

1. General

- (a) This document constitutes an offer by Noble Ultimate Holding, LLC, dba Unico Technologies Group, its affiliates, and/or subsidiaries ("UTG") to provide the products and/or services described herein (the "Products") and to license software loaded on, or provided with, the Products (the "Software") to the buyer to which this offer is addressed ("Buyer"), subject to the terms, covenants, and conditions contained herein. **Buyer may not modify, change, renounce, or waive any term, covenant, or condition hereof or any of UTG's rights or remedies hereunder unless UTG consents thereto in writing. UTG agrees to provide the Products to Buyer only on the terms of this contract, notwithstanding any language in Buyer's purchase order, if one exists, or other writing or oral representation previously, simultaneously, or hereafter received by UTG purporting to amend, modify, or replace the terms, covenants, and conditions of this contract with any different or additional terms, covenants, or conditions or reciting that any action or inaction by UTG constitutes agreement or consent by UTG to such amendment, modification, or replacement. UTG's agreement to provide the products is expressly conditioned on Buyer's assent to all of the terms and conditions set forth herein.**
- (b) UTG's sales representatives are without authority to change, modify, or alter the terms of this quotation.
- (c) Buyer shall be deemed to have made an unqualified acceptance of this contract and the terms and conditions herein on the earliest of the following to occur: (i) UTG's receipt of a copy of this contract signed by buyer; (ii) Buyer's payment of any amounts due under this contract; (iii) Buyer's delivery to UTG of any material to be furnished by Buyer; (iv) Buyer's receipt of the Products; or (v) any other event constituting acceptance under applicable law.
- (d) Written quotations are void unless accepted within 45 days from date of issue unless otherwise specified on the face of the quotation. Other UTG publications are maintained as sources of general information and are not quotations or offers to sell.
- (e) This contract shall be governed by and construed according to the internal laws of the State of Wisconsin without reference to their choice of law provisions, including, without limitation, the Uniform Commercial Code as adopted in Wisconsin. This contract shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sales of Goods. Any cause of action, claim, suit, or demand by Buyer allegedly arising from or related to the terms of this contract or the relationship of the Parties shall be brought in a Court situated in the State of Wisconsin. Both Parties hereby irrevocably admit themselves to and consent to the jurisdiction of said Court. The provisions of this paragraph shall survive termination of this contract for any reason. Upon termination of this contract for any reason, UTG shall have the rights and remedies provided by law, including, without limitation, the rights of a secured party under Chapter 409, Wisconsin Statutes, or any successor statute or similar statute in the jurisdiction where Buyer is located or stores the Products.
- (f) The invalidity of any provision or clause of this quotation shall not affect the validity of any other provision or clause hereof.
- (g) UTG reserves the right to correct clerical or similar errors relating to price or any other term shown in this contract.
- (h) Failure of either Party to insist, in any one or more instances, upon performance of any term, covenant, or condition of this contract shall not be construed as a waiver or relinquishment of any right granted hereunder or the future performance of such term, covenant, or condition.

2. Delivery, Title, and Risk of Loss

- (a) Title to the Products shall pass from UTG to Buyer upon shipment from UTG. Nothing in this Agreement shall be deemed to transfer, assign, or otherwise convey any exclusive right, title, or interest in and to any copyrights, patents, trademarks, or other intellectual property, confidential information, or proprietary rights embodied in the Products. All engineering data, design information, and engineering and shop drawings used in the completion of any order are and shall remain the property of UTG.
- (b) Shipping dates given by Company are based upon prompt receipt of all necessary information regarding the order. UTG will use its reasonable business efforts to meet the scheduled dates shown on the face hereof but does not guarantee to meet such dates. Failure by UTG to make any shipments does not constitute a cause for cancellation and/or for damages of any character.
- (c) Any delay in delivery for any cause specified in the next paragraph or beyond UTG's reasonable control or due to any priorities or allocations necessitated by governmental orders or regulations shall extend the term of delivery hereunder by a period equal to the length of such delay.
- (d) In the event of delay in delivery requested by Buyer or caused by (i) Buyer's failure to supply adequate shipping instructions, (ii) Buyer's failure to supply or approve necessary data in a timely manner, (iii) any changes requested by Buyer, or (iv) Buyer's failure to provide documents required for UTG to effect shipment, UTG will store all Products at Buyer's risk and expense.
- (e) If an order is delayed more than three months for any reason or combination of reasons specified in the preceding paragraph, UTG reserves the right to increase the price of the Products and change the payment terms for them. All storage costs and expenses are due as and when payment for the Products becomes due unless stated otherwise on the face hereof. If an order is delayed more than twelve months for any reason or combination of reasons specified in the preceding paragraph it is subject to cancellation at UTG's sole discretion with no penalty to UTG.
- (f) Unless stated otherwise on the face hereof, UTG is not responsible for any loss, damage, or delay that may occur after Products have been accepted for shipment by a transportation company. Any claim relating thereto should be made to the carrier.
- (g) Claims for shortages or other errors must be made in writing to UTG within 10 days after receipt of shipment. Failure to give such notice shall constitute unqualified acceptance and a waiver of all such claims by Buyer. Partial shipments shall be permitted.
- (h) Delivery of goods F.C.A. to a carrier at UTG's plant or other shipping point shall constitute delivery. Unless otherwise stated on the face hereof, regardless of freight payment by Seller on Buyer's behalf (for which Buyer agrees to reimburse Seller), all risk of loss or damage in transit shall pass to Buyer at that time.

3. Software License Grant

- (a) **License Grant:** Upon final and full payment of the total fees set forth on the Invoice, UTG hereby grants Buyer a nonexclusive, royalty-free, perpetual, limited license to use the Software solely in conjunction with the operation of the Products specified on the Invoice.

- (b) **Scope of License:** Buyer may make a reasonable number of copies of Software as necessary for backup, configuration, installation, and restoration of the Products. Buyer may authorize a third-party contractor or service provider to exercise these rights on Buyer's behalf and for Buyer's benefit. Buyer may transfer possession of Software and its media to another party only in conjunction with the transfer of the Products on which the Software is loaded and only upon agreement of the other party to the terms and conditions of this Agreement. Upon such transfer, Buyer shall destroy all Buyer's copies of Software and related documentation. All licenses and grants pursuant to this Agreement shall immediately terminate once Buyer no longer rightfully owns or possesses the Products. No other rights under this license are granted. Buyer shall provide UTG with written notice of any such transfer providing the name, address, and contact information of the subsequent Buyer within 15 days of such transfer.
- (c) **Use Restrictions:** Buyer shall not (a) copy, display, transfer, adapt, modify, or distribute in any form the Software except as set forth in this Agreement or documentation; (b) reverse engineer, disassemble, decompile, or otherwise translate the Software's object code, unless expressly permitted by applicable law without the possibility of contractual waiver; or (c) sublicense or lease the Software or any copy thereof. Except as provided under the terms of UTG's standard escrow agreement, Buyer agrees not to make available to any party, without prior written consent from UTG or its authorized agent, source code for the Software. Buyer shall not, directly or indirectly, export or reexport, or knowingly permit the export or reexport of, the Products, or any technical information about the Products, to any country for which the United States Export Administration Act, any regulation thereunder, or any similar United States law or regulation, requires an export license or other United States Government approval, unless Buyer obtains the appropriate export license and obtains written approval from UTG.
- (d) **Maintenance and Support:** Buyer may purchase from UTG annual Software maintenance and support services under the terms and conditions of UTG's then-standard maintenance and support agreement. Buyer may renew this maintenance term at UTG's then-current maintenance rates. In the event Buyer purchases additional Software licenses, maintenance fees for such licenses shall be prorated to be coterminous with Buyer's existing maintenance period. In no event shall UTG be responsible for providing maintenance services for a period during which maintenance coverage lapsed.

4. Taxes and Other Charges

Any manufacturer's tax, retailer's occupation tax, use tax, sales tax, excise tax, duty, customs agent or broker fees, inspection or testing fee, freight costs, insurance, consular fees, or any other tax, fee, or charge of any nature whatsoever, imposed upon, in connection with, or measured by any transaction between UTG and the Buyer, shall be paid by the Buyer in addition to the prices quoted or invoiced.

5. Terms of Payment

Terms of payment on all orders are subject to the approval of UTG's credit department. If Buyer does not pay UTG any amount due under this contract or any other agreement when such amount is due, or if Buyer defaults in the performance of this contract, UTG may, without liability to Buyer and without prejudice to UTG's other lawful remedies, (i) terminate UTG's obligations under this contract, (ii) declare immediately due and payable all Buyer's obligations to UTG, (iii) change credit terms with respect to any further work, or (iv) suspend or discontinue any further work until Buyer pays all overdue amounts. Buyer agrees to pay, at UTG's discretion, a late payment charge of up to 1½% per month on all amounts not paid in full when due. Unless otherwise stated, payment terms are as follows:

- (a) **If the Buyer resides outside the United States or Canada,** Buyer shall pay UTG by Irrevocable Letter of Credit, acceptable in form and substance to UTG and, at UTG's option, confirmed by a U. S. bank acceptable to UTG. Such Letter of Credit shall provide for payment to UTG of the full amount of the purchase price plus prepaid freight in U. S. Dollars on presentation by UTG of sight drafts, UTG invoice, and such documents as the Letter of Credit may require. Payment terms will include progress payments as specified on the face of the quotation.
- All banking and other charges for such Letter of Credit are for the account of Buyer.
- (b) **If Buyer resides inside the United States or Canada and the order is less than \$150,000.00,** payment terms are 100% of order amount due net 30 days from shipment of hardware system.
- (c) **If Buyer resides inside the United States or Canada and the order is \$150,000 or greater,** Payment terms will include progress payments as specified on the face of the quotation.

6. Cancellations, Changes, and Returns

- (a) **Cancellations:** All undelivered Products may be cancelled by Buyer at any time but only by written approval of an authorized representative of UTG. In the event of any cancellation of this order by Buyer, unless other cancellation charges are specified on the face of this quotation, Buyer shall pay to UTG its reasonable costs and expenses, plus UTG's usual rate of profit for similar work.
- (b) **Changes:** Buyer may not alter or modify its order or any part thereof without the prior written consent of UTG. UTG reserves the right to change the price, terms of payment, and delivery dates for any Products affected by any alterations or modification to which it consents.
- (c) **Returns:** No Products may be returned to UTG without its prior written authorization, and Products may be returned only on the terms or conditions specified in such authorization. Returned Products must be of current manufacture, unused, in resalable condition, and securely packed to reach UTG without damage. Any cost incurred by UTG to put equipment in first-class condition will be charged to Buyer.
- (d) **Effect of Termination/Returns:** Upon termination of this Agreement for any reason, or return of Product and/or Software, except as provided in this Agreement, all respective rights and obligations of the Parties hereunder shall terminate and be of no further effect and all licenses shall immediately revert to UTG. Upon termination, Buyer shall immediately de-install, return to UTG, or destroy all copies of the Software and Documentation. Termination of this Agreement shall not result in a termination of either of the following: (a) any rights and obligations of the Parties which, by the express terms of this Agreement, survive termination; or (b) any liabilities and obligations of the Parties hereunder (whether a payment obligation or otherwise) that have accrued prior to termination. Upon termination of this contract for any reason, UTG shall have the rights and remedies provided by law, including, without limitation, the rights of a secured party under Chapter 409, Wisconsin Statutes, or any successor statute or similar statute in the jurisdiction where Buyer is located or stores the Products.

7. Warranty

- (a) **Product:** UTG warrants that its Products will be free from defects in workmanship and materials under normal use and service for a period of 18 months from date of shipment or 12 months from date of installation, whichever is first, for any Benschaw brand product, a period of 24 months from

date of shipment for any electrical and/or electronic Unico brand assembly and a period of 12 months from date of shipment for any Unico brand mechanical apparatus. Date of shipment is defined as the date that the product is presented to a carrier at a UTG facility or other specified shipment point. Parts subject to regular replacement due to operational wear are not covered by this warranty. This warranty is void in cases of damage in transit, negligence, abuse, abnormal usage, misuse, accidents, improper installation, and/or improper maintenance. This warranty is also void in cases of start-up of product by a third-party service organization or other service provider not approved in advance by UTG. On equipment furnished by UTG, but manufactured by others, the written warranty of the manufacturer, if any, will be assigned to Buyer if assignment is reasonably practicable. However, UTG does not adopt or guarantee or represent that the manufacturer will comply with any of the terms of the warranty of such manufacturer. UTG will not reimburse Buyer for any expenses incurred by Buyer in repairing or replacing any defective Products, except for those incurred with the prior written permission of UTG.

- (b) **Software:** UTG warrants that its Software shall conform to the specifications set forth in its documentation when properly installed on drives or systems meeting or exceeding the minimum hardware specifications and shall be free from any material defects, whether in design or programming, for a period of six (6) months after the date of delivery of the Software. UTG represents and warrants that, to the best of its knowledge, as of the date of delivery, it owns the Software and has the right to enter in this Agreement and that Buyer's use of the Products in accordance with the terms of this Agreement does not infringe upon any third party's copyright, U. S. patent, or trade secret. UTG does not warrant that the Software will operate uninterrupted or error-free or meet the requirements of Buyer or any other party. UTG is not responsible for problems caused by use of the Software in conjunction with third-party software, hardware, or products. UTG will assign, if practicable, the written warranty, if any, provided by a third-party manufacturer on equipment furnished by UTG but manufactured by another; however, UTG is not responsible for and does not adopt, guarantee, or represent that the manufacturer will comply with any of the terms of the manufacturer warranty.

UTG'S SOLE OBLIGATION UNDER THIS WARRANTY SHALL BE, UPON PROMPT WRITTEN NOTICE BY BUYER OF ANY DEFECT, TO REPAIR OR REPLACE WITHOUT CHARGE, F.C.A. THE UTG FACILITY FROM WHICH THE PRODUCT WAS PURCHASED, ANY DEFECTIVE PRODUCTS, SOFTWARE, OR PARTS THEREOF EXPRESSLY WARRANTED HEREIN AGAINST DEFECTS BY UTG. THIS WARRANTY COVERS ONLY REPLACEMENT OR REPAIR OF DEFECTIVE PARTS AT THE UTG FACILITY FROM WHICH THE PRODUCT WAS PURCHASED AND DOES NOT INCLUDE FIELD SERVICE TRAVEL AND LIVING. IN NO EVENT SHALL UTG BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER DAMAGE.

If any third-party claim substantially interferes with Buyer's use of the Products, or if UTG believes that a third-party claim may substantially interfere with Buyer's use of the Products, UTG, at its sole discretion, may: (a) replace or modify the portion of the infringing Product, without additional charge, with functionally equivalent and noninfringing parts or code to avoid the infringement; or (b) obtain a license for the Buyer to continue use of the Product and pay any additional required license fee; or (c) if the foregoing alternatives are not commercially reasonable, terminate this Agreement. This Section 7 shall constitute UTG's entire liability and Buyer's exclusive remedy for a claim of infringement.

8. Disclaimer of Warranties

UTG AND BUYER AGREE THAT THE WARRANTIES IN THE PRECEDING SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UTG HEREBY DISCLAIMS AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES. ANY ORAL OR WRITTEN DESCRIPTION OF THE PRODUCTS IS FOR THE SOLE PURPOSE OF IDENTIFYING THE PRODUCTS AND SHALL NOT BE CONSTRUED AS AN EXPRESS OR IMPLIED WARRANTY.

9. Liability

- (a) **Limitation of Liability:** *UTG SHALL NOT BE LIABLE FOR INCIDENTAL, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGE, WHETHER BASED ON LOST REVENUE OR OTHERWISE, REGARDLESS OF WHETHER UTG WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES IN ADVANCE. UTG'S TOTAL AGGREGATE LIABILITY WITH RESPECT TO DEFECTIVE PRODUCTS SHALL BE LIMITED TO THE MONIES OR FEES PAID BY BUYER TO UTG FOR THE DEFECTIVE PRODUCTS MANUFACTURED BY UTG, REGARDLESS OF WHETHER BUYER'S CLAIM IS BASED ON CONTRACT, TORT, STRICT LIABILITY, DRIVES LIABILITY, OR OTHERWISE.*
- (b) **Liability Disclaimer:** *ON BEHALF OF ITSELF AND ITS SUPPLIERS, UTG DISCLAIMS ANY AND ALL LIABILITY FOR SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) ARISING FROM OR RELATING TO THIS AGREEMENT OR BUYER'S USE OF ANY PRODUCT. UTG SHALL HAVE NO LIABILITY FOR ANY CLAIM OF INFRINGEMENT BASED ON USE OF OR COMBINATION OF ANY PRODUCT WITH NON-UTG SOFTWARE, HARDWARE, OR PRODUCTS (UNLESS AUTHORIZED BY UTG) IF SUCH INFRINGEMENT WOULD HAVE BEEN AVOIDED BY THE USE OF THE PRODUCT WITHOUT THE USE OF OTHER SOFTWARE, HARDWARE, OR PRODUCTS.*

10. Indemnity

BUYER AGREES TO INDEMNIFY, DEFEND AND HOLD HARMLESS UTG FROM ANY THIRD-PARTY CLAIM RESULTING FROM THE PURCHASE OR USE OF UTG PRODUCTS OR SERVICES OTHER THAN CLAIMS MADE BY THE END USER WITHIN THE LIMITED WARRANTY SPECIFIED IN SECTIONS 7 & 8 OF THESE TERMS AND CONDITIONS.

11. Engineering Data

All engineering data, design information, and engineering and shop drawings used in the completion of this order are and shall remain the property of UTG. Buyer shall not copy, reproduce, distribute, publish, or communicate to any third party such data without the prior written permission of a properly authorized representative of UTG. UTG hereby gives its permission to the Buyer to distribute product data or operational and maintenance information to the end user.

12. Compliance with Laws

Buyer agrees to comply with all applicable laws regarding the purchase and use of UTG Products and Engineering Data, including the U.S. Export Administration Act of 1979 (as amended) and with all regulations promulgated from time to time thereunder by the U.S. Department of Commerce.

13. Patents

Orders manufactured to Buyer's drawings or descriptions are executed only with the understanding that Buyer will indemnify and hold harmless UTG from any and all damages sustained by UTG, including, but not limited to, reasonable attorneys' fees resulting from any action or threatened action against UTG for infringement of the patents or proprietary rights of any other person.

14. Final Written Expression

THIS CONTRACT CONSTITUTES A FINAL WRITTEN EXPRESSION OF THE TERMS BETWEEN UTG AND BUYER REGARDING THE PRODUCT AND IS A COMPLETE AND EXCLUSIVE STATEMENT OF THOSE TERMS. ANY NEGOTIATIONS OR UNDERSTANDINGS BETWEEN SELLER AND BUYER THAT ARE NOT CONTAINED IN THIS CONTRACT SHALL HAVE NO FORCE OR EFFECT.