



## TERMS AND CONDITIONS OF SALE

**1. APPLICABLE TERMS & CONDITIONS:** THESE TERMS AND CONDITIONS OF SALE ("T&CS") ESTABLISH THE RIGHTS, OBLIGATIONS, AND REMEDIES OF THE APPLICABLE UCI-FRAM AUTOBRANDS ENTITY ("UCI-FRAM AutoBrands") AND BUYER WHICH APPLY TO ANY PURCHASE ORDER ("ORDER") ISSUED BY BUYER FOR UCI-FRAM AUTOBRANDS' PRODUCTS ("PRODUCTS"). UNLESS OTHERWISE STATED IN A WRITTEN PURCHASE AGREEMENT SIGNED BY AUTHORIZED REPRESENTATIVES OF UCI-FRAM AUTOBRANDS AND BUYER AND COVERING THE SPECIFIC PRODUCTS THAT ARE THE SUBJECT OF ANY BUYER'S ORDER, UCI-FRAM AUTOBRANDS' ACCEPTANCE THEREOF IS MADE EXPRESSLY CONDITIONAL ON ASSENT BY BUYER TO THE TERMS AND CONDITIONS OF SALE INCLUDED HEREIN. NO ADDITIONAL OR DIFFERENT TERMS OR CONDITIONS, WHETHER CONTAINED IN BUYER'S ORDER OR ANY OTHER DOCUMENT OR COMMUNICATION PERTAINING TO BUYER'S ORDER, SHALL BE BINDING UPON UCI-FRAM AUTOBRANDS UNLESS ACCEPTED IN WRITING, AND UCI-FRAM AUTOBRANDS HEREBY EXPRESSLY OBJECTS TO ANY SUCH TERMS AND CONDITIONS WHICH SHALL BE DEEMED INEFFECTIVE AND ARE REJECTED. BUYER ACKNOWLEDGES HAVING READ THE ORDER AND THESE T&CS (COLLECTIVELY, THE "AGREEMENT") AND AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

**2. DELIVERY/SHIPPING TERMS:** Delivery terms are Ex WORKS (Inco-terms 2010) at UCI-FRAM AutoBrands facility. UCI-FRAM AutoBrands shall schedule delivery in accordance with its standard lead time unless otherwise agreed to by UCI-FRAM AutoBrands and Buyer (collectively, the "Parties") in Buyer's Order. If UCI-FRAM AutoBrands prepays transportation charges, Buyer shall reimburse UCI-FRAM AutoBrands upon receipt of an invoice for those charges. Title to Products shall pass to Buyer when UCI-FRAM AutoBrands places Product at the disposal of Buyer at UCI-FRAM AutoBrands facility. UCI-FRAM AutoBrands reserves the right to quote additional charges for any special routing, packing, labeling, handling or insurance requested by the Buyer. (References: <http://www.iccwbo.org/products-and-services/trade-facilitation/incoterms-2010/>)

**3. ACCEPTANCE - PRODUCT:** Unless other acceptance criteria have been expressly agreed to by the Parties in Buyer's Order the Buyer shall inspect Products within a reasonable period after delivery not to exceed 30 calendar days. Products are presumed accepted unless UCI-FRAM AutoBrands receives written notice of rejection explaining the basis for proper rejection within the same time frame. UCI-FRAM AutoBrands shall have a reasonable opportunity to repair or replace properly rejected Products, at its option. UCI-FRAM AutoBrands assumes shipping costs in an amount not to exceed normal surface shipping charges to UCI-FRAM AutoBrands designated facility for the return of properly rejected Products. Following initial delivery, the Party initiating shipment shall bear the risk of loss or damage to properly rejected Products in transit. If UCI-FRAM AutoBrands reasonably determines that rejection was improper, Buyer shall be responsible for all expenses caused by the improper rejection.

**4. PRICES, TAXES, DUTIES & ORDER SIZES:** All prices are in the applicable currency of the Buyer's Order and are based on delivery Ex WORKS. If, notwithstanding the provisions hereof, Buyer's terms and conditions of purchase are deemed to apply by a court of competent jurisdiction, then UCI-FRAM AutoBrands reserves the right to either (a) modify the prices (including retroactively) according to the additional level of risk and responsibility that Buyer's terms and conditions require UCI-FRAM AutoBrands to undertake; or (b) cancel the Order any time after such determination without liability for such termination other than for the Products already delivered on the terms set out herein. Unless otherwise set out in Buyer's Order, prices for Products do not include any charges for services such as packaging; insurance; or brokerage fees. UCI-FRAM AutoBrands' pricing excludes all taxes (including but not limited to, harmonized sales, use, excise, value-added, goods and services, and other similar taxes), duties, fees, levies and charges. Buyer is responsible for all such taxes, duties, fees, levies and charges resulting from Buyer's Order or as a result of UCI-FRAM AutoBrands performance hereunder, whether now or hereafter imposed, levied, collected, withheld, or assessed. If UCI-FRAM AutoBrands is required to impose, levy, collect, withhold or assess any such taxes, duties, fees, levies or charges on any transaction under this Agreement, then in addition to the purchase price, UCI-FRAM AutoBrands shall invoice Buyer for such taxes, duties, fees, levies and charges unless at the time of order placement Buyer furnishes UCI-FRAM AutoBrands with an exemption certificate or other documentation sufficient to verify exemption from such taxes, duties, fees, levies or charges. UCI-FRAM AutoBrands reserves the right to establish minimum order sizes or to reject purchase orders if UCI-FRAM AutoBrands does not have sufficient capacity to fulfill such orders. UCI-FRAM AutoBrands reserves the right to change its prices if series production ends, or if, from the time of quotation (i) raw material prices have changed; or (ii) actual volume is less than forecast volume; or (iii) there is any significant change in economic circumstances.

**5. PAYMENT TERMS:** Payment is due 30 calendar days from the date of invoice. Payments must be made in the applicable currency quoted in the Buyer's Order. If Buyer is delinquent in its payment obligation to UCI-FRAM AutoBrands, UCI-FRAM AutoBrands may upon written notice to Buyer stop work and withhold future shipments until all delinquent amounts and late interest, if any, are paid. Additionally, UCI-FRAM AutoBrands may at its option: (1) repossess Products for which payment has not been made; (2) charge interest on delinquent amounts at the maximum rate permitted by law for each full or partial month payments are overdue; (3) recover all costs of collection, including but not limited to reasonable attorneys' fees in respect of overdue payments; (4) combine any of the above rights and remedies as may be permitted by applicable law. These remedies are in addition to all other remedies available at law or in equity. UCI-FRAM AutoBrands may re-evaluate Buyer's credit standing at all times that Buyer is a customer of UCI-FRAM AutoBrands. If UCI-FRAM AutoBrands reasonably determines in its sole discretion that Buyer fails to qualify for the above payment terms at any time, then UCI-FRAM AutoBrands may without notice to Buyer modify or withdraw credit terms, including but not limited to requiring advance payment, guarantees, or other security.

**6. SETOFF:** Buyer shall not set off or recoup invoiced amounts or any portion thereof against sums that are due or may become due from UCI-FRAM AutoBrands, its parent, affiliates, subsidiaries or other divisions or units. If Buyer is in default of the terms of this Agreement, UCI-FRAM AutoBrands shall have the right to set off any amounts past due by Customer against amounts owed by UCI-FRAM AutoBrands to Buyer or any its affiliates.

**7. CHANGES:** Buyer may issue a written change order to request changes within the scope of an Order. Such requests are subject to acceptance by UCI-FRAM AutoBrands. UCI-FRAM AutoBrands shall inform Buyer if the change will cause an increase in UCI-FRAM AutoBrands' costs or time required to perform. The change will become effective, and UCI-FRAM AutoBrands will commence performance, only upon execution of an amendment to the applicable Order. Unless otherwise agreed in writing, upon performance of the change order UCI-FRAM AutoBrands shall be entitled to invoice Buyer and Buyer shall pay for the costs of the change set out on such invoice, even if UCI-FRAM AutoBrands agreed to proceed with the change prior to execution of an amendment to the applicable Order.

**8. BUYER CAUSED DELAY:** UCI-FRAM AutoBrands shall not be liable for any delays or increased costs caused by Buyer, such as delays in providing necessary information or other Buyer deliverables or delays by Buyer designated suppliers in providing goods or services. In the event of a non-force majeure Buyer-caused delay, the price and other affected terms in an Order shall be adjusted accordingly to reflect UCI-FRAM AutoBrands' increased costs and other adverse impacts associated with such delay. In addition, if delivery of goods or services is delayed due to the acts or omissions of Buyer or Buyer designated suppliers, UCI-FRAM AutoBrands may store the goods at Buyer's risk and expense and, may invoice Buyer just as if there had been no delay in delivery.

**9. EXCUSABLE DELAY (FORCE MAJEURE):** Except for payment obligations, neither Party shall be liable to the other for any failure to meet its obligations due to any cause beyond the non-performing Party's reasonable control. If the inability to perform continues for longer than 90 days, either Party may terminate the applicable Order by providing written notice to the other Party and Buyer shall pay UCI-FRAM AutoBrands for Products delivered and services performed prior to termination. Force majeure events may include but are not limited to: (1) delays or refusals to grant an export license in respect of the Products or the suspension or revocation thereof, (2) any other acts of any government that would limit the ability of the Parties to perform their obligations under this Agreement, (3) fires, earthquakes, floods, severe weather conditions, or any other acts of God, (4) quarantines or regional medical crisis', (5) labor strikes or lockouts, (6) riots, strife, insurrection, civil disobedience, armed conflict, terrorism or war, declared or not (or impending threat of any of the foregoing, if such threat might reasonably be expected to cause injury to people or property), (7) shortages or inability to obtain materials or components, and (8) inability or refusal by Buyer's directed third party suppliers to provide UCI-FRAM AutoBrands parts, services, manuals, or other information necessary to the Products or services to be provided by UCI-FRAM AutoBrands under an Order. If a force majeure event causes a delay, then the date of performance shall be extended by the period of time that the non-performing Party is actually delayed or for any other period as the Parties may agree in writing. When performance is excused, UCI-FRAM AutoBrands shall allocate its services or its supplies of materials and products in any manner that is fair and reasonable. However, UCI-FRAM AutoBrands shall not be obligated to obtain services, materials or products from other sources or to allocate materials obtained by UCI-FRAM AutoBrands from third parties for UCI-FRAM AutoBrands' internal use.

**10. HARDSHIP:** If for any reason UCI-FRAM AutoBrands' production or purchase costs for the Products (including without limitation costs of energy, equipment, labor, regulation, transportation, raw material, or Product) increases over UCI-FRAM AutoBrands' production or purchase costs for the Products on the date of entering into an Order, then UCI-FRAM AutoBrands may, by written notice to Buyer of such increased costs, request a renegotiation of the price of the Products under the Order. In the event the Parties are not able to agree on a revised Product price within 10 days after a request for renegotiation is given, then UCI-FRAM AutoBrands may terminate this Agreement on 10 days written notice to Buyer.

**11. SPECIAL TOOLING:** Special Tooling includes, but is not limited to, jigs, dies, fixtures, molds, patterns, special taps, special gages, special test equipment, other special equipment and manufacturing aids and replacements items, now existing or hereafter created, together with all specifications, drawings, engineering instructions, data, material, equipment, software, processes, and facilities related thereto, created or used by UCI-FRAM AutoBrands in the performance of its obligations under this Agreement. UCI-FRAM AutoBrands owns all Special Tooling, except to the extent an authorized representative of UCI-FRAM AutoBrands procurement department specifically transfers title thereto in a formal, written bill of sale to Buyer. Any transfer of title to Special Tooling does not include transfer of UCI-FRAM AutoBrands' intellectual property used to create or that may be embodied in the Special Tooling, other than a license to use the Special Tooling. This license to use does not include the right to reproduce the Special Tooling unless specifically authorized in writing by UCI-FRAM AutoBrands.

**12. LIMITED WARRANTY:** UCI-FRAM AUTOBRANDS DISCLAIMS ALL WARRANTIES, WHETHER WRITTEN, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE.

**13. PATENT/ COPYRIGHT INDEMNIFICATION:** UCI-FRAM AutoBrands shall defend any suit against the Buyer arising out of any actual or alleged patent or copyright infringement of a valid patent or copyright, to the extent based on the Products as delivered by UCI-FRAM AutoBrands, and indemnify for any final judgment assessed against Buyer resulting from such suit provided that Buyer notifies UCI-FRAM AutoBrands at such time as it is apprised of the third-party claim, and agrees to give sole and complete authority, information and assistance (at UCI-FRAM AutoBrands' expense) for the defense and disposition of the claim. UCI-FRAM AutoBrands shall not indemnify Buyer for any compromise or settlement of a suit made without UCI-FRAM AutoBrands' written consent. UCI-FRAM AutoBrands shall have no obligation or liability to Buyer with respect to: (a) Products provided pursuant to Buyer's designs, drawings or manufacturing specifications or use of trademark or logos supplied or approved by Buyer; (b) Products used other than for their ordinary purpose; (c) claims of infringement resulting from combining any Products furnished hereunder with any article not furnished by UCI-FRAM AutoBrands; (d) use of other than the latest version of software Products released by UCI-FRAM AutoBrands; or (e) any modification of any Products other than a modification by UCI-FRAM AutoBrands. Further, Buyer agrees to indemnify and defend UCI-FRAM AutoBrands, its employees, agents, affiliates and subsidiaries to the same extent and subject to the same restrictions set forth in UCI-FRAM AutoBrands' obligations to Buyer as set forth in this Section 13 for any suit against UCI-FRAM AutoBrands based upon a claim of infringement resulting from (a), (b), (c), (d) or (e) of the preceding sentence. In no event shall UCI-FRAM AutoBrands be liable for Buyer's attorney fees or costs in respect of resolving infringement claims hereunder. If a claim is made against a Product, or if UCI-FRAM AutoBrands believes that such a claim is likely, UCI-FRAM AutoBrands may, at its option, and at its expense, (i) procure for Buyer the right to continue using the Product; (ii) replace or modify the Product so that it becomes non-infringing; or (iii) accept return of the Product, terminate Buyer's license to use the infringing Product, and grant Buyer a credit for the purchase price or license fee paid for such Product, less a reasonable depreciation for use, damage, and obsolescence. Further, if a claim of patent or copyright infringement is made against a Product, or if UCI-FRAM AutoBrands believes that such a claim is likely, UCI-FRAM AutoBrands may cease

shipping such Products without being in breach of this Agreement. Any liability of UCI-FRAM AutoBrands under this Section 13 is subject to the provisions of Section 14 ("Limitations of Liability") of this Agreement. This Section 13 states the Parties' entire liability, sole recourse and their exclusive remedies with respect to intellectual property infringement. All other warranties against infringement of any intellectual property rights, statutory, express or implied are hereby disclaimed.

**14. LIMITATION OF LIABILITY: IN NO EVENT SHALL UCI-FRAM AUTOBRANDS BE LIABLE FOR ANY INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, SPECIAL DAMAGES, PUNITIVE DAMAGES, STATUTORY DAMAGES, INDIRECT DAMAGES, LOSS OF PROFITS, LOSS OF REVENUES, OR LOSS OF USE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES. UCI-FRAM AUTOBRANDS' LIABILITY FOR DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL IN NO CASE EXCEED IN THE AGGREGATE A SUM EQUAL TO TWICE THE AMOUNT ACTUALLY PAID TO UCI-FRAM AUTOBRANDS FOR THE PRODUCTS OR RELATED SERVICES FROM WHICH THE CLAIM AROSE. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSIONS SHALL APPLY REGARDLESS OF WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), BY OPERATION OF LAW, OR OTHERWISE. NOTHING HEREIN, HOWEVER, IS INTENDED TO DISCLAIM UCI-FRAM AUTOBRANDS' LIABILITY FOR PERSONAL INJURY OR DEATH CAUSED BY DEFECTIVE PRODUCTS TO THE EXTENT SUCH LIABILITY IS MANDATED BY APPLICABLE LAW.**

**15. TRADEMARKS AND OTHER LABELS:** Buyer agrees not to remove or alter any indicia of manufacturing origin or patent numbers contained on or within the Products, including without limitation the serial numbers or trademarks on nameplates or cast or machined components.

**16. SOFTWARE LICENSE:** Software, if included in an Order, is hereby licensed and not sold. The license is nonexclusive, and is limited to such equipment and/ or location(s) as are specified in the Order. No other use is permitted and UCI-FRAM AutoBrands retains for itself (or, if applicable, its suppliers) all title and ownership to any software delivered hereunder, all of which contains confidential and proprietary information and which ownership includes without limitation all rights in patents, copyrights, trademarks and trade secrets. Buyer shall not attempt any sale, transfer, sublicense, reverse compilation or disassembly (save to the extent expressly permitted by law) or redistribution of the software. Nor shall Buyer copy, disclose or display any such software, or otherwise make it available to others (except as UCI-FRAM AutoBrands authorizes in writing).

**17. CONFIDENTIALITY:** "Proprietary Information" means: (1) any information, technical data or know-how in whatever form, including, but not limited to, documented information, machine readable or interpreted information, information contained in physical components, mask works and artwork, that is identified as being confidential, proprietary or a trade secret; (2) business related information including but not limited to pricing, manufacturing, or marketing; (3) the terms and conditions of any proposed or actual agreement between the Parties; (4) either Party's business policies, or practices; and (5) the information of others that is received by either Party under an obligation of confidentiality. The receiving Party shall keep all Proprietary Information disclosed hereunder confidential for a period of 7 years following the expiration or termination of this Agreement. Each Party shall retain ownership of its Proprietary Information including, without limitation, all rights in patents, copyrights, trademarks and trade secrets. No right or license is granted hereby to one Party or its customers, employees or agents, expressly or by implication, with respect to the Proprietary Information or any patent, patent application or other proprietary right of the other Party, notwithstanding the expiration of the confidentiality obligations stated herein. UCI-FRAM AutoBrands agrees to use the Proprietary Information of Buyer only to provide products or services for Buyer. Buyer agrees that it shall not use or disclose UCI-FRAM AutoBrands' Proprietary Information for any purpose besides the purchase or use of products or services under this Agreement. Buyer shall not use UCI-FRAM AutoBrands' Proprietary Information to provide services or for the manufacture or procurement of parts that is the subject of this Agreement or any similar parts or to cause such services to be provided or products to be manufactured or procured from any other source.

The receiving Party has no duty to protect information of the other Party that is proven by written records to be: (a) publicly known at the time of disclosure or becomes publicly known through no fault of recipient, (b) known to recipient at the time of disclosure through no wrongful act of recipient, (c) received by recipient from a third party without restrictions similar to those in this section, or (d) independently developed by recipient.

**18. EXPORT AND IMPORT COMPLIANCE:** Buyer is responsible for compliance with all applicable import and export control laws and regulations. Buyer shall obtain all import, export, and re-export approvals and licenses in connection with any subsequent export, re-export, transfer and use of all Products, services, data and technology delivered hereunder and shall retain documentation evidencing compliance with those laws and regulations. UCI-FRAM AutoBrands shall not be liable to Buyer for any failure to provide Products, services, transfers or technical data to Buyer as a result of actions that impact UCI-FRAM AutoBrands' ability to perform its obligations hereunder, including: (1) the Buyer's failure to provide or the cancellation of export, re-export or import licenses; (2) any subsequent interpretation of applicable import, transfer, export or re-export law or regulation after the date of any Order; or (3) delays due to Buyer's failure to follow applicable import, export, transfer, or re-export laws and regulations.

If Buyer designates the freight forwarder for export shipments from UCI-FRAM AutoBrands' facility, then Buyer's freight forwarder will export on Buyer's behalf and Buyer shall be responsible for any failure of Buyer's freight forwarder to comply with all applicable export requirements. UCI-FRAM AutoBrands will provide Buyer's designated freight forwarder with required commodity information.

**19. COMPLIANCE WITH LAWS:** Buyer shall comply with all laws and regulations applicable to the installation, use, import or export of all Products delivered hereunder. Buyer shall not sell, transfer, export or re-export any UCI-FRAM AutoBrands Products or technology for use in activities which involve the design, development, production, use or stockpiling of nuclear, chemical or biological weapons or missiles, nor use UCI-FRAM AutoBrands Products or technology in any facility which engages in activities relating to such weapons.

**20. TERMINATION:** A Party may terminate this Agreement and any or all unperformed Orders by giving written notice to the other Party upon the occurrence of any of the following events:

(a) the other Party materially breaches this Agreement and fails to remedy the breach within 60 calendar days after receipt of written notice that specifies the grounds for the material breach;

(b) the other Party fails to make any payment required to be made under this Agreement when due, and fails to remedy the breach within 7 calendar days after receipt of written notice of non-payment; or

(c) any insolvency or suspension of the other Party's operations or any petition filed or proceeding made by or against the other Party under any federal, provincial or other applicable law relating to bankruptcy, arrangement, reorganization, receivership or assignment for the benefit of creditors or other similar proceedings.

Termination does not affect any debt, claim or cause of action accruing to any Party against the other before the termination. The rights of termination provided in this clause are not exclusive of other remedies that either Party may be entitled to under this Agreement or in law or equity.

**21. ASSIGNMENT:** Neither Party shall assign any rights or obligations under this Agreement without the advance written consent of the other Party, which consent shall not be unreasonably withheld. Either Party may assign this Agreement to any affiliate of such Party or in connection with the sale or transfer of all or substantially all of the assets of the product line or business to which it pertains. Any attempt to assign or delegate in violation of this clause shall be void.

**22. WAIVER:** The failure of either Party to enforce at any time any of the provisions of this Agreement shall not be construed to be a continuing waiver of any provisions hereunder nor shall any such failure prejudice the right of such Party to take any action in the future to enforce any provisions hereunder.

**23. HEADINGS AND CAPTIONS:** Headings and captions are for convenience of reference only and do not alter the meaning or interpretation of this agreement.

**24. PUBLICITY:** Any news release, public announcement, advertisement, publicity or any other public disclosure concerning this Agreement requires prior written approval of the Parties, which approval shall not unreasonably be withheld.

**25. DISPUTE RESOLUTION – CHOICE OF LAW AND FORUM:** The construction, interpretation and performance hereof and all transactions hereunder shall be governed by the laws of the State of Illinois, U.S.A. without regard to or application of its principles or laws regarding conflicts of laws, and excluding the United Nations Convention on the International Sale of Goods of 1980 (and any amendments or successors thereto). Any dispute not resolved by the parties shall be subject to the exclusive jurisdiction of the courts of Cook County, Illinois.

**26. SEVERABILITY:** If any provision of this Agreement is determined to be illegal, invalid, or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected and, in lieu of such illegal, invalid, or unenforceable provision, there will be added, as part of this Agreement, one or more provisions as similar in terms as may be legal, valid and enforceable under applicable law.

**27. TIME OF ESSENCE:** Time shall be of the essence in this Agreement.

**28. SURVIVAL:** All provisions of this Agreement which by their nature should apply beyond the term of this Agreement shall remain in force after acceptance and complete performance of the Agreement including, but not limited to, the Payment, Nondisclosure, Limitation of Liability and Dispute Resolution clauses.

**These Terms and Conditions of Sale are Subject to Change at UCI-FRAM AutoBrands' Sole Discretion Without Notice to Any Parties.**

**The most current version of these Terms and Conditions of Sale can be found at <http://uci-fram.com/customer.html>.**

(Rev. 03/05/2014)