

UNIVERSAL INDUSTRIES, INC. – CEDAR FALLS, IA.
TERMS AND CONDITIONS OF PURCHASE, Dated May 17, 2024

1. **Purpose and Scope.** These Terms and Conditions of Purchase (“TCPs”) together with (i) a purchase order that refers to these TCPs and (ii) any attachments, exhibits, specifications, drawings, notes, instructions and other information, whether physically attached or incorporated by reference (collectively the “Purchase Order”), constitute the entire and exclusive agreement between **Universal Industries, Inc.**, Cedar Falls, Iowa (“Universal” or “Universal”) and the supplier identified in the Purchase Order (the “Supplier”) for the acquisition of Goods and/or Services by Universal. Universal and Supplier may be referred to individually as a “Party” or collectively as the “Parties”.

ALL TRANSACTIONS ARE GOVERNED BY UNIVERSAL'S TERMS AND CONDITIONS OF PURCHASE. ANY PROPOSAL OR DOCUMENT FROM SUPPLIER THAT INCLUDES DIFFERENT OR ADDITIONAL TERMS THAT VARY FROM ANY OF UNIVERSAL'S TERMS AND CONDITIONS OF PURCHASE ARE OBJECTED TO AND DISALLOWED. NOTWITHSTANDING THE FOREGOING, ANY SUCH COUNTERPROPOSALS BY SUPPLIER SHALL NOT OPERATE AS A REJECTION OF THE CONTRACT, BUT AS A REJECTION OF THE ADDITIONAL OR DIFFERENT TERM(S).

2. **Definitions.**

“Affiliate” means as to each Party, such Party’s subsidiaries, the Party’s or its subsidiary’s holding company, and any subsidiary of a Party’s holding company.

“Change Order” means a written modification to the Goods or Services as described in a Purchase Order, approved and signed by authorized representatives of the Parties, and incorporated into the Purchase Order.

“Contract” means: (i) a Purchase Order and any Amendment or Addenda, (ii) these TCPs, and (iii) any Amendment, Addenda, Change Order, or other authorized documentation that has been signed by Universal, all of which documents together constitute the full agreement of the Parties.

“Customer” means a natural or corporate person who: (i) has obtained or is seeking to obtain any form of product or service from Universal, including without limitation publications, memberships, certification examinations, training, online or in-person event access, awards, informational materials or licensing rights; or (ii) has visited a website published or sponsored by Universal; or (iii) has responded to a solicitation, survey, invitation, or other outreach by Universal.

“Delivery Date” means the date or dates specified in the Purchase Order by which the Supplier is required to deliver the Work.

“Goods” means tangible goods, equipment, materials to be acquired by Universal as described in the Purchase Order.

“Intellectual Property Rights” means any and all tangible and intangible: (i) copyrights and other rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof; (ii) trademark and trade name rights and similar rights; (iii) trade secret rights; (iv) patents, designs, algorithms, utility models, and other industrial property rights, and all improvements thereto; (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise; and (vi) all registrations, applications, renewals, extensions, continuations, divisions, or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

“Purchase Order” means the document describing and authorizing the purchase of Goods or Services, issued to Supplier by Universal and includes the terms and conditions of purchase.

“Services” means the services that Supplier is to perform for Universal as described or identified in the Purchase Order.

“Supplier Personnel” means Supplier’s employees, consultants, agents, independent contractors, and Subcontractors.

“Third Party Intellectual Property” means the Intellectual Property Rights of a third party which Supplier uses or incorporates into the Goods or Services.

“Subcontractor” means a third party providing Goods, Services or any portion of the Goods or Services under an agreement (a “Subcontract”) with Supplier.

3. **Contract.** Universal’s submission of the Purchase Order is conditioned on Supplier’s agreement that any terms different from or in addition to the terms of the Purchase Order, whether communicated orally or contained in any purchase order confirmation, invoice, acknowledgement, release, acceptance, or other written correspondence, irrespective of the timing, shall not form a part of the Purchase Order, even if Supplier purports to condition its acceptance of the Purchase Order on Universal’s agreement to such different or additional terms. Supplier’s electronic acceptance, acknowledgement of the Purchase Order issued by Universal, or commencement of performance constitutes Supplier’s acceptance of Universal’s terms and conditions.

Any terms or conditions stated or referenced by Supplier, whether in any quotation, offer, acceptance or acknowledgement of a Purchase Order, shall not be binding unless expressly agreed to in writing by Universal. In the event any provision hereof shall be held void or unenforceable, that provision shall be deemed deleted and the remainder of the provisions enforced as written.

Notwithstanding the foregoing, if a master agreement covering procurement of Goods or Services described in the Purchase Order exists between Supplier and Universal, the terms of such master agreement shall prevail over any inconsistent terms herein.

4. **Title.** Unless otherwise expressly agreed in writing by Universal, all rights, title and interest in all Goods shall transfer to Universal, without restriction or limitation, upon the first to occur of (i) receipt of the Goods at the shipping destination or (ii) upon payment by Universal of the purchase price for the Goods, or part thereof.

Universal specifically disclaims all reservation of ownership clauses.

In the event that any software owned or licensed by Supplier, which software is not developed specifically for Universal, Supplier shall provide Universal with a non-exclusive, assignable license to access and use such software for the purpose of using, operating or maintaining the Goods. Universal shall have the right to copy such software as reasonably required for Universal's back-up purposed, provided that Universal shall (i) not modify, change, translate, localize, reassemble, repackage, make or create derivative works of the software, (ii) not decompile, disassemble or distribute such software. Supplier further agrees to provide any updates to the software that impact the functioning of Supplier's Goods for the duration of the expected use.

Supplier shall not incorporate any third-party rights (e.g. ownership, license, or other) in any Goods without prior notice to Universal.

Supplier shall protect as confidential information any drawings or other confidential or proprietary information provided by Universal to Supplier with respect to any Universal products. As confidential information, Supplier shall not use any Universal confidential or proprietary information in any manner not approved or authorized by Universal and shall not transfer, sell or disclose to any person any Universal drawings, or other confidential or proprietary information to any person, firm or entity who has no need to know such information in order to provide the Goods or Services contemplated by the agreement with Universal.

5. **Delivery; Cover.** In case of default by Seller, Universal may obtain materials and services from other sources and hold Seller responsible for any damages occasioned thereby. The dates of delivery and quantities specified herein are of the essence for this order and delivery must be effected within the specified time period.

Time is of the essence with respect to Supplier's Delivery Date(s).

Supplier shall advise Universal promptly of any delivery delays. Supplier shall be responsible for any expedited delivery cost in the event delivery is delayed. If deliveries are not made on time and in the quantities specified, Universal reserves the right to cancel and to purchase the materials and/or services elsewhere and hold Seller accountable therefore.

Supplier shall be liable for any and all losses to Universal resulting from a delay or shortage in delivery of quantities ordered by Universal.

Supplier's delivery documents shall include the number of packages, weight and measurements.

Universal's purchase order number shall be included in Supplier's shipment documents.

Seller shall cooperate with Universal in respect to all customs formalities applicable to the import or export of the materials (e.g. US, UN, EU, etc.), shall be responsible for determining proper import or export classifications, and shall provide all required import/export documentation in English and all local languages applicable to the location of ultimate delivery, in each case to Universal's satisfaction.

6. **Prices.** Orders shall not be filled at prices higher than those quoted or charged to Universal or specified herein. Unless otherwise agreed in writing, prices include packaging, labeling, crating, taxes, and duties.

Supplier's price is fixed unless specifically agreed in writing otherwise

7. **Inspection and Rejection.** Materials are subject to inspection, test, and acceptance by Universal and the ultimate purchaser. Universal shall have a reasonable number of days from the date of arrival to inspect the materials and notify Seller of any non-conformity to the order specifications (including quantity and Delivery Dates). Such inspection may not occur until final sale of the materials to Universal's customers. Universal reserves the right to reject any material, even after delivery and inspection at customer's site, which does not fulfill the specifications of the order or time of delivery and (i) return rejected materials to Seller at Seller's risk and expense for full credit at the order price without prejudice to any right to other damages for such breach, (ii) to require Seller at Seller's expense to replace rejected materials at the unit price of this order, or (iii) consider this order breached as to the rejected quantity and cancelled as to any unfulfilled portion of this order, and to hold Seller liable for such breach and cancellation. Seller is not relieved of the responsibility imposed by this clause, either as to proper packaging, quantity of materials or specifications, by reason of acceptance by Universal.

8. **Payment and Invoicing.** Pricing shall be stated in a Purchase Order issued by Universal.

All invoices must be addressed to Universal as follows:

Universal Industries, Inc.
5800 Nordic Drive
PO Box 308
Cedar Falls, IA 50613-0308

And emailed to:

invoices@universalindustries.com

Invoices and bills of lading showing full routing should be dated and mailed or sent in another agreed manner to Universal at the time of shipment. A separate invoice must be made for each destination showing point of shipment and how shipped. Invoices bearing transportation charges must be supported with attached original receipted transportation bills and, in the case of consolidated carload shipments, must show weight and rate. The discount period, if any, stated in

the face of the purchase order shall be calculated from the date of receipt by Universal of a proper invoice from Seller.

9. Warranty. Seller represents that with respect to all materials, supplies and equipment (herein collectively referred to as "materials") delivered and services furnished hereunder: (i) title shall be good, merchantable, rightful and the materials free of any security interest, lien or encumbrance; (ii) that materials will be new, free from defects in material and workmanship, be of quality, size, description and dimension required by Universal, be fit for the purpose for which they are purchased and will meet the specifications, if any, and that Seller's services will be performed in a skillful and workmanlike manner; and (iii) the materials, the process by which they are made, the use for which they are designed by Seller and Universal's use of the materials will not infringe any patent, trademark, copyright or other rights of any third parties ("Intellectual Property Rights") and (iv) any software provided by Seller shall be free of any malicious code. This express warranty shall not be deemed waived by reason of either or both the receipt of the materials and payment therefore by Universal. The foregoing is in addition to any and all other express or implied warranties applicable to the materials purchased hereunder.

10. Compliance with Laws; Standards and Testing. Seller represents and warrants (i) that all materials furnished hereunder, and Seller's manufacturing thereof, complies with all applicable laws, ordinances, rules and regulations ("Laws"); (ii) Seller shall treat materials prior to shipment to Universal in accordance with testing standards requested by Universal, and shall furnish Universal certifications in support thereof; and (iii) each chemical substance sold hereunder has been reported to the US Environmental Protection Agency (EPA) as required by the Toxic Substances Control Act and regulations, for inclusion in the inventory of chemical substances compiled by the Administrator of the EPA].

11. Indemnity. Seller will defend, indemnify and hold harmless Universal, its affiliates, vendors, and their officers, directors, shareholders, employees, and agents from and against any and all loss, liability and expense, including all reasonable attorney fees and expenses, by reason of (i) any actual or alleged violation of Laws, (ii) any actual or alleged infringement of Intellectual Property Rights, (iii) injury, death or property damage resulting, in whole or in part, from any negligent act or omission on the part of the Seller or which may result from the installation, operation or use of the materials furnished hereunder, (iv) a defect in the manufacture or design of the materials supplied hereunder, or (v) any breach or alleged breach by Seller of any representation, warranty, or other provision of these TCP's.

Acceptance of any Goods or Services or payment of any Goods or Services shall not waive any breach or be construed as irrevocable acceptance by Universal in case of defective or non-conforming Goods or Services.

Upon notification, Seller shall promptly assume full responsibility for the defense of any suit or proceeding which may be brought against Universal or any of its subsidiaries, affiliated companies, agents and vendors in connection with the above, of for alleged unfair competition resulting from similarity in design, trademarks, or appearance of the materials or equipment. Seller shall further indemnify and hold Universal, its subsidiaries, affiliated companies, agents and vendors harmless from any and all expenses, losses, claims, royalties, profits, and damages ,

including court costs and attorneys' fees, resulting from the bringing of such suits or proceedings or the threat thereof and from any settlement, decree or judgment therein. Universal reserves the right to control any such suit or proceeding.

Upon request, Supplier shall promptly furnish all necessary lien waivers, affidavits or other documents required to keep any Goods or Services free from liens or claims for liens, title or any other interest in such Goods or Services.

In the event Universal commences a lawsuit to enforce any of Supplier's obligations under the Purchase Order or these TCP's, Universal shall be entitled to recover all of its costs, expenses and reasonable attorneys' fees from Supplier. Universal's remedies shall be cumulative, and any remedies specified herein shall not exclude any other remedies available at law.

12. **Choice of Law.** This Agreement between Universal and Seller shall be construed, and the respective rights and duties of Universal and Seller shall be determined, according to the laws of the State of Iowa, without giving effect to its principles of conflicts of laws. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

13. **Force Majeure.** If the manufacture, transfer or receipt or use by either party of any materials covered hereby is prevented, restricted or interfered with by reason of any event beyond the reasonable control of the party so affected, such party, upon prompt notice to the other party (and in the case of Universal, prior to actual shipment), shall be excused from making or taking deliveries hereunder to the extent of such prevention, restriction or interference but, at Universal's option, deliveries so omitted shall be made upon notice thereof to Seller, upon cessation of such contingency.

14. **Assignment.** Seller may not assign this purchase order or any of Seller's obligations hereunder without Universal's written consent.

15. **Insurance.** Seller shall maintain at its own expense at all times while performing hereunder occurrence-based commercial general liability insurance and product-liability insurance with a reputable and financially responsible carrier(s) satisfactory to Universal for coverage in amounts not less than \$1million per occurrence, \$2 million in aggregate, and all other insurance required by applicable law. Seller shall furnish insurance certificates as directed by Universal, satisfactory in form and substance to Universal, showing the above coverages, and providing for at least 10 days prior written notice to Universal by the insurance company of cancellation or material modification.

16. **Seller's Representatives.** If Seller's employees, subcontractors, consultants, or other representatives under Seller's control perform any services at Universal's premises or at Universal's direction at the premises of others, (i) such persons shall comply with all rules and regulations of such premises and (ii) Seller shall keep materials and the premises on which the work is performed free and clear of all liens for material and labor incident to the performance of Seller's services hereunder.

17. **Termination.** In the event of (i) any proceeding voluntary or involuntary in bankruptcy or insolvency by or against Seller, or in the event of an appointment of a receiver or assignee for the benefit of creditors, with or without Seller's consent, or (ii) any change in control and/or ownership of Universal, Universal may cancel any unfilled part of this order without any liability whatsoever on Universal's part.

18. **Universal's Property.** All tools, dies, patterns, designs, molds, drawings, specifications, and other data or papers, and the like furnished by Universal to Seller in connection with this order by Universal remains the property of Universal. In the event materials furnished by Universal to Seller include any intellectual property of Universal, Seller is granted a non-exclusive, non-transferable, non-sublicenseable and non-assignable license required only for the production of materials under this order, and shall use Universal's intellectual property only for that purpose. Except for this license, no right, interest, ownership or privilege of use of Universal's intellectual property shall inure to the benefit of Seller.

19. **Relationship of the Parties.** The relationship of the Parties hereto is that of vendor and purchaser. Nothing in this Agreement, and no course of dealing between the Parties, shall be construed to create or imply an employment or agency relationship or a partnership or joint venture relationship between the Parties or between one Party and the other Party's employees or agents. Accordingly, Seller shall not be empowered to bind Universal in any way, to incur any liability, make any statements, representations, warranties or commitments, or otherwise act on behalf of the Universal. Each Party shall be solely responsible for payment of its employees' salaries (including withholding of income taxes and social security), workers compensation, and all other employment benefits.

20. **Dispute Resolution.**

The parties hereby agree that any action arising out of or in any way related to this purchase order, these Terms and Conditions of Purchase, and/or any related contract, will be brought solely in the Iowa District Court located in Black Hawk County, Iowa or the United States District Court for the Northern District of Iowa. Both parties hereby submit to the exclusive jurisdiction and venue of any such court.

21. **Waiver of Right to Jury Trial. THE PARTIES FURTHER AGREE, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO WAIVE ANY RIGHT TO TRIAL BY JURY WITH RESPECT TO ANY CLAIM, COUNTERCLAIM OR ACTION ARISING FROM THE TERMS OF THIS AGREEMENT.**

22. **Severability.** If any provision or portion of this Agreement shall be held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions or portions shall remain in full force and effect.