or transferred in whole or in part without the prior written consent of the Seller.

17. LIEN

The Seller shall be entitled to a general lien on all goods and property owned by the Buyer in the Seller's possession (although the Buyer may have paid for the same in full) in satisfaction of the whole or part as the case may be of the unpaid price of any goods sold and delivered to the Buyer under any contract. The Seller shall be entitled to offset any sum or sums owing to it the Buyer against any sums owed by the Buyer to the Seller.

18. WAIVER

Failure by the Seller to exercise or enforce any rights under any contract subject to these Conditions shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of such right at any time thereafter.

19. NOTICES

Any notice hereunder shall be in writing and be deemed to have been duly given if delivered personally or sent by pre-paid first class post (airmail) to an address outside the United Kingdom) or telefax to the party concerned at its last known address. Notices delivered personally shall be deemed to have been given when delivered, notice sent by first class post shall be deemed to have been given seven days after despatch (fourteen days if given by airmail) HP notices sent by telefax shall be deemed to have been given on the date of despatch.

20. GOVERNING LAW

Any contract to which these Conditions apply shall be governed by and construed in accordance with the Laws of England and the parties hereby submit to the exclusive jurisdiction of the English Courts.