

## GENERAL TERMS AND CONDITIONS OF SALE

**1. Definitions.** Capitalized terms used but not defined herein have the following meanings:

a. "**Agreement**" means any offer, proposal, bid, quotation, purchase order, confirmation, or agreement regarding the sale of Goods or provision of Services.

b. "**Goods**" means any goods sold by Umicore to Buyer pursuant to or in connection with an Agreement, including, without limitation, stationary catalysts and all equipment, parts, and materials related thereto.

c. "**Services**" means any services provided by Umicore for or at the direction of Buyer pursuant to or in connection with an Agreement, including, without limitation, design, installation, inspection, engineering, testing, and sampling services.

d. "**Terms**" means these General Terms and Conditions of Sale.

e. "**Umicore**" means Umicore Catalyst USA, LLC.

**2. Applicability and Entire Agreement.** These Terms apply to and are incorporated into any Agreement to which the Terms are attached or referenced, as though the Terms were fully set forth in such Agreement. Together with the Agreement, these Terms: (i) constitute the entire agreement between you ("**Buyer**") and Umicore for the sale of Goods and provision of Services; (ii) supersede all prior or contemporaneous understandings, discussions, proposals, negotiations, representations, warranties, agreements, and communications, both written and oral, regarding the same; and (iii) exclude any terms or conditions provided by Buyer, which will be null and void and of no force. THE SALE OF ANY GOODS AND PROVISION OF ANY SERVICES BY UMICORE IS SUBJECT TO, EXPRESSLY LIMITED TO, AND EXPRESSLY CONDITIONED UPON BUYER'S ACCEPTANCE OF THESE TERMS. IF THERE IS A DISCREPANCY BETWEEN THE AGREEMENT AND THESE TERMS, THEN THESE TERMS PREVAIL TO THE EXTENT OF THE DISCREPANCY UNLESS OTHERWISE STATED IN THE AGREEMENT. ANY TERMS OR CONDITIONS SUBMITTED BY BUYER TO UMICORE THAT ARE INCONSISTENT WITH, DIFFERENT THAN, OR ADDITIONAL TO THESE TERMS ARE HEREBY REJECTED. Fulfillment of Buyer's purchase order does not constitute acceptance of Buyer's terms or conditions and does not modify or amend these Terms. Any amendment to or modification of these Terms or the Agreement will be null and void and of no force unless it is: (i) in writing; (ii) signed by a duly authorized representative of Umicore; (iii) expressly refers to the specific section of the Terms or Agreement to be amended; and (iv) expressly indicates Umicore's agreement to amend such specific section referred to therein.

**3. Orders.** All proposals, bids, and quotations provided by Umicore are non-binding and subject to change. All purchase orders, awards, and confirmations provided by Buyer, even if submitted pursuant to a proposal, bid, or quotation, shall be void and of no force unless signed by a duly authorized representative of Umicore. Once accepted, all orders are non-cancellable.

### 4. Delivery and Acceptance.

a. **Goods.** Unless otherwise set forth in the Agreement, all Goods will be delivered FCA Umicore's facility in Pasadena, Texas (Incoterms® 2010). Umicore reserves the right to cause Goods to be shipped from an affiliate's facility and risk of loss passes to Buyer upon shipment. Each delivery constitutes a separate sale. All delivery times set forth in the Agreement are non-binding estimates, and Buyer may not reject Goods or be entitled to a reduction in price because Goods are delivered outside of such times. Buyer shall inspect all Goods within five (5) business days of their receipt and provide Umicore with written Notice of acceptance or rejection. If Buyer fails to provide Umicore with such Notice, then Goods will be deemed accepted by Buyer "AS IS."

b. **Services.** Umicore shall use reasonable efforts to provide the Services pursuant to the schedule set forth in the Agreement. Any such schedule is a non-binding estimate and Buyer may not reject Services or be entitled to a reduction in price because Services are provided outside of such schedule. Unless otherwise set forth in the Agreement, Umicore may subcontract the provision of the Services. To enable Umicore to provide the Services, Buyer shall: (i) provide Umicore with reasonable access to Buyer's facilities, equipment, and personnel; (ii) promptly respond to any request for information, approvals, authorizations, or decisions reasonably necessary to provide the Services; and (iii) promptly notify Umicore of any dangerous, operational, or special conditions that may affect the provision of the Services.

**5. Independent Contractor.** Umicore is an independent contractor with respect to the Services performed by Umicore, and neither Umicore nor anyone engaged or employed by Umicore is deemed, for any purposes, to be the agent or employee of Buyer. Buyer has no direction or control of Umicore or its employees, and is interested only in the results to be obtained.

**6. Price and Transfer of Title.** Unless otherwise set forth in the Agreement, the price of Goods and Services excludes all taxes, duties, fees, travel expenses, and other charges, which are the responsibility of Buyer. If Umicore is required to collect or pay any such taxes, duties, fees, travel expenses, or charges upon the sale of Goods or provision of Services, then Umicore may add such amounts to the price and they will be paid by Buyer. Title to Goods will transfer from Umicore to Buyer upon shipment. Buyer assumes all risk and liability for, and hereby agrees to indemnify and hold Umicore harmless from and against, all losses, liabilities, damages, and claims whatsoever (whether for personal injury, property damage, or otherwise) arising out of the transportation, unloading, storage, handling, or use of any Goods after title passes.

**7. Payment Terms.** Unless otherwise set forth in the Agreement, Buyer shall pay, in U.S. Dollars, for Goods and Services within thirty (30) days of the date of the applicable invoice. If Buyer's creditworthiness changes, then Umicore may demand advance payment for Goods and Services or other means of financial security, including a letter of credit. In addition to any other legal remedy, if Buyer is in default, then Umicore may cancel all further deliveries of Goods to Buyer and cease all Services. Buyer shall make all payments unconditionally and without any setoff, recoupment, counterclaim, or withholding of payment of any fees due and payable under the Agreement by reason of any claim or dispute with Umicore, applicable law, or otherwise. All past-due amounts will incur interest at the lesser of one percent (1%) per month or the highest rate permissible under Texas law. Buyer shall be responsible for all costs and expenses incurred by Umicore, including, without limitation, attorneys' fees, in connection with collecting such amounts.

**8. Security Interest.** To secure payment of the purchase price of the Goods, and Buyer's performance under the Agreement and these Terms, Buyer hereby pledges and grants to Umicore a continuing lien on, and purchase-money security interest ("**Security Interest**") in and to, all of Buyer's right, title, and interest in, to, and under the following collateral, wherever located and whether now existing or later acquired: (i) all Goods; (ii) all products, goods, work-in-process, inventory, and other personal property of every kind and nature manufactured, produced, or incorporating the Goods; (iii) all instruments, promissory notes, chattel paper, letters of credit, letter-of-credit rights, money, general intangibles, including payment intangibles, and all other contract rights arising from each of the foregoing; and (iv) all proceeds, products, profits, and income from each of the foregoing, including insurance proceeds. Buyer hereby authorizes Umicore to prepare and file financing statements, and any amendments thereto, in all jurisdictions that Umicore deems necessary to perfect and maintain perfection of the Security Interest, without Buyer's signature. If the Goods are combined or commingled with other goods to produce new products, then the Security Interest extends to such products and Buyer hereby assigns to Umicore all of Buyer's right, title, and interest in and to such products.

**9. Termination.** Unless otherwise set forth therein, Buyer may not terminate the Agreement. If Buyer terminates the Agreement, then Buyer shall reimburse Umicore for all costs and expenses incurred by Umicore as a result of performing the Agreement prior to the date of termination. Such costs and expenses may include, without limitation, materials, labor, production costs, and travel expenses. In addition to any remedies that may be provided under these Terms, Umicore may terminate the Agreement with immediate effect upon written Notice to Buyer if Buyer: (i) fails to pay any amount when due under the Agreement; (ii) has not otherwise performed or complied with any of these Terms, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

**10. Warranty.** Umicore hereby warrants to Buyer that upon delivery: (i) the Goods will be free from defects in materials and workmanship, materially comply with the specifications set forth in the Agreement (or if no specifications are set forth in the Agreement, then Umicore's printed specifications), and function in accordance with any process conditions and criteria set forth in the Agreement; and (ii) the Services will be performed in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services (collectively, the "**Warranty**"). Unless otherwise set forth in the Agreement, the Warranty expires upon the earlier of twelve (12) months after the installation of the Goods or eighteen (18) months after the delivery of the Goods or inception of the Services, as applicable (the "**Warranty Period**"). With respect to Goods, Umicore's sole and entire liability, and Buyer's sole and exclusive remedy, for any breach of the Warranty is, at Umicore's sole option, repair or replacement of the non-conforming Goods or reimbursement of that portion of the purchase price attributable to such non-conformance. With respect to Services, Umicore's sole and entire liability, and Buyer's sole and exclusive remedy, for any breach of the Warranty is, at Umicore's sole option, re-performance or re-provision of the applicable Services, or refund of the price of the applicable Services. Unless otherwise set forth in the Agreement, Buyer must provide written Notice to Umicore of any claim under the Warranty, specifying the particular non-conformance, within fifteen (15) days after Buyer becomes aware of the alleged breach of Warranty or such claim will be deemed to

be barred and waived. The Warranty **DOES NOT COVER** Goods that: (a) have been subject to process, use, or environmental conditions other than those set forth in the Agreement; (b) have been handled, stored, installed, or maintained, including tasks incident thereto, in a manner inconsistent with the recommendations of Umicore or, in the absence of such recommendations, in accordance with generally accepted practices in the industry; (c) have been altered without Umicore's prior written consent; or (d) based on Umicore's examination, do not disclose to Umicore's satisfaction non-conformance. **UMICORE HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED AND WHETHER ARISING BY OPERATION OF LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USE OF TRADE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.**

**11. Disclaimer of Damages and Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, UMICORE HEREBY DISCLAIMS ALL, AND SHALL NOT BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY, SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, ENHANCED, OR PUNITIVE DAMAGES, LOST PROFITS OR REVENUES, OR DIMINUTION IN VALUE, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING OUT OF THE DELIVERY, NON-DELIVERY, SALE, RESALE, OR USE OF THE GOODS OR SERVICES, LOST PROFITS, OR PRODUCTION DOWNTIME, WHETHER BASED ON CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY, OR OTHERWISE, AS A RESULT OF THE AGREEMENT OR THESE TERMS, EVEN IF: (A) SUCH DAMAGES WERE FORESEEABLE; OR (B) UMICORE HAS BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. UMICORE'S MAXIMUM LIABILITY UNDER THE AGREEMENT AND THESE TERMS WILL NOT EXCEED THE PURCHASE PRICE OF THE GOODS OR SERVICES FOR WHICH ANY CLAIM IS MADE.

**12. Severability and Assignment.** If any provision of the Agreement or these Terms is deemed by a court of competent jurisdiction to be invalid or unenforceable, then such provision will be severed from the Agreement or these Terms, as applicable, and have no effect on the remaining provisions. Buyer may not assign its rights or delegate any of its obligations under the Agreement or these Terms without the prior written consent of Umicore. Any such assignment or delegation will be null and void. Umicore may assign any of its rights or obligations under the Agreement or these Terms to any subsidiaries or affiliates or in connection with the sale of all or substantially all of this business or assets.

**13. Intellectual Property.** Umicore hereby grants to Buyer a limited, perpetual, world-wide, royalty-free, fully paid-up, non-exclusive license to use the Goods and benefit from the Services as specifically set forth in the Agreement ("License"). Except for the License, Umicore does not grant to Buyer, and Buyer does not acquire from Umicore, any right, title, or interest in, to, or under any intellectual property owned or licensed by Umicore, regardless of whether such intellectual property is incorporated into the Goods or Services. All such intellectual property will remain the property of Umicore. Without Umicore's prior written consent, Buyer shall not, directly or indirectly: (i) reverse engineer any Goods; (ii) file any patent application based on the Goods; or (iii) challenge or attempt to invalidate any of Umicore's intellectual property associated with the Goods.

**14. Insurance.** Buyer shall, at its sole cost and expense, procure and maintain policies of insurance providing, at a minimum, the following coverages and limits with carriers acceptable to Umicore: (i) commercial general liability insurance identifying Umicore as an additional insured, covering bodily injury, death, personal and advertising injury, and property damage from premises, operations, independent contractors, products, and completed operations, with limits of at least \$2 million per occurrence and \$5 million in the aggregate; and (ii) workers compensation insurance with limits not less than the statutory limits for the state in which the Goods are to be used and the Services are to be performed. Except as prohibited by applicable law, all such policies must waive subrogation against Umicore and its parent companies and affiliates, including their respective members, managers, directors, officers, and employees. At Umicore's request, Buyer shall provide Umicore with certificates of insurance evidencing such coverage. Buyer shall provide Umicore with at least thirty (30) days' prior written Notice of a cancellation or material change in Buyer's insurance.

**15. Confidentiality.** Buyer shall not release or publish to any third party, whether orally or in writing, the Agreement or any specifications, designs, drawings, data, or other information provided by Umicore, whether written, oral, electronic, graphic or otherwise, related to the Goods, Services, or the Agreement.

**16. Setoff.** Umicore may, without prejudice to its other rights and remedies, setoff any liability that Umicore owes to Buyer against any liability that Buyer owes to Umicore, regardless of whether such liability is matured or liquidated.

**17. Force Majeure.** Umicore shall be excused from its obligations under the Agreement to the extent prevented by circumstances beyond its reasonable control, including, without limitation, fire, flood, natural disaster, change in applicable law, difficulty sourcing raw materials, war, equipment breakdown, strike, lockout, labor dispute, and interruption in utilities or transportation.

**18. Compliance.** Buyer shall handle, store, process, use, and transfer Goods in compliance with all applicable: (i) safety information provided by Umicore; and (ii) laws, rules, and regulations, including, without limitation, those regarding environmental health and safety. Buyer hereby represents to Umicore that Buyer: (a) is a sophisticated consumer and possesses all requisite skill and expertise

necessary to handle, store, process, use, and transfer the Goods, which may contain toxic, hazardous, or otherwise dangerous substances; and (b) has all necessary licenses, certificates, permits, and consents required to use the Goods and have the Services provided.

**19. Governing Law and Venue.** The construction, interpretation, and performance of the Agreement and these Terms is governed by the laws of the State of Texas without regard to its conflict-of-law principles. Texas Civil Practice & Remedies Code Chapter 38 will not apply to any dispute under the Agreement or these Terms and neither party may recover attorney's fees, expenses, or costs relating to any dispute arising out of the Agreement or these Terms. Any claim or controversy arising out of the Agreement or these Terms must be brought exclusively in a court of competent jurisdiction located in Harris County, Texas. Buyer hereby waives any and all defenses that it may have regarding such jurisdiction or venue.

**20. Changes.** Umicore shall have no liability to Buyer for any costs, lost profits, or other damages resulting from any design or specification change or product discontinuance. If Buyer desires product changes, then Buyer must submit a written request to Umicore for consideration. Within a reasonable period thereafter, Umicore shall notify Buyer of its acceptance or rejection of Buyer's request. If accepted, Umicore shall provide Buyer with its charges for the product change and a proposed implementation date.

**21. Government Approvals.** Each party is responsible for complying with and obtaining any approvals and/or permits as may be required under national, state, and local laws, ordinances, regulations, and rules and as may be applicable to the performance of their respective responsibilities and obligations under this Agreement.

**22. No Waiver.** No waiver by Umicore of any of the provisions of the Agreement or these Terms is effective unless explicitly set forth in writing and signed by Umicore. No failure to exercise, or delay in exercising, any right, remedy, power, or privilege arising from the Agreement or these Terms operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. No failure to insist upon strict performance of any term or condition set forth herein will be deemed a waiver of any rights or remedies that Umicore may have and will not be deemed a waiver of any subsequent breach of the same or any other term or condition hereof.

**23. No Third-Party Beneficiaries.** The Agreement is for the sole benefit of the parties thereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or confers upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever.

**24. Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "Notice") must be in writing and addressed to the parties at the addresses set forth in the Agreement or to such other address that may be designated by the receiving party in writing. All Notices must be delivered by personal delivery, recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in the Agreement, a Notice is effective only: (i) upon receipt by the receiving party; and (ii) if the party giving the Notice has complied with the requirements of this Section.

**25. Survival.** The following Sections of these Terms survive the expiration or termination of the Agreement: 7 (Payment Terms), 8 (Security Interest), 10 (Warranty), 11 (Disclaimer of Damages and Limitation of Liability); 13 (Intellectual Property), 15 (Confidentiality), 16 (Setoff), 19 (Governing Law and Venue), and 26 (Export Compliance).

**26. Export Compliance.** The Goods, including any software, documentation, and technical data related thereto (collectively, "Controlled Goods"), may be subject to U.S. or Canadian export laws, rules, and regulations ("Export Laws"). Buyer shall not export, re-export, or release any Controlled Goods, directly or indirectly, to any jurisdiction to which, or person to whom, such export, re-export, or release is prohibited by any applicable Export Laws. Buyer shall indemnify, defend, and hold Umicore, including its members, managers, officers, employees, affiliates, successors, and permitted assigns, harmless from and against any breach of this Section by Buyer or any of its shareholders, directors, officers, employees, affiliates, successors, permitted assigns, customers, agents, distributors, resellers, or vendors. It is Buyer's responsibility to obtain any export license or other approvals, and Buyer will complete any documents requested by Umicore prior to exporting, re-exporting, or releasing any Controlled Goods.