

GENERAL CONDITIONS OF SALE (2017)

1. Definitions

In these conditions: -

"Buyer" means the person or company from whom the order is received;
"Company" means SecurEx Technology Ltd;
"Conditions" means the terms and conditions of sale set out in this document and any special terms and conditions agreed in writing by the Company;
"Goods" means the articles which the buyer agrees to buy from the Company;
"Order" means the order placed by the buyer for the supply of the goods;
"Price" means the price for the goods excluding carriage, packing, insurance and VAT;

1.2 Any reference in these conditions to any provision of a Statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Conditions applicable

The Company's quotations are not binding on the Company and a contract ("the contract") will only come into being upon acceptance by the Company of the order. The contract will be subject to these conditions which shall apply to all contracts for the sale of goods by the Company to the buyer to the exclusion of all other terms and conditions including any terms and conditions which the buyer may purport to apply under any purchase order, confirmation of order or similar document. All orders for goods shall be deemed to be an offer by the buyer to purchase goods or obtain services pursuant to these conditions. Any variation to these conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing by the Company and in particular (but without limitation): -

2.1 where the buyer requires the goods for a particular purpose the Company shall be deemed to have no notice of such purpose unless that purpose is agreed by the buyer and Company in writing; and
2.2 the Company and the buyer acknowledge that there is no usage or course of trading in existence which could affect the terms of the contract in any way.

3. The price and payment

3.1 The price of the goods shall be the Company's quoted price which shall be binding upon the Company provided that the buyer shall accept the Company's quotation within 30 days or where no such quotation shall have been given the price of the goods shall be the price stipulated in the Company's published price list current at the date of delivery of the goods.

3.2 Payment of the price and VAT shall be due as stated on the official quotation OR other mutually agreed trade credit account agreement, but in no case shall payment in full be received later than by the last working day of the month following the end of the month in which the goods are delivered. Time for payment shall be of the essence. The price is exclusive of VAT, which shall be due at the rate ruling on the date of VAT invoice.

3.3 Interest on overdue invoices shall accrue from the date when payment becomes due from day to day until the date of payment at a rate of 4% above National Westminster Bank Plc's base rate from time to time in force and shall accrue at such a rate after as well as before any judgement.

3.4 Prices are the Company's ex-works prices and where the Company agrees to arrange for the goods to be sent to the buyer the buyer shall be responsible for the costs of loading carriage and unloading.

3.5 The cost of pallets and returnable packing will be due from the buyer in addition to the price if they are not returned to the Company in good condition within 60 days of the date of VAT invoice.

3.6 The Company reserves the right, by giving notice to the buyer at any time before delivery, to increase the price of goods to reflect any increase in the cost to the Company which is due to any factor beyond the control of the Company (including, without limitations, increases in costs of labour materials or other costs of manufacture) and any changes in delivery dates, quantities or specifications for the goods requested by the buyer.

4. Warranties and Liability

4.1 The goods shall be manufactured and supplied in accordance with the description contained in the Company's specifications. The Company may from time to time make changes in the specification of the goods which are required to comply with any applicable safety or statutory requirements or which do not materially affect the quality or fitness for purpose of the goods.

4.2 Except where express warranties are set out in these conditions all warranties, conditions or terms of every kind whether implied by statute or common law or otherwise are hereby excluded to the fullest extent permitted by law provided that nothing in this contract shall restrict or exclude liability for death or personal injury caused by the negligence of the Company or affect the statutory right of a buyer dealing as consumer.

4.3 The Company shall not be liable for consequential loss or damage whatsoever whether caused by negligence or otherwise arising out of or in connection with the provision of any goods pursuant to this contract and the total liability of the Company for any loss of the buyer in connection with this contract shall not exceed the price.

4.4 The specifications and designs of the goods (including the copyright, design right or other intellectual property in them) shall as between the parties be the property of the Company. Where any designs or specifications have been supplied by the buyer for manufacture by or to the order of the Company then the buyer warrants that the use of those designs or specifications for the manufacture processing, assembly or supply of the goods shall not infringe the rights of any third party.

4.5 The buyer agrees to indemnify the Company against all losses, damages, injury, costs and expenses of whatsoever nature suffered by the Company to the extent that the same are caused by or related to: -

4.5.1 Designs, drawings or specifications given to the Company by the buyer in respect of goods produced by the Company for the buyer; or

4.5.2 Defective materials or products supplied by the buyer to the Company and incorporated by the Company in goods produced by the Company for the buyer; or

4.5.3 The improper incorporation, assembly, use, processing, storage or handling of goods by the buyer.

4.6 Without prejudice to the other provisions of this clause 4, the Company may at its sole discretion elect to replace any goods found to be defective under clause 4.1 if such goods are returned to the Company within 6 months of the date of delivery provided that any such replacement goods shall be accepted by the buyer in full and final settlement of any claims it may have against the Company relating to such defective goods.

5. Delivery

5.1 The goods shall be delivered by the Company at or despatched for delivery to the place or places and in the manner specified in the order or as otherwise agreed.

5.2 Unless otherwise specified in the order the Company shall be deemed to have made a due delivery of the goods if the goods are collected by or on behalf of the buyer or delivered to or collected by a carrier nominated by the buyer and such delivery shall be deemed to have taken place at the moment when the goods are received into the possession of the buyer, his servant, agent, representative or such carrier.

5.3 Any claim for damage or partial loss of the goods in transit must be submitted in writing to both the carrier and the company within three days of delivery and in the case of non-delivery of the whole consignment claims must be submitted in writing to both the carrier and the Company within seven days of receipt of the buyer (or the buyer's agent) of notification of despatch of the goods. In the absence of claims within the terms mentioned above the goods shall be deemed to have been delivered in accordance with the contract.

5.4 If for any reason the buyer is unable to accept delivery of the goods at the time stated for delivery or where no date for delivery has been agreed when the buyer has been notified that the goods are due and ready for delivery the Company shall at its discretion and without prejudice to its rights hereunder if its storage facilities permit, store the goods until their actual delivery and the buyer shall pay to the Company on the actual delivery of the said goods in addition to any sum due under clause 3 hereof such sum as represents the cost (including insurance) and the cost of any abortive deliveries of its so doing.

5.5 No delay in delivery shall entitle the buyer to repudiate or cancel the contract or any deliveries hereunder.

5.6 The Company may deliver the goods by separate instalments and each separate instalment shall be invoiced and paid for in accordance with the provisions of the contract. The failure of the buyer to pay for any one or more of the said instalments on the due date shall entitle the Company (at its sole option) without notice to suspend further deliveries of the goods pending payment and/or to treat the contract as repudiated by the buyer.

6. Rejection

6.1 The buyer shall inspect the goods supplied under this contract immediately on the delivery thereof and shall in the case of any allegation of disconformity of the goods with the order within three days from such delivery give notice in writing to the Company of any matter or thing by reason whereof it alleges that the goods are not in accordance with the contract and/or whether it rejects them.

6.2 If the buyer fails to give notice that it rejects the goods as provided in clause 6.1 the buyer shall be deemed to have accepted the goods and the goods shall be deemed to be in all respects in accordance with the contract.

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- 6.3 If the buyer gives notice that it rejects the goods and such rejection afterwards becomes ineffectual by reason of the buyer dealing with the goods as owner or by reason of any other conduct on the part of the buyer inconsistent with such rejection the buyer shall be bound to pay the price in full and shall have no claim for damages or compensation by reason of any disconformity of the goods with the contract.
- 6.4 If the buyer rejects the goods under clause 6.1 hereof the Company may elect to supply other goods complying with the order to the Company within 14 days of the date of the notice of rejection and if those goods are not properly rejected by the buyer the Company shall be deemed to have complied with its obligations under the contract and no claim by the buyer arising out of the buyer's rejection of the original goods shall lie against the Company.
- 7. Retention of Title**
- 7.1 The goods shall be at the buyer's risk from delivery.
- 7.2 In spite of delivery having been made legal and beneficial title in the goods shall not pass from the Company until payment in full has been received by the Company:
- 7.2.1 for the goods;
- 7.2.2 for any other goods supplied to the buyer by the Company; and
- 7.2.3 of any other monies due from the buyer to the Company on any account whatsoever.
- 7.3 Until legal and beneficial title in the goods passed to the buyer in accordance with clause 7.2 the buyer shall: -
- 7.3.1 hold the goods and each of them on a fiduciary basis as bailee for the Company; and store the goods (at no cost to the Company) separately from all other goods in its possession and readily identifiable as the Company's property.
- 7.4 Notwithstanding delivery to the Buyer, the Company shall be legally and beneficially entitled to the ownership of the goods until payment of all debts owed by the Buyer to the Company. Until such payment, and subject to the following provisions, the Buyer holds the goods as bailee of the Company and owes to the Company the normal fiduciary obligations of a bailee by way of custody in respect of the goods. In so far as the Buyer shall, or shall purport to, offer for sale and sell the goods, it shall do so only at the best obtainable price in the ordinary course of its business as principal and not as agents for the Company. The Company shall, by reason of the said relationship of bailment between the Buyer (as bailee) and itself (as bailor), be and remain legally and beneficially entitled to the proceeds of sale and the buyer shall pay such proceeds of sale into a separate account or, otherwise, shall ensure that all the proceeds of sale are kept by or on behalf of the Buyer in a separate and identifiable form. The proceeds shall not be paid into an overdrawn bank account. Upon receipt of the proceeds of sale, the Buyer shall discharge the debt due to the Company and shall not use or deal with the proceeds of sale in any way whatsoever until such debt has been discharged.
- 7.5 In the event that any proceeds paid to the Company pursuant to clause 7.4 above exceeds the sum due to the Company the Company shall repay on request an amount equivalent to such excess to the buyer less: -
- 7.5.1 any further indebtedness which may subsequently have become due and owing to the Company by and from the buyer; and any sums which might become due in respect of any goods ordered but for which payment has not become due.
- 7.6 At any time prior to legal and beneficial title in the goods passing to the buyer the Company may (without prejudice to any other of its rights): -
- 7.6.1 require delivery up to it of all or any part of the goods;
- 7.6.2 retake possession of all or any part of the goods and enter any premises for that purpose (or authorise others to do so) which the buyer hereby authorises;
- 7.6.3 terminate the buyer's authority to resell or use the goods forthwith by written notice to the buyer which authority shall automatically terminate (without notice) upon any insolvency of the buyer or it going into liquidation (as defined in the Insolvency Act 1986) or it having a receiver or similar appointed or calling a meeting of its creditors or any execution or distress being levied on goods in its possession.
- 7.7 The buyer shall insure and keep insured the goods to the full price against "all risks" to the reasonable satisfaction of the Company until the date that legal and beneficial title in the goods passes from the Company, and shall whenever requested by the Company produce a copy of the policy of insurance. Without prejudice to the other rights of the Company, if the buyer fails to do so all sums whatever owing by the buyer to the Company shall forthwith become due and payable.
- 7.8 The Company may at any time appropriate sums received from the buyer as it thinks fit notwithstanding any purported appropriation by the buyer.
- 7.9 The buyer shall promptly deliver the prescribed particulars of the contract to the Registrar in accordance with the Companies Act 1985 Part II as amended. Without prejudice to the other rights of the Company, if the buyer fails to do so all sums whatever owing by the buyer to the Company shall forthwith become due and payable.
- 8. Termination**
- 8.2 This clause applies if: -
- 8.2.1 the buyer makes any voluntary arrangement with its creditors or becomes subject to an administration order or (being an individual or firm) becomes bankrupt or (being a company) goes into liquidation (otherwise than for the purposes of amalgamation or reconstruction); or
- 8.2.2 an encumbrancer takes possession of, or a receiver is appointed to any of the property or assets of the buyer; or
- 8.2.3 the buyer ceases, or threatens to cease to carry on business; or
- 8.2.4 the Company reasonably apprehends that any of the events mentioned above is about to occur in relation to the buyer and notifies the buyer accordingly.
- 8.3 If this clause applies then, without prejudice to any other right or remedy available to the Company, the Company shall be entitled to determine the contract or suspend any further deliveries under the contract without any liability to the Company, and if the goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 9. General**
- 9.2 All headings are for ease of reference only and shall not affect the construction of this contract.
- 9.3 Any provision of this contract which is or may be void or unenforceable shall to the extent of such invalidity or unenforceability be deemed severable separate and distinct and shall not affect any other provision of this contract.
- 9.4 No waiver or forbearance by the Company (whether express or implied) in enforcing any of its rights under this contract shall prejudice its rights to do so in the future.
- 9.5 The Company may license or sub-contract all or any part of its rights and obligations under this contract without the buyer's consent.
- 9.6 The Company shall not be liable for any default due to any act of God, war, strike, lock-out, industrial action, fire, flood, drought, tempest or other event beyond the reasonable control of the Company.
- 9.7 The contract shall be governed by English Law and all disputes arising out of their contract shall be subject to the exclusive jurisdiction of the courts of England and Wales.