

# General terms and conditions

## June 2021

### 1 General matters

- 1.1 The legal relations between Unex Dakota AG and the orderer and/or purchaser (hereafter referred to as "Customer") are first of all based on written agreements entered into in an individual instance. If no such differing individual agreements have been entered into, then these General Terms and Conditions (AGBs) constitute the exclusive basis for all transactions entered into between Unex Dakota AG and the Customer. Differing business or purchase conditions of the Customer or third parties are therefore only valid if and to the extent that they have been expressly acknowledged by Unex Dakota AG in writing. A Customer's reference to its own terms and conditions of business is hereby expressly controverted by Unex Dakota AG. If the Customer disagrees with these rules, then it must promptly inform Unex Dakota AG in writing thereof. In the case of such a written objection thereto, Unex Dakota AG reserves the right to countermand its offers and deliveries without compensation therefor and without the Customer being able to derive claims of any kind whatsoever therefrom.
- 1.2 A contract is formed if Unex Dakota AG accepts the order of a Customer in writing, by fax, or electronically (order confirmation). Unex Dakota AG is free to reject orders without giving reasons therefor.
- 1.3 If one of the foregoing provisions should be or become invalid, the validity of the remaining contractual provisions remains unaffected thereby. Under such circumstances the meaning of the invalid provision is to be reinterpreted or supplemented so that the intended economic or legal purpose of the original provision is attained.
- 1.4 The current version of the AGBs replaces all previous ones.

### 2 Technical regulations

- 2.1 In the absence of an agreement to the contrary, Unex Dakota AG conforms to currently valid Swiss technical regulations.
- 2.2 The Customer is to ensure that it is in compliance with the relevant technical regulations at the place of use. If these differ from Swiss regulations, then at the time of placing its order the Customer is to request the necessary modifications in a detailed fashion and in writing.

### 3 Delivery conditions

- 3.1 In the absence of agreements to the contrary, delivery deadlines and dates are to be regarded as approximations. They are dependent on the availability of the products ordered at the plant of Unex Dakota AG in Zurich.
- 3.2 Delivery deadlines begin to run upon contract conclusion (Number 1.2) and as soon as any advance payments or securities have been undertaken, all technical issues have been cleared up, and any regulatory requirements have been met.
- 3.3 Delivery deadlines are extended as appropriate if the Customer does not meet or is late in meeting its duty of cooperation or payment or when delays occur due to force majeure, official measures, interruption of operations, defects in machinery, or because of delayed or incorrect supplies of raw materials, as well as semi-finished or finished articles.
- 3.4 If the Customer is behind in an advance payment or in a payment arising out of a prior delivery, then Unex Dakota AG is forthwith entitled to defer carrying out new orders or to hold them back in whole or in part until all past due payment obligations have been met.
- 3.5 If a certain delivery date is agreed upon, then Numbers 3.2 to 3.4 apply by analogy.
- 3.6 Late delivery does not entitle the Customer to a right to rescind or to any claims for a reduction of price or for damages (either direct or indirect). Any liability on the part of Unex Dakota AG or its auxiliary personnel is excluded to the extent statutorily permissible.
- 3.7 Unex Dakota AG is entitled to render partial deliveries. It is to bear any additional logistical costs incurred thereby unless these partial deliveries are undertaken due to the absence of cooperation or payments that are in arrears on the part of the Customer or are undertaken at the Customer's wish.
- 3.8 Benefits and risks pass to the Customer as soon as the delivery and/or partial delivery is made available for pick-up by the Customer and/or its carrier at the Unex Dakota AG factory and the Customer has been informed of this date.

### 4 Prices and conditions of payment

- 4.1 Prices put forth by Unex Dakota AG in its catalogues and price lists, its web site, or in its online shop are suggested prices and as such are not binding. The right to changes in price, the range of goods, and to products themselves is reserved at all times. Orders, including those made using the online ordering system, as well as orders and "order confirmations" of the CUSTOMER, are to be regarded as mere offers up to the time of CONTRACT CONCLUSION.
- 4.2 Prices first become binding when put forth in a concrete offer or in an order confirmation. Unless other arrangements have been made in the offer or the letter accompanying it, then offers, at the longest, are valid for 3 months from the date of issue. If the Customer orders fewer items than put forth in the offer, then the right is reserved to impose reduced quantity or other surcharges.
- 4.3 All Unex Dakota AG prices are net (excluding VAT) ex-factory at Unex Dakota AG, in Zurich, Switzerland ("ex works," in accordance with Incoterms 2010).
- 4.4 All costs associated with packaging, transport, insurance, public charges and fees (e.g. VAT, customs, export, passage in transit and other authorizations, etc.) are not included in prices

and are to be borne by the Customer. If Unex Dakota AG advances these costs, they are to be reimbursed to it by the Customer.

- 4.5 If not agreed to otherwise, invoices are immediately due and to be paid by the Customer without any deductions. Unex Dakota AG retains the right to request partial or full advance payment. For private customers either prepayment by bank or PayPal applies.
- 4.6 Payment dates are also to be complied with if delivery, transport, pick-up or installation of the delivery is delayed or rendered impossible due to reasons for which Unex Dakota AG is not responsible. The same applies if individual products are missing or defective.
- 4.7 If a customer has several outstanding accounts, then Unex Dakota AG is entitled, notwithstanding instructions of the Customer to the contrary, to first credit the oldest outstanding account(s).
- 4.8 The Customer acknowledges that the use of any claims against Unex Dakota AG for advance payments or payments for deliveries is excluded. Excepted herefrom are Customer claims that have been expressly acknowledged in writing for purpose of set-offs by Unex Dakota AG or through the final determination of a court of law.
- 4.9 Default interest of 8% p.a. is to be paid by the Customer in the case of late payments, even without the giving of advance notice thereof. Upon CUSTOMER'S default in payment Unex Dakota AG is entitled to have collection undertaken by a third party at the Customer's cost. Any objections concerning invoices are to be brought in writing within 14 calendar days of the receipt thereof, otherwise invoices are regarded as acknowledged.
- 4.10 Unex Dakota AG remains owner of the entire delivery until complete payment (including any ancillary costs and default payment interest). The buyer is not permitted to dispose of goods that are encumbered with reservation of ownership. In the case of attachment by third parties, especially by bailiffs, the buyer must give notice that Unex Dakota AG is the owner as well as promptly informing Unex Dakota AG thereof.

### 5 Notification of defects, warranty

- 5.1 The Customer, immediately after receipt of the products, is to carefully inspect them in regard to completeness (number of items), correctness (type), as well as for possible defects. Shipment with any transport damages are to be accepted subject to reservation and the relevant carrier is to be promptly notified for the purpose of establishing the facts of the case and the safeguarding of all rights.
- 5.2 Any quantity shortfalls, misdeliveries, and/or defects in the products delivered are to be promptly reported to Unex Dakota AG, however at the latest within 5 calendar days after delivery of the products to the Customer and/or its carrier at the plant of Unex Dakota AG. Such reports are to be in writing and precisely describe the ascertained discrepancies and/or defects. If such action has not been taken by the passing of this deadline (the receipt of this notification of defects by Unex Dakota AG is determinative) then the delivery is to be regarded as having been approved in regard to quantity shortfalls, misdeliveries, as well as apparent defects.
- 5.3 UnexLED stands for service and quality. We emphasize this by granting a 5-year manufacturer's warranty on Unex products in accordance with the following provisions: We guarantee that our products are free of material, construction or production defects during the warranty period of 5 years, irrespective of the statutory warranty. The guarantee is valid from the time the delivery or partial delivery is ready for collection by the customer or his carrier at the Unex Dakota AG factory and the customer has been informed of this date, if the products are used as intended within the product specifications. Excluded from these 5 years are the following products, components or circumstances:
  - Goods that have been further processed / modified by the buyer or his customer
  - Loose delivered LED strips: 2 years warranty
  - Semi-finished products (e.g. partially assembled solutions)
  - Outdoor lighting and luminaires for outdoor applications: 2 years warranty
  - Nex Flex: 3 years warranty
  - Illuminants with GU10 sockets: Unex Ridl 7 have 3 years warranty, all non Unex GU10 lamps have 2 years warranty
  - Batteries/rechargeable batteries supplied in lights or loose: 1 year warranty
  - Motion detector/lights with motion detector: 2 years warranty
  - Damage that does not impair the function of the product, e.g. scratches, cracks, dents, buckling, paint, decorative features, etc.
  - Damage due to power supply conditions, including brief voltage spikes, overvoltage/undervoltage
  - Damage caused by software errors, bugs, viruses or the like
  - Damage due to force majeure
  - Components and parts that are subject to wear or natural ageing, such as seals, plastic parts, connecting cables, etc.

Any further guarantee or compensation is excluded. In particular, no costs shall be assumed for programming, transport, disassembly and reassembly of luminaires and apparatus or their components or for any other consequential damage. Warranty related services do not extend the warranty period nor do they set a new warranty period in motion. The warranty period for repaired / replaced parts or replacement deliveries ends with the warranty period for the entire product. The warranty claim requires that the lamps / strips and luminaires have been operated with the

operating devices specified, tested and supplied by Unex. The supplier notifies the customer that the data of the customer necessary for the execution of the commercial business process will be stored. Deviations from the original product due to technical progress as well as justifiable deviations with regard to design and properties are reserved.

- 5.4 Any concealed defects are to be reported in detail and in writing to Unex Dakota AG within 5 days after their discovery. Upon the request of Unex Dakota AG the Customer is to place the product at the disposal thereof. The warranty covers defects that can demonstrably be traced to flawed manufacture, defective material, or the failure to comply with determinative and/or agreed- upon technical regulations (see Number 2 above).
- 5.5 Excluded from the warranty are instances of non-functioning or incorrect functioning that are due to use not in accordance with the provisions therefor, improper treatment or storage, failure to follow installation and operating instructions, manipulations undertaken on the product, insufficient maintenance, overloading or other excessive stress, damage caused by weather and other environmental factors, chemical electrolytic or electromagnetic influences, as well as interference by other products. In warranty cases Unex Dakota AG has a choice between replacing the defective product or parts thereof or granting the Customer a reduction in price. Any further liability of Unex Dakota AG or its auxiliary personnel is excluded to the extent permitted by law. In particular, neither the Customer nor third parties have claims to compensation for damages that were not incurred by the delivered product itself, such as programming, assembly, and installation costs, interruptions in production, loss of effectivity, lost profits or other direct or indirect damages and consequential harm caused by defects, namely direct as well as indirect damages to third parties that are caused through the incorrect functioning or non-functioning of the delivered product, etc. Likewise, there is no warranty for material upon which the CUSTOMER or third parties have made modifications or repairs or for which the assembly or operating instructions of the supplier were not complied with. Excluded from the guarantee are also lights and devices that were manufactured according to designs or models of the CUSTOMER, if the damages that arise are due to design errors. Moreover, if an examination or a modification of such material is requested by the Federal Heavy Current Inspectorate, then all costs resulting therefrom are to be borne by the CUSTOMER. With the exception of price reductions each guarantee requires that the defective material be packed and shipped postage paid to Unex Dakota AG. Please note the following information concerning the operational life of lights: the operational life of all lighting products depends on compliance with the standard operating conditions put forth in the technical data therefor. Lights are wear parts, for which the corresponding operational life varies greatly (1,000 to 60,000 hours) and can be greatly influenced by operating conditions. Information concerning the operational life of a light is undertaken in terms of operating hours (e.g. average operational life = 50,000 hours) and is ascertained under standardized conditions that may not be the same as those in practice. If the operational lifespan is given in terms of operating years, this is also based exclusively on assumed standard operating conditions (cycles of operation, operating hours per year, etc.) and the usual criteria for maintenance intervals that appear proper for the intended use. Threshold values for temperatures, an environmental temperature of 25°C and voltage may not be exceeded, the product may not be subjected to any mechanical or other stress that is not in accordance with the regulations therefor. The decline in luminous flux in the case of LED light sources is normal up to a value of 0.6 % per 1,000 operating hours and thereby not covered by the guarantee. Electronic equipment and/or parts such as LED modules have an average rated failure rate of 0.2%/1,000 operating hours, unless the average rated life and rated failure rate of the device or part are defined differently in the product and application specifications (especially according to the catalogue, specification sheet, product brochure, and the like). This applies subject to the conditions put forth below. Each warranty requires that the defective material be delivered prepaid to the address of the company Unex Dakota AG. The warranty only includes product failures that are demonstrably caused by material, design, or production flaws, as well as failure rates that exceed the rated failure rate. Unex Dakota AG reserves the right to make a decision concerning the legitimacy of a warranty claim after examining the product itself. The warranty is immediately cancelled if, without obtaining prior written consent by the guarantor, the Customer or a third party undertake modifications, repairs, service work, or troubleshooting on the product. The colour tolerance of LED modules is not included in the manufacturer's warranty. The luminous flux and the performance of a new LED module/light source is subject to a tolerance of +/- 10%. There can be discrepancies in the light characteristics in comparison to the original products in the case of subsequent deliveries of LED modules/ light sources/lights due to technical progress as well as usage-related changes in the luminous flux and the light colour of products. Agreed limitations of liability apply accordingly to the warranty claim.
- 5.6 If the Customer complains about a product that turns out to be free of defects, then Unex Dakota AG can bill the Customer for examination costs.

## 6 Planning and consultation by Unex Dakota AG

- 6.1 If Unex Dakota AG develops lighting concepts for a customer or consults with it in this regard, then this is to be regarded as a favour that involves no liability on the part of Unex Dakota AG. An exception hereto is compliance with concretely measurable requirements (e.g. illumination level), if Unex Dakota AG accepts corresponding liability therefor in writing in an individual instance.

## 7 Repairs requested by the Customer

- 7.1 If the Customer has Unex Dakota AG undertake product repairs that fall outside the applicable warranty provisions, then the Customer is to bear the corresponding costs, especially for expenses, materials, and transport.

- 7.2 If the Customer requests a cost estimate for such repairs, then Unex Dakota AG is to be informed thereof in advance. The Customer is to bear the costs of the cost estimate regardless of whether the repairs are undertaken or not.

## 8 Special duties of the Customer

- 8.1 The products may only be assembled, disassembled and serviced by trained, high-voltage current technicians (electricians). Attention: high voltage current involves risk of death!
- 8.2 The Customer is obligated to observe and comply with all general as well as determinative local regulations for the assembly/disassembly, the operation and the maintenance of products. Moreover, the Customer is obligated to observe and comply with the product-related instructions for assembly, service and maintenance provided by Unex Dakota AG.
- 8.3 If the Customer delivers products of Unex Dakota AG to third parties or has third parties install them, then it is to obligate these third parties in writing to comply with the regulations in accordance with Numbers 8.1 and 8.2 above and to ensure that the assembly, operation and maintenance instructions is made available to the third parties in an understandable fashion. Moreover, these third parties are to be obligated in writing to transfer the duty under this Number 8.3 to any further purchasers.
- 8.4 If personal, material or financial damages are caused by the actions and/or omissions of the Customer or one of its auxiliary personnel or its purchasers or subsequent purchasers, etc., and for this reason claims are brought against Unex Dakota AG, then it has a right of recourse against the Customer. The Customer is to completely indemnify Unex Dakota AG at the first request therefor and is also to reimburse it for the costs of defence against the claims.

## 9 Intellectual property

- 9.1 Intellectual property rights to all products (including know-how) belong exclusively to Unex Dakota AG and/or its suppliers, who are solely entitled to register any intellectual property rights (patents, designs, topographies, etc.). All copyrights to software and/or firmware, cost estimates, technical drawings, the design of products, to assembly, operation and maintenance instructions as well as to all other documents are the sole property of Unex Dakota AG and/or its suppliers.
- 9.2 Unless otherwise agreed to expressly and in writing, this rule also applies if Unex Dakota AG undertakes customized adaptations, suggestions, product sketches, or developments for a Customer. Such materials and documents of Unex Dakota AG cannot be copied in whole or in part or made available to third parties without its express approval.
- 9.3 If a Customer of Unex Dakota AG makes available documents/data (sketches, plans, measurements, models, etc.), then it ensures that these documents/data are free from third party property rights and that they may be used and if necessary processed in the context of the current project by Unex Dakota AG.

## 10 Applicable law, place of performance, jurisdiction

- 10.1 All legal relations between Unex Dakota AG and the Customer are subject to Swiss material law, to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April, 1980.
- 10.2 Unex Dakota AG reserves the right to modify these AGBs. Modifications become effective at the time they are communicated to the CUSTOMER for all legal relationships established between Unex Dakota AG and the CUSTOMER after this time. Should one or more provisions of these AGBs prove to be void or invalid, this has no effect on the validity of the remaining provisions and on these AGBs as a whole.
- 10.3 The place of performance for all acts undertaken for contractual purposes is the Swiss headquarters of Unex Dakota AG.
- 10.4 For all controversies between the Customer and Unex Dakota AG the courts at the Swiss headquarters of Unex Dakota AG have exclusive jurisdiction. However, Unex Dakota AG remains entitled to bring actions against the Customer at any other permissible place of jurisdiction.