

UNEX SYSTEMS (NZ) LIMITED - TERMS OF SALE JULY 2013

The following terms govern all orders placed by you and shall be incorporated into each contract for the supply of goods by Unex Systems (NZ) Limited. We will contract on these terms only, and receipt of an order from you will be acceptance by you of these terms, despite anything stated to the contrary in your inquiries or on your orders.

PAYMENT AND PRICES

- Payment is due by the 20th of the month following the date of despatch. If a credit application has not been approved, payment is due with placement of order.
- You may not withhold payment or make any deductions from an Amount Owing or claim any set off without our prior written consent.
- The price payable is our current price on the date of despatch. We may alter the price at any time without notice. Goods and Services Tax is payable in addition to the price unless quoted otherwise.
- Errors or omissions made by us in any pricing, quotation, or invoice, are subject to correction.

DELIVERY

- Where we agree to transport the goods to a specified place, you authorise us to arrange freight, and any transit insurance we wish to arrange, on your behalf. Any costs incurred shall be paid by you in addition to the price unless otherwise agreed in writing. You authorise us to pursue any transit insurance claim, and to collect and apply the proceeds in reduction of Your Indebtedness. You acknowledge that if you sign for goods delivered as 'Received in Good Condition' then a claim for freight damage will not be allowed.
- In all cases, delivery shall be deemed to occur at the time when the goods are made available for collection by the Carrier (or the first of the carriers; including us, if we undertake cartage ourselves) responsible for transport of the goods to you.
- We may deliver the goods by instalments, and each instalment shall be treated as a separate contract governed by these terms. Failure to deliver any instalment does not entitle you to cancel the contract.
- Any time stated for delivery is an estimate only. We are not liable for any delay in delivery.

DISCREPANCIES

- If there is a discrepancy between your order and the exact specifications of the product needed to fulfil your requirements, you acknowledge and accept that there may be minor differences between the goods you order and the goods we deliver.

RISK AND OWNERSHIP

- Risk of any loss, damage or deterioration of or to the goods passes to you on delivery.
- Ownership of the goods remains with us and does not pass to you until you pay your Indebtedness or resell the goods pursuant to these terms
- While ownership of the goods remains with us:
 - You must clearly identify them as belonging to us.
 - We can enter the premises where the goods are stored and remove them. We will not be responsible for any damage caused and you are liable for all costs incurred by us as a result. We may resell any of the goods and apply the proceeds of sale in reduction of your Indebtedness
 - You may not convert or incorporate the goods into any other products without our prior written consent, and only on the terms that you do so as our agent, and ownership in such resultant products shall vest with us as principal.
 - We authorise you, as agent for us, to sell the goods or any resultant products, in the ordinary course of your business for full consideration. This authority is revoked from the time that you are in default, or we notify you in writing that this authority is revoked.
- If you sell or use the goods or any resultant products, before ownership of the goods has passed to you, the proceeds of such sale or use shall be deposited by you so as to clearly identify them as belonging to us, and shall be held by you, in trust for us, and as fully accountable to us for such proceeds.
- You agree to indemnify us for all claims and actions arising from conversion or incorporation of the goods into resultant products, or arising in any way from your relationship with us.
- We may bring an action for the price of the goods sold even where ownership of the goods may not have passed to you.

LIMITATION OF LIABILITY

- All goods are sold subject to all conditions and warranties implied by law being excluded to the extent they can be excluded.
- To the extent permitted by law we will not be liable to you for loss caused by anything beyond our reasonable control or loss suffered by you caused by our breach of these terms, our negligence, or any other act or omission of ours.
- "Loss" includes any direct or indirect or consequential loss incurred by you.
- If we are liable to you then our liability is limited to the value of the goods supplied to you and associated with your Claim. We may either replace defective goods or pay you the price (excluding GST) you paid us for the goods supplied.
- We will not accept responsibility for any defective goods unless you notify us of the defect within twenty one days of your receiving the goods and you allowing us to investigate your claim.

CONSUMER GUARANTEES ACT 1993

- Where the Consumer Guarantees Act 1993 applies to the contract, if the goods are acquired by you for business purposes you agree that the Consumer Guarantees Act 1993 does not apply.
- Where you supply the goods to a person acquiring them for business purposes, it must be a written term of your contract with that person that the Consumer Guarantees Act 1993 does not apply in respect of the goods.
- You agree to indemnify us against any liability or cost incurred by us under the Consumer Guarantees Act 1993 as a result of any breach by you of the obligations contained in the contract.
- The following terms apply wherever the Consumer Guarantees Act 1993 does not apply to the contract, or where the following terms are not inconsistent with the Consumer Guarantees Act 1993,
 - Defective goods or goods which do not comply with the contract shall at our discretion be repaired or replaced, or the price refunded.
 - Any right which you may have to reject non-conforming or defective goods shall only be effective if you notify us in writing within twenty one days following delivery and we are given the opportunity to inspect the goods before they are cut or modified in any way. You agree to return such goods at your expense if requested. We accept no liability for any Claim by you or any other person, including without limitation any Claim relating to or arising from:
 - Any conditions, warranties, descriptions, representations, technical information supplied, conditions as to fitness or suitability for any purpose, tolerance to any conditions, merchantability or otherwise; whether express or implied by law, trade custom or otherwise; or
 - Any representations, warranties, conditions or agreement made by any agent or representative which are not expressly confirmed by us in writing and you agree to indemnify us against any such Claim.
 - In any event, our liability under any Claim shall not exceed the price of the goods. Subject to these Terms of Sale, if any coating or finish ("finish") is applied to the goods you acknowledge that it is decorative only and not essential to the permanency or functionality of the goods. You may request a guarantee of the finish from our subcontractor ("guarantor") at the time you order the goods which, if given will, to the extent permitted by law, be your only remedy for defective finish and we will have no liability to you for non-compliance by the guarantor with the guarantee.
- Any warranty in respect of second hand goods supplied to you is expressly excluded.
- Nothing in these terms is intended to have the effect of contracting out the provisions of the Consumer Guarantees Act 1993 except to the extent permitted by that Act and these terms are to be modified to the extent necessary to give effect to that intention.

RETURN OF GOODS

- You may only return goods for credit or refund with our prior written consent, and on such terms as we may specify.
- You will be liable for all delivery and insurance costs incurred in respect of goods returned.

DEFAULT

- You will be in default if:
 - you fail to pay an amount due under these Terms of Sale by the due date for payment; or
 - you commit a breach of any of your other obligations under these Terms of Sale, the Security or the terms of any other contract you have entered into, or enter into in the future, with us or one of our related entities; or
 - you become insolvent, are wound up, have a receiver appointed, enter into any composition or arrangement with your creditors, do any act which would render you liable to be placed in liquidation or have a receiver appointed over your property, commit an act of bankruptcy, cease to be of full legal capacity, or die;
 - Goods that we have retained title to are at risk; or
 - an event or a series of events (whether related or not) occurs which, in our opinion, may cause a material adverse change in your ability to meet your obligations to us.
- If you are in default, or are deemed by us to be likely to be in default, we may suspend or terminate the contract. If you are in default, or the contract is suspended or terminated, the Amount Owing shall immediately become due and payable notwithstanding that the due date has not otherwise been reached and even if the goods have not yet been delivered.
- If you do not pay the price by the due date, we may charge a default penalty at a rate per annum equal to 24% calculated on a daily basis on the unpaid portion of the price from due date until payment in full.

- We are entitled to recover from you all legal and other costs incurred by us arising from the collection of the Amount Owing on a solicitor/client basis.

USE OF INFORMATION

- You agree that we may obtain information about you from you or any other person (including any credit or debt collection agencies) in the course of our business, and you consent to any person providing us with such information.
- You agree that we may give any information we have about you relating to your credit worthiness to any other person, for credit assessment and debt collection purposes. In addition, any other information collected by us about you is accessed or collected for use in the course of our business, including direct marketing activities.
- You must provide us with true and correct information about you and material to the supply of goods (including information requested by us from time to time) and you must also notify us of any change in circumstances that may affect the accuracy of the information provided by you to us.

PATENTS, COPYRIGHT, AND TECHNICAL INFORMATION

- Copyright in all drawings, specifications and other technical information provided by us in connection with the contract is vested in us.
- Any technical information, knowledge or processing methods at any time transmitted either orally or in writing by us to you will remain our property and will be considered absolutely confidential by you and you will not use them for any purpose nor sell, transfer or divulge them to anyone without our prior written consent.
- If we request, you agree to return to us any trade information, samples, literature, promotional material, or tooling, supplied by us at any time. We will refund any sums paid by you in respect of such items returned in good and original condition.

INSTALLATION

- Where we carry out installation of goods, you will at your own expense provide:
 - Suitable access to the building structure at all times
 - All necessary amenities for our employees or subcontractors, including 230 volt A.C. electric power such that any part of the job may be reached by an extension lead in compliance with all regulations
 - Safe on site storage for materials and accessories
 - Scaffolding and cranes when requested
 - A suitable structure prepared to enable immediate installation of the goods, and conforming to our requirements where applicable.
- If you fail to comply with any of these conditions, we may at our sole discretion suspend or terminate the contract and all costs incurred by us shall be payable by you.
- You agree to pay us any additional charges arising from the inaccuracy of any specifications or dimensions supplied by you.
- If the supply, delivery or installation of the goods is delayed by reason of any act, omission, default or request by you, we may, without prejudice to our other rights and remedies, require payment by you of such portion of the contract price as represents the extent to which we have performed the contract together with any expenses or additional costs incurred by us as a result of such delay. In the event of such delay continuing beyond a reasonable time, we may, terminate the contract.

PERSONAL PROPERTY SECURITIES ACT 1999 (PPSA)

- You acknowledge that these terms create a security interest ("security interest") (as defined in the PPSA) in the goods. You will at our request immediately execute any documents, provide all necessary information and do anything else required by us to ensure that the security interest constitutes a perfected security interest (as defined in the PPSA) which will have priority over all other security interests in the goods. If you fail to do so, you must return the goods to us immediately.
- You agree to the extent permitted by law that you will have no rights under Part 9 of the PPSA and where we have rights in addition to those under Part 9 of the PPSA, those rights will continue to apply. You waive your right under the PPSA to receive a copy of any verification statement (as defined in the PPSA).
- You must not grant any other security interest in or any lien over the goods.
- You must give us prior written notice of any proposed change of your name or address.

SECURITY

- If requested in writing by us, you and/or the Guarantor(s) shall within 5 working days execute a mortgage over land which was owned by you or them at the time this document is signed or from time to time ("the Mortgage"). The Mortgage will secure payment of any goods or services supplied to you by us and any costs and/or interest incurred resulting from that supply. The Mortgage shall be prepared by our solicitors. You and the Guarantor(s) hereby irrevocably appoint us to be your or its true and lawful attorney to sign in your and the Guarantor(s) name and on your or its behalf any security which we shall request you and/or the Guarantor(s) to execute pursuant to this clause.

CONSTRUCTION CONTRACTS ACT 2002

- If the contract is a construction contract for the purposes of the Construction Contracts Act 2002 ("Act"), then you agree, for the purposes of the Act, that the period within which you are entitled to serve a payment schedule on us is 10 working days after the date upon which we have served a payment claim on you.

JURISDICTION

- These Terms are governed by the laws of New Zealand. You may take legal action against us only in a New Zealand court.

NOTICES

- Any notices required to be served on you are properly served when sent or transmitted or posted or delivered to the e-mail address, facsimile number or postal address or delivery address recorded on your Credit Application Form or subsequently advised by you to us.

MISCELLANEOUS

- If more than one of you sign the credit application form, you will be jointly and severally liable.
- You must comply with all relevant laws which relate to your business including without limitation all applicable health and safety legislation particularly where we carry out any installation for you.
- You indemnify us against any loss or damage we suffer arising directly or indirectly from any act or omission of yours or any breach by you of these terms.
- These terms are personal to you and cannot be assigned or otherwise dealt with by you without our prior written consent.
- These terms shall not be varied unless agreed by both parties in writing.
- If there is any inconsistency between these terms and any other submitted by you or any other arrangements with us, these terms prevail unless otherwise agreed by us in writing.
- If due to any circumstance beyond our reasonable control, we are unable to carry out part or all of any obligation under the contract, that obligation will be suspended while that circumstance continues.
- If we exercise or fail to exercise any right or remedy available to us, this shall not prejudice our rights in exercising that or any other right or remedy.
- We do not waive any term of the contract except where specified in writing signed by an authorised officer in respect of a particular transaction dealing or matter.
- You acknowledge that we can engage a subcontractor or subcontractors to carry out any or all of our responsibilities to you.
- We may change these Terms of Sale at any time. Any change applies from when we notify you of that change.

WORDS USED IN THE CONTRACT

- "Amount Owing" means the price charged by us for the goods, and any other sums which we are entitled to charge under the contract.
- "Claim" includes any claim: - For loss of profits; or for compensation, demand, remedy, liability or action; or - For any consequential, indirect or special loss, damage or injury of any kind suffered by any person arising directly or indirectly from: any breach of our obligation under the contract; or any suspension or cancellation of the contract; or any negligence, misrepresentation or other act or omission by us or our employees, agents or contractors.
- "goods" means goods ordered by you from time to time under the contract, and includes any incidental services provided in connection with the supply of the goods.
- "Your Indebtedness" means the Amount Owing and any other moneys owing by you to us from time to time, whether in relation to this contract or any other contract or on any other account whatever;
- "ownership" means the property in the legal and beneficial ownership.
- "person" includes a corporation, firm, company, partnership, trust or individual.
- "price" means the purchase price of the goods and any costs payable by you under the contract including those relating to transportation, storage and insurance.
- "resultant products" means any products into which the goods become converted or incorporated.
- "Security" means the security interest and/or the Mortgage.
- "we" and "us" "Unex" and "Unex Systems" means Unex Systems (NZ) Limited, its successors and assigns.
- "you" means the person purchasing the goods from us pursuant to the contract, including that person's successors and assigns.
- References to any piece of legislation includes such legislation from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under such legislation.