

TERMS AND CONDITIONS OF SALE

1. DEFINITIONS

In these terms and conditions the "Company" means Unimex Enterprises Limited, the "Buyer" means the person, firm or company to whom this document is addressed and the "Goods" means the goods and/or services to be purchased by the Buyer under the contract in which these terms and conditions are incorporated the "Contract". All headings are included for reference purposes only.

2. BASIS OF THE SALE

- 2.1 The Company shall sell and the Buyer shall purchase the Goods in accordance with any written quotation or price list of the Company which is accepted by the Buyer, or any written order (including delivery schedules) of the Buyer which is accepted in writing by the Company, subject in either case solely to these conditions. These conditions shall apply to the exclusion of any other terms and conditions howsoever referenced by the Buyer.
- 2.2 No variation to these conditions shall be binding unless agreed to in writing by a duly authorised representative of the Company.
- 2.3 The Buyer acknowledges that this sale was not entered into in reliance on any representations made by any employee or agent of the Company or appearing in any sales literature or related data unless specifically incorporated into this Contract.

3. ORDERS AND SPECIFICATIONS

- 3.1 No order for the Goods submitted by the Buyer shall be deemed to be accepted by the Company unless and until confirmed in writing by the Company.
- 3.2 The quality, quantity, scope, description of and any specification or the Goods shall be solely as set out in the Company's quotation, or Buyer's order and delivery schedules if and when they have been accepted by the Company in writing.
- 3.3 The Company reserves the right at any time to make any changes in the specification or design of the Goods where either such changes are required to ensure that the Goods conform with any applicable safety or other statutory requirements or where such changes do not materially affect their quality or performance. Delivery of Goods conforming to such altered specification or design shall constitute proper performance of the Contract by the Company.
- 3.4 No order which has been accepted by the Company may be cancelled in whole or in part by the Buyer except with the prior written agreement of the Company. Such agreement will only be given on terms which compensate the Company in full for all losses and expenses howsoever resulting from the cancellation.

4. PRICES

- 4.1 The price of the Goods shall be the Company's quoted price or, where no price has been quoted, (or a quoted price is no longer valid) the price listed in the Company's published price list current at the date of acceptance of the order. Unless otherwise stated all quoted prices are valid for 30 days only.
- 4.2 Except as otherwise agreed in writing between the Company and the Buyer, all prices are given by the Company on an ex-works basis and will exclude all duties, taxes and customs fees. Where the Company agrees to deliver the Goods elsewhere, the Company shall invoice the Buyer separately for the costs of transport, packaging, insurance, customs fees, duties and taxes after having been invoiced for all the costs by all third parties and therefore any cost of freight quoted on the contract has to be treated purely as an indication.
- 4.3 All prices are exclusive of value added tax which will be added where appropriate to all invoices at the then current rate.
- 4.4 The Company reserves the right by giving written notice to the Buyer at any time before delivery to increase the price of the Goods to reflect any increase in the cost to the Company which is due to any factor beyond the Company's control, any change in delivery dates, quantities or specification which is requested by the Buyer or any delay caused by any instructions of the Buyer or failure of the Buyer to give the Company adequate information or instruction.

5. PAYMENT

- 5.1 Except as otherwise agreed in writing between the Company and the Buyer, the Company may invoice the Buyer for the price of the Goods on or at any time after delivery or in the case of services after performance. Where delivery is ex works, the Company may invoice the Buyer forthwith after notifying the Buyer that the Goods are ready for collection.
- 5.2 The Buyer shall pay the price of the Goods strictly in the currency stated in the contract within the terms of the contract also mentioned in the Company's invoice, notwithstanding that delivery may not have taken place and title in the Goods has not passed to the Buyer. Time for payment of the invoice shall be of the essence. The Buyer shall also be responsible for all costs associated with making such payment to the Company including all Buyer's bank charges and fees. Full payment in the correct currency has to arrive in the Company's account and no deduction is allowed for any fees and charges that the Buyer is obliged to pay his bank.
- 5.3 If the Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to
- 5.3.1 Cancel the Contract or suspend any further deliveries to the Buyer and/or at its sole discretion.
- 5.3.2 Charge the Buyer interest on the amount unpaid at the rate of 5% per annum above National Westminster Bank base rate from time to time until payment is made in full by the Buyer and also charge any costs associated with keeping the Goods in storage.

6. DELIVERY

- 6.1 All delivery terms are to be interpreted by reference to the then current edition of INCOTERMS. Delivery of the Goods shall be made either (a) by the Buyer collecting the Goods at the Company's premises at any time after the Company has notified the Buyer that the Goods are ready for collection or (b) if some other place for delivery is agreed in writing by the Company, by the Company delivering or causing to be delivered the goods to that place. Where the Goods are to be delivered to the Buyer's facility or nominated site, the Buyer shall be responsible for all unloading activities and the costs thereof. The Company reserves the right in all such cases to deliver the Goods to the nearest point of suitable access.
- 6.2 Any dates quoted for delivery of the Goods are approximate only. The Company shall not be liable for any delay in delivery of the Goods howsoever caused including by reason of late or non-submission by the Buyer of agreed data or information. Time for delivery seen not be of the essence.
- 6.3 Where the Goods are to be delivered in installments, each delivery shall constitute a separate contract. A Failure by the Company to deliver any one or more of the installments in accordance with these conditions or any claim by the Buyer in respect of any one or more installments shall not entitle the Buyer to treat the Contract as repudiated.
- 6.4 If the Buyer fails for whatever reason to take delivery at all or any of the Goods, then without prejudice to any other right or remedy available to the Company including the right to enforce payment under Clause 5.2, the Company may
- 6.4.1 Store the Goods at the Buyers cost and risk until actual delivery or 30 days (whichever shorter) and charge the Buyer for the reasonable storage costs (including transport, handling and insurance), and/or at its sole discretion.
- 6.4.2 Sell the Goods elsewhere after notifying the Buyer in writing of its intention to do so and claim liquidated damages of 25 percent of the invoice price of the Goods.

7. CLAIMS RELATING TO DELIVERY

- 7.1 Any claim by the Buyer relating to either non-delivery of or damage to all or part of the Goods or that the Goods are not in accordance with the Contract must be made to the company in writing within 5 days of the Buyer's receipt or deemed receipt of the Goods or, in the case of non-delivery of all the Goods, within 10 days of the date of the Company's invoice. Failure to do so means that the Buyer shall be deemed to have accepted the Goods. Any claim by the Buyer must incorporate all relevant details and information including photographic evidence and permit the Company or its agents reasonable access to inspect the Goods.
- 7.2 In the event of a valid claim under Clause 7.1 above, the Company's liability shall, at its option, be limited to delivery of the Goods or repaired or replacement Goods (as the case may be) at no cost to the Buyer to the originally agreed delivery point. All replaced Goods shall become the Company's property and under its instruction.

8. RISK AND TITLE

- 8.1 Risk of damage to or loss of the Goods shall pass to the Buyer when the Company notifies the Buyer that the Goods are available for collection or on delivery whichever it sooner.
- 8.2 Notwithstanding delivery and the passing of risk in the Goods, the title in the Goods shall not pass to the Buyer until the Company has received in cash or cleared funds payment in full, in the currency stated in the contract, of the price of not only the Goods but all other goods or services agreed to be sold by the Company to the Buyer for which payment is then due. Notwithstanding any passing of title in the particular Goods, this shall not serve to transfer to the Buyer or any user of the Goods any intellectual property rights in such items, which rights shall remain solely vested in the Company and its suppliers.
- 8.3 Until such time as title in the Goods passes to the Buyer, the Buyer shall hold the Goods as the Company's fiduciary agent and Bailee and shall keep the Goods separate from those of the Buyer and third parties and properly stored, protected and insured as the Company's property. Prior to the title passing, the Buyer shall be entitled to resell or use the Goods in the ordinary course of its business. It shall account to the Company for the proceeds of sale or otherwise of the Goods (whether tangible or intangible including insurance proceeds) and shall keep all such proceeds separate (from any other monies or property).
- 8.4 Until such times as title in the Goods passes to the Buyer (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Buyer to hand over the Goods to the Company. If the Buyer fails to do so, the Company may forthwith without any restrictions enter any premises of the Buyer or any third party where the Goods are stored and repossess the Goods without any liability thereby arising.

9. WARRANTIES AND LIABILITIES

- 9.1 Subject to the conditions set out below, the Company warrants that the Goods will be free from defects in workmanship and material for a period of 12 months from the date of delivery to the first user thereof or 24 months from delivery to the Buyer whichever is the first to expire.
- 9.2 The above warranty shall not unless otherwise expressly agreed to in writing by the Company extend to
- 9.2.1 Any accessories or proprietary fittings whatsoever and howsoever supplied.
- 9.2.2 Goods used for a purpose for which they were not designed.
- 9.2.3 Goods which in the opinion of the Company have been altered, used, maintained serviced or stored otherwise than in accordance with the Company's recommendations including the use of non-approved items in the service, repair or maintenance of the Goods.
- 9.2.4 Goods from which the Company's numbers or markings have been altered or removed,
- 9.2.5 Defects arising from any drawing, design or specification supplied by the Buyer or its customer,
- 9.2.6 Defects arising from fair wear and tear, willful damage, negligence, abnormal working conditions (including overload, overspeed, use outside approved application) failure to follow the Company's recommendations and service warranty procedures (whether oral or in writing), misuse or alteration or repair of The Goods without the Company's prior approval.
- 9.2.7 Parts, materials or equipment not manufactured by the Company, where the Buyer shall only be entitled to any benefit obtainable under any warranty given by the Company's supplier.
- 9.2.6 Costs of removal and refitting of Goods into the specific application or product.
- 9.3 For claims to be valid they need to be notified to the Company in writing, incorporating all relevant details and information and submitted within 30 days of the alleged failure. Where any valid claim by the Buyer for breach of the warranty contained in Clause 9.1 above is notified to the Company in accordance with these conditions. The Company may, at its sole option, elect to repair or replace the defective item free of charge to the Buyer. All replaced Goods shall become the Company's property and under its instruction. In the case of defective services the Company's sole obligation with respect to any valid claims shall be to reperform the alleged defective service at no cost to the Buyer.
- 9.4 Subject as expressly provided in these conditions, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law except where the Goods are sold to a person dealing as a consumer (within the meaning of the Unfair Contract Terms Act 1977).
- 9.5 Subject to Clause 9.6, (a) the Company shall not be liable to the Buyer for any indirect or consequential loss, damage, expense or cost (including but not limited to loss of profits, contracts or production) howsoever arising out of or in connection with the supply of the Goods or their use or resale by the Buyer and (b) the Company's maximum liability howsoever arising out of or in relation to this Contract shall be limited to the invoiced value of the Goods concerned.
- 9.6 Nothing in these conditions shall have the effect of excluding or restricting the liability of the Company for death of personal injury resulting from the Company's negligence.
- 9.7 The Buyer will carry out all certification activities relating to products into which the Goods are incorporated and will ensure that the Goods comply with legislation in force in territories where they are to be sold or used. The Buyer shall indemnify the Company against all liability, loss, damages, costs and expenses howsoever arising from any breach of this obligation.
10. FORCE MAJEURE
The Company shall not be liable to the Buyer or be deemed to be in breach by reason of any delay in performing or any failure to perform any obligation in relation to the Goods if the delay or failure is due to any cause beyond the Company's reasonable control.
11. INSOLVENCY OF BUYER
- 11.1 The Company shall be entitled either to cancel the Contract in whole or in part on to suspend any further deliveries or Goods or performance of services under such Contract without any liability to the Buyer forthwith by written notice if (a) the Buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or becomes bankrupt or goes into liquidation, or a receiver is appointed over any of the property or assets of the Buyer; or (b) the Buyer ceases or threatens to cease to carry on business or is unable in the Company's reasonable opinion to meet its debts as they fall due; or (c) the Company has reasonable grounds for believing that any of these events is about to occur in relation to the Buyer.
- The above rights shall be in addition to any other rights of the Company in such circumstances
- 11.2 If any Goods have been delivered or services performed but not paid for, then the price shall become immediately due and payable notwithstanding any previous arrangement to the contrary.
12. GENERAL
- 12.1 Any notice required or permitted to be given by either Party to the other under these conditions shall be in writing addressed to the either Party to its registered office or such other address as may have been notified in writing.
- 12.2 No waiver by the Company of any breach of these conditions by the Buyer shall be considered as a waiver of any subsequent breach of the same or any other proviso.
- 12.3 If any provision of these conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisos of these conditions shall not be affected.
- 12.4 This Contract and all matters related to it shall be governed by the laws of England and all disputes and related matters shall be subject to the exclusive jurisdiction of the English Courts.
- 12.5 The Company may at its option assign or subcontract the whole or any part of this Contract to any third party.