

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. Definitions.

**“Deliver”/“Delivery”** means the collecting of Goods by Buyer or if earlier the date on which Buyer is notified that the Goods are ready for collection or if the Goods are to be delivered by Umicore, Umicore’s delivery or (if earlier) tendering delivery of the Goods to the address shown in the order.

**“Goods”** means the chemicals, precious metals and/or the engineering products and packaging (including any instalments of parts for or replacement of them) which Umicore is to supply and/or install (as appropriate) and/or any services which Umicore is to supply in accordance with these Terms (as defined hereinafter).

**“Standard Selling Price”** means (a) in relation to chemical products the price of the product current at the date of Delivery, or (b) in relation to products containing precious metal(s) the price of the product calculated in accordance with our pricing formula at the date of dispatch, or (c) in relation to any other products the price listed in Umicore’s published price list current at the date of Umicore’s acceptance of Buyer’s order.

**2. Applicability.** These General Terms and Conditions of Sale (“**Terms**”) apply to and are incorporated into that quotation, confirmation, or agreement (each the “**Agreement**”) to which they are attached. If there is a discrepancy between the Agreement and these Terms, then the Agreement prevails. Any terms or conditions submitted by you (“**Buyer**”) to Umicore Marketing Services UK Ltd. (“**Umicore**”), which are inconsistent with, different than, or additional to these Terms, are hereby rejected. No conduct by Umicore shall be deemed to constitute acceptance of any terms and conditions put forward by Buyer.

**3. Sales Literature.** Unless otherwise specifically certified in writing all description, illustrations, dimensions, weights or colours in respect of the Goods specified in any of Umicore’s sales literature or brochures are so stated or shown as a general guide or description only and Umicore does not contract or represent that the Goods will comply with any particular detail contained in such sales literature or brochures.

**4. Samples.** Samples are sent solely to enable Buyer to judge the quality of the bulk and shall not render any sale, a sale by sample. All samples shall remain Umicore’s property and are to be returned to Umicore on request.

### 5. Offers and Orders.

**5.1.** Quotations provided by Umicore are not offers, are non-binding and subject to change. All orders provided by Buyer, even if submitted pursuant to a quotation, will only be deemed accepted upon written confirmation by Umicore.

**5.2.** No order which has been accepted by Umicore may be cancelled by Buyer except on terms agreed by Umicore in writing.

### 6. Delivery and Acceptance.

**6.1.** The Goods are those referred to in the Agreement. Unless otherwise set forth in the Agreement, all Goods will be delivered FOB at the air or sea port of shipment (as defined in the Incoterms® 2000) and Umicore shall be under no obligation to give notice under section 32(3) of the Sale of Goods Act 1979. Each such delivery constitutes a separate sale. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment. All delivery times set forth in the

Agreement are only non-binding estimates and Umicore shall not be liable for, or for any consequences flowing from, any delay in Delivery or non-Delivery of the Goods howsoever caused.. Buyer may not reject Goods or be entitled to a reduction in price simply because Goods are delivered outside of such times. Delivery of the Goods may be made by Umicore in advance of a quoted Delivery date upon giving reasonable notice thereof to Buyer.

**6.2.** Failure by Umicore to Deliver any one or more of the instalments in accordance with these Terms or any claim by Buyer in respect of any one or more instalments shall not entitle Buyer to reject any other instalment or otherwise to treat the Agreement as a whole as repudiated.

**6.3.** Unless Umicore has otherwise agreed in writing, if Buyer fails to take Delivery of the Goods, or if Buyer fails to give Umicore adequate Delivery instructions at the time stated for Delivery then without prejudice to any other right or remedy available to Umicore, Umicore shall; (i) store the Goods until actual Delivery and charge Buyer for the reasonable costs (including insurance) of storage, and/or (ii) sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to Buyer for the excess over the price under the Agreement or charge Buyer for any shortfall below the price under the Agreement, and/or (iii) treat the failure to take Delivery of the Goods as a repudiation of the Agreement and terminate the Agreement, while retaining all payments made by Buyer under the Agreement prior to its termination and being entitled to recover damages from Buyer, and/or (iv) Buyer shall be deemed to accept the Goods upon Delivery.

**6.4.** 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.”

### 7. Price and Transfer of Title.

**7.1.** The price for the Goods shall be the quoted price by Umicore. Where no price has been quoted or a quoted price is no longer valid, the price shall be the Standard Selling Price and shall unless otherwise specified in writing by Umicore be exclusive of transportation and packaging costs. Unless otherwise specified in writing by Umicore all prices quoted are valid for thirty (30) days only and are net ex-works and exclusive of VAT. Unless otherwise set forth in the Agreement, the price of Goods excludes all taxes, duties, fees, and other charges, which are the responsibility of Buyer.

**7.2.** Umicore reserves the right to increase the price of the Goods, by giving notice thereof, at any time before Delivery, to reflect any increase in the cost of supplying the Goods which is due to any factor beyond Umicore’s control including any foreign exchange fluctuation, currency regulation, alteration of duties, any change in Delivery dates, quantities or specifications for the Goods requested by Buyer or any delay caused by Buyer’s instructions or Buyer’s failure to give Umicore adequate or timely information or instructions.

**7.3.** Title to Goods will transfer from Umicore to Buyer only upon Buyer’s full, final, and complete payment for such Goods (including any interest accrued in accordance with clause 8.4) and of all or any other monies owing to Umicore by Buyer under

any agreement between Umicore and Buyer together with any VAT payable by Buyer in respect of such payment.

**7.4.** Until such payment is received, Buyer shall ensure that Goods: (i) remain under Buyer's exclusive control and shall only hold the Goods as Umicore's fiduciary agent and bailee; (ii) are clearly marked as belonging to Umicore and are stored separately from all other goods held by the Buyer; (iii) insure the Goods for a sum not less than the full price of the Goods (and any VAT in respect of the price); and (iv) are not incorporated into any other goods or transformed in any manner.

**7.5.** Buyer shall not seek to pledge or in any way purport to charge by way of security for any indebtedness any of the Goods which remain Umicore's property but if Buyer does so all monies owing by Buyer to Umicore shall (without prejudice to any other right or remedy Umicore may have) forthwith become due and payable.

**7.6.** Until such time as the property in and legal title to the Goods passes to Buyer, and provided the Goods are still in existence and have not been resold, Umicore shall be entitled, at any time, to require Buyer to deliver the Goods to Umicore and if Buyer fails to do so forthwith to enter upon any of Buyer's premises at any time and without notice (or those of a third party where the Goods are stored) and repossess the Goods and if necessary to sever the Goods so long as they remain identifiable and retrievable from any other product, land, vehicle or vessel into or onto which they may have been incorporated or attached, provided always that nothing in this clause 7.6 shall confer any right upon Buyer to return the Goods or to refuse or delay payment therefor.

## 8. Payment Terms.

**8.1.** Umicore shall be entitled to invoice Buyer for all sums due under the Agreement on or at any time after Delivery.

**8.2.** Unless otherwise set forth in the Agreement, Buyer shall pay for Goods, as well as any taxes, duties or levies thereon, within thirty (30) days of the date of the applicable invoice by means of cleared sterling funds or in such manners as Umicore may have previously specified in writing. Time of payment of the invoice shall be of the essence of the Agreement.

**8.3.** If Buyer's creditworthiness changes, however, then Umicore may demand: (i) advanced payment for Goods; or (ii) other means of financial security, including a letter of credit. Buyer shall make all payments unconditionally and without any setoff, recoupment, or counter-claim.

**8.4.** If Buyer fails to make a payment within thirty (30) days of the date of the invoice then without prejudice to any other right or remedy available to Umicore, Umicore shall be entitled to (i) cancel the Agreement or suspend any further deliveries to Buyer, (ii) appropriate any payment made by Buyer to such of the Goods (or the Goods supplied under any other agreement made between Umicore and Buyer) as Umicore sees fit (notwithstanding any purported appropriation by Buyer), (iii) charge interest on the amount unpaid at a rate of eight percent (8%) per annum above the Bank of England's official Bank Rate until payment in full is made, such interest being deemed to accrue on a daily basis, (iv) be reimbursed by Buyer of all costs and expenses including legal costs incurred in the collection of any overdue amount, and (v) recover the price whether or not Delivery has taken place and notwithstanding that the property in the Goods has not yet passed to Buyer.

**8.5.** Umicore reserves the right to exercise a lien over all or any of Buyer's goods in Umicore's possession whether or not due payment has been made for such Goods (or work carried out on them) in respect of the unpaid price (together with VAT thereon)

of any Goods or any other monies owing to Umicore under the Agreement or on any other account whatsoever.

## 9. Termination.

**9.1.** Unless otherwise set forth therein, Buyer may not terminate the Agreement. Upon the termination of the Agreement for whatever reason, the 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, raw materials, labour, delivery and production costs.

**9.2.** Without limiting its other rights or remedies, Umicore may terminate this Agreement with immediate effect by giving written notice to the Buyer if:

(a) the Buyer commits a material breach of any term of the Agreement and (if such a breach is remediable) fails to remedy that breach within thirty (30) days of the Buyer 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 fails to pay any amount due under the Agreement within ten (10) days after the due date for payment.

**9.3.** Buyer shall notify Umicore promptly if it becomes subject to any of the provisions in clause 9.2. Without limiting its other rights or remedies, Umicore may suspend provision of the Goods under the Agreement or any other contract between the Buyer and Umicore if the Buyer becomes subject to any of the events listed in clause 9.2(a) to clause 9.2(d), or Umicore 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 Agreement on the due date for payment.

## 10. Limited Warranty.

**10.1.** Umicore hereby warrants to Buyer that the Goods will, at the time of delivery, comply with the applicable specifications. Umicore hereby disclaims and excludes all other warranties, whether express or implied, and all terms implied by statute to the fullest extent permitted by law shall be excluded from the Agreement. In particular, Umicore does not give any warranty regarding the fitness for purpose, performance, use or quality of the Goods and gives no warranty or undertaking that the Goods will not infringe the intellectual property rights of any third party.

**10.2.** Notwithstanding the above warranty, Umicore shall be under no liability for any loss or damage whatsoever;

10.2.1. arising directly or indirectly from any defect in or relating to any drawing, design or specification supplied by Buyer;

10.2.2. in respect of any defect arising from fair wear and tear, willful damage, mechanical damage, negligence, abnormal working, handling or storage conditions, failure to follow Umicore's instructions whether oral or in writing, misuse or alteration or repair of the Goods without Umicore's approval;

- 10.2.3. if the total price for the Goods has not been paid by the due date for payment;
- 10.2.4. if any defect is aggravated by continued use after it ought reasonably to have been discovered ;
- 10.2.5. if the Goods cease to be owned by Buyer and/or to be in Buyer's possession and control;
- 10.2.6. in the event of identification plates, numbers or marks on any of the Goods being altered or removed so that the Goods cannot be identified; and
- 10.2.7. arising directly or indirectly from parts, materials or equipment which are neither manufactured nor assembled by Umicore, in respect of which Buyer shall only be entitled to the benefit of any such warranty or guarantee as is given by the manufacturer of Umicore.

**10.3.** Buyer's sole and exclusive remedy for any breach of the foregoing warranty (including without limitation in respect of latent defects) is, at Umicore's option: (i) replacement of the non-conforming Goods; or (ii) reimbursement of that portion of the purchase price attributable to the non-conforming Goods. Where Umicore opts to repair the Goods, it may discharge its obligation by appointing a third party repairer to carry out the work. Buyer shall provide Umicore with written notice of any latent or hidden defects within five (5) business days of Buyer's discovery of such defects.

**10.4.** If Buyer does not notify Umicore accordingly, Buyer shall not be entitled to reject the Goods and Umicore shall have no liability for such failure and Buyer shall be bound to pay the price as if the Goods have been Delivered in accordance with the Agreement.

#### 11. Limitation of Liability.

**11.1.** Nothing in these Terms shall limit or exclude Umicore's liability for death or personal injury. To the maximum extent permitted by applicable law, Umicore shall not be liable to Buyer for any lost profits or production down-time nor for any consequential, incidental, or indirect damages, including, without limitation, as a result of the Agreement or these Terms, even if Umicore has been informed of the possibility of such damages. Umicore's maximum liability under the Agreement and these Terms is limited to the total charges for Goods paid by the Buyer pursuant to the Agreement during the twelve (12) months immediately preceding the liability or 250.000 £, whichever is higher.

**11.2.** If the Goods are to be manufactured or any process is to be applied to the Goods by Umicore in accordance with a specification or requirement submitted by Buyer, and agreed upon by Umicore, Buyer shall indemnify Umicore against all losses, damages, penalties, costs and expenses awarded against or incurred by Umicore in connection with or paid or agreed to be paid by Umicore in settlement of any claim for infringement of any patent, copyright, design trademark or other industrial or intellectual property rights of any other person which results from Umicore's use of Buyer's specification.

#### 12. Export Terms.

**12.1.** Where the Goods are supplied for export from the United Kingdom, the provisions of this clause 12 shall (subject to special terms agreed in writing between Buyer and Umicore) apply, notwithstanding any other provision of these Terms.

**12.2.** Where the Goods are supplied for export from the United Kingdom, Buyer shall be responsible for:

- 12.2.1. complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties thereon;
- 12.2.2. for arranging for testing and inspection of the Goods at Umicore's premises before shipment. Umicore shall have no liability for any claim in respect of any failure of the Goods to meet the specification which would be apparent on inspection and which claim is made after shipment or in respect of any damage during transit.

**13. Third Party Rights.** The Buyer and Umicore do not intend that any of its terms shall be enforceable as a third party right by any person not a party to it.

**14. 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 further impact on the remaining provisions. Buyer may not assign its rights or assign or delegate any of its obligations under the Agreement or these Terms without the prior written consent of Umicore.

**15. Confidentiality.** Buyer shall treat the Agreement and any confidential information provided by Umicore as confidential and shall not disclose it, or its contents, to any third party without the prior written consent of Umicore.

#### 16. Setoff.

**16.1.** Umicore may at any time, without notice thereof to Buyer, set off any of Buyer's liability to Umicore against any of Umicore's liability to Buyer, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. If the liabilities to be set off are expressed in different currencies, Umicore may convert either liability at a market rate of exchange for the purpose of set-off. Any exercise by Umicore of its rights under this clause shall not limit or affect any other rights or remedies available to Umicore under this Agreement or otherwise.

**16.2.** Buyer shall have no right of set-off statutory or otherwise under the Agreement or on any other account whatsoever.

**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 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.

#### 19. Entire Agreement.

**19.1.** These Terms and the Agreement constitute the entire agreement between the parties relating to its subject matter.

**19.2.** Buyer acknowledges and agrees:

- 19.2.1. not to have entered into the Agreement in reliance upon any representation, warranty or undertaking of any

other party which is not expressly set out or referred to in the Agreement; and

19.2.2. no claim or remedy in respect of misrepresentation (whether negligent or otherwise) or untrue statement made by the other party.

**19.3.** This clause 19 shall not exclude any liability for fraudulent misrepresentation.

**20. Waiver.** No failure or delay by Umicore to exercise any right or remedy provided under these terms or the Agreement or by law shall constitute a waiver of that or any other right or remedy,

**21. Variation.** No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

**22. Notices.** Any notice or other communication given to a party under or in connection with the Agreement 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 or commercial courier.

A notice or other communication shall be deemed to have been received: if delivered personally, when left at the Buyer or

Umicore's registered office; 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.

**23. Governing Law and Venue.** The Agreement and these Terms are governed by the laws of England and Wales. Any claim or dispute (including non-contractual disputes) arising out of the Agreement or these Terms must be brought exclusively in a court of competent jurisdiction located in England. The U.N. Convention on Contracts for the International Sale of Goods (CISG) does not apply to the Agreement or these Terms.

*(Revised April 2019)*