

Unique Micro Design Pty Ltd (ABN 29 007 419 490) ("UMD") agrees to supply the Customer goods and services subject to the terms and conditions set out below. The Customer in placing an order with UMD for the goods and/or services specified on the order agrees to the said terms and conditions.

Placement of orders

1.0 The Customer shall order goods and/or services from UMD in writing. The order shall specify:

- (a) The date of the placement of the order;
- (b) The goods or services ordered;
- (c) A preferred delivery date for the goods;
- (d) Prices;
- (e) Courier details (UMD's or Customer nominated).

Acceptance of Orders

2.0 UMD may decline any order received by written notice to the Customer.

Cancellation of orders

3.1 If the Customer requests UMD to cancel an order for goods or services or postpone delivery of the ordered goods or services, UMD may agree to the requested cancellation or postponement if the Customer pays to UMD a cancellation/postponement fee for all direct or indirect loss or expenses that UMD would suffer as a result of the cancellation or postponement including without limitation:

- (a) the costs and expenses incurred by UMD in processing the order up to the date that UMD receives the Customer's request for cancellation or postponement of the order for goods or services;
- (b) moneys paid or payable by UMD to third parties for goods or services ordered and/or received from third parties on behalf of the Customer for the purpose of filling the order;
- (c) any penalties or cancellations or other fees payable to third parties for cancellation and/or postponement of delivery for goods or services ordered by UMD on behalf of the Customer;
- (d) any claims for losses or expenses made by third parties from UMD for cancelled orders or postponement of goods or services ordered on behalf of the Customer;
- (e) pre-production and production cost incurred by UMD up to the date it receives the request for cancellation of the goods or services ordered or postponement of the delivery of the goods or services.

3.2 UMD shall be entitled to cancel or suspend an order for goods or services, without liability to the Customer, by giving the Customer notice in writing.

3.3 UMD shall not be liable in any way for any loss or damage (including loss of trade or profit and economic loss) incurring to the Customer in the event that delivery or supply of the goods or service ordered is frustrated or delayed by, strikes, riots, disasters, trade disputes, acts of restraint of Governments, the imposition of export restrictions, default of suppliers and sub-contractors unavailability or shortage of supply of components used in the manufacture of the goods or any other circumstances beyond the reasonable control of UMD.

Packing of Orders

4.0 UMD shall ensure each order for goods is safely and securely packed for transportation to the Customer having regard to:

- (a) The fragility of the goods;
- (b) The distance the goods are likely to travel; and
- (c) The method of transportation used to transport the goods.

Delivery of Orders

5.0 Delivery of goods shall be ex UMD's premises. UMD shall notify the Customer if required when the goods are available for collection by the Customer or the Customer's nominated carrier from UMD's premises. If requested by the Customer, UMD can arrange delivery to the Customer's address by UMD's carrier. The cost of delivery of the goods and of any special packing and packing materials used in relation to the goods shall be at the Customer's expense, notwithstanding that such costs may have been omitted from any original quotation by UMD.

Missing Goods

6.0 The Customer shall notify UMD within five (5) working days of delivery of the goods to the Customer of any missing items or goods which were ordered but were not in the package/s at the time of opening the package upon delivery.

Loss or Damage in Transit

7.0 UMD is not responsible for any loss or damage:

- (a) to the goods during loading and unloading of the goods by the carrier or the Customer, whilst the goods are in transit;
- (b) suffered by the Customer due to a delay in delivery of the goods by UMD's nominated carrier or the Customer's nominated carrier.

Freight insurance for loss and damage to the goods during loading/unloading and whilst in transit or otherwise is the responsibility of the Customer. UMD shall at the Customer's

request provide the Customer with copies of all documents evidencing proof of collection by the nominated carrier.

Payment

8.1 Unless the Customer has been granted credit facilities by UMD, payment terms in respect of each order are strictly Cash Before Delivery ("CBD"). For CBD Customers, UMD shall issue the Customer with an invoice upon delivery of the goods or services.

8.2 To apply for credit facilities with UMD the Customer must complete a *UMD Trading Account Application Form*. The granting of credit facilities to the Customer and the determining of payment terms and limit of credit to the Customer is at the sole discretion of UMD and will be confirmed in writing. UMD reserves the right to cancel credit facilities granted to a Customer without notice and for any reason whatsoever.

8.3 Where credit facilities have been granted by UMD to the Customer, UMD shall invoice the Customer for goods delivered and the Customer shall pay each invoice issued within the trading terms as agreed in writing by UMD.

Price

9.1 The price of the goods or services shall be either

(a) the price published in UMD's published price list issued from time to time by UMD unless the parties have agreed otherwise in writing; or

(b) provided in writing as part of a quotation or proposal submitted by UMD

9.2 Unless otherwise stated, all prices quoted by UMD are exclusive of GST. The cost of the GST will be added to the invoice price unless the order is GST exempt (eg. export order)

Ownership of Goods

10.1 Ownership of the goods only passes to the Customer when UMD has been paid in full by the Customer in cash, bank cheque or cleared bank funds. Until such payment is made by the Customer to UMD for the goods, the relationship between the parties is a fiduciary relationship and the Customer holds the goods as bailee and is authorised by UMD to sell the goods in the ordinary course of its business. The Customer shall pay the proceeds of the sale into a identifiable bank account and keep separate sales records of the said goods, pending payment to UMD for the goods.

10.2 If payment for the goods is not received by UMD within seven (7) days of the due date, or the Customer becomes insolvent, the Customer licences UMD or its agent to enter any premises owned, occupied, leased or controlled by the Customer or any associated company or agent to repossess the goods. UMD shall apply towards satisfying the outstanding indebtedness of the Customer to UMD;

(a) the value of any goods repossessed; or

(b) if the repossess goods are sold by UMD, the proceeds of sale less the cost of repossession (including legal costs on a solicitor/client basis) and sale.

Passing of Risk

11. Risk of loss or damage of the goods shall pass to the Customer upon delivery of the goods to the Customer or his agent.

Returned Goods

12.1 The Customer must obtain a Return Authorisation Number (RAN) from UMD before returning any goods to UMD for credit or repair or replacement. The RAN must appear on the packing boxes of the goods being returned.

12.2 Goods may not be returned for credit to UMD without written prior consent of UMD. UMD may grant its consent for the return of goods for credit requested by the Customer subject to condition including the payment by the Customer to UMD of a re-stocking fee. UMD in calculating the amount of the re-stocking fee shall have regard to the following:

(a) When the original goods had been invoiced to the Customer;

(b) The condition of the returned goods including the original packing and merchandisability; and

(c) Whether the goods are part of UMD's product range or have been specifically procured or manufactured for the Customer.

Warranties

13.1 The benefits conferred by the warranties set out in sub-clause 13.2 below are in addition to all other rights and remedies that the Customer has in respect of the goods and services under the Trade Practises Act 1974 (Cth) and similar laws of the states and Territories of the Commonwealth of Australia and any other laws applicable to these terms and conditions which may not be modified or excluded.

Goods

13.2 UMD warrants the goods manufactured and supplied by UMD to the Customer are free from defects in material and workmanship of the period specified in the UMD Equipment Service and Maintenance Policy.

13.3 The warranty referred to in sub-clauses 13.2 does not extend to or include:

(a) defects that have been caused by misuse, mishandling, neglect, adjustments, damage caused by accident, non-adherence to operating and maintenance instructions and/or improper voltage;

(b) failure resulting from use of the goods under arduous or unreasonable climatic or operating conditions.

(c) the goods have been serviced by unauthorised personnel;

(d) failure resulting from installation errors or incorrect installation procedure;

- (e) failure caused by consumables not complying with manufacturer's recommendation or acceptable industry standards;
- (f) goods that have had identifications marks and numbers altered or removed;
- (g) paper jams in printers;
- (h) normal maintenance and service adjustment as part of goods operating instructions;
- (i) Consumables. This includes, but not limited to, the following items: belts, cathode ray tubes, diskettes, lamps, laser tubes, lenses, magnetic heads, print ribbons, print heads, protective stationery and windows;
- (j) goods that have been returned to UMD in inadequate or unsuitable packaging.

13.4 UMD does not warrant that where the goods comprise of or include software that the software will be completely error free.

13.5 Warranty repairs of goods shall be undertaken by UMD or on its behalf by an Authorised Service Centre in accordance with the UMD Equipment Service and Maintenance Policy.

13.6 The Customer can purchase from UMD hardware maintenance, such as extended warranty, for the goods. The hardware maintenance terms and conditions are contained in the UMD Equipment Service and Maintenance Policy.

Services

13.7 UMD warrant that the service will be rendered with due care and skill and that any material supplied in connection with those services will be reasonably fit for the purpose for which they are supplied.

13.8 UMD give no express warranties other than those set out in clause 13.2 above and the UMD Equipment Service and Maintenance Policy.

13.9 Except where:

- (a) conditions or warranties are implied into these terms and conditions for the supply or services by UMD to the Customer, by the Trade Practices Act 1974 (Cth), other similar laws of the state and Territories of the Commonwealth of Australia or any other applicable laws; and
- (b) such implied conditions or warranties cannot lawfully be excluded.

UMD excluded all implied condition and warranties, including, but not limited to, implied conditions or warranties with respect to merchantability or fitness for particular purpose.

Limitation of Liability

14.1 Subject to the provisions of clause 14.2 and where such limitation of liability is not prohibited or avoided by the Trade Practices Act 1974 (Cth) as amended, other similar laws of the States and Territories of the Commonwealth of Australia or any other applicable laws the liability of UMD or:

- (a) any breach of any implied or express conditions and warranties (other than implied conditions and warranties as to title, encumbrances and quiet enjoyment of the goods or services supplied by UMD); and/or
- (b) any loss or damage (including economic loss and special and consequential damages)

arising out of or in relation to the supply of any goods or services by UMD to the Customer shall be limited, at UMD's option to any one or more of the following:

- (a) in the case of goods -
 - (i) the replacement of the goods or the supply of equivalent goods;
 - (ii) the repair of the goods;
 - (iii) the payment of the cost of replacing the goods or of acquiring equivalent goods;
 - (iv) the payment of the cost of having the goods repaired; or
- (b) in the case of services -
 - (i) the supplying of the services again; or
 - (ii) the payment of the cost of having the services supplied again.

14.2 The Customer agrees that to the extent that such liability may be limited under the Trade Practices ACT 1974 (Cth) as amended, other similar laws of the states and Territories of the Commonwealth of Australia or and any other applicable laws, UMD shall not be liable for any special, direct or indirect incidental and/or consequential damages or loss including but not limited to economic loss, loss of use of goods, or loss of data or information of any kind arising out of the supply of the goods and/or services or the negligence of UMD, its employees or agents or however otherwise caused or failure of the goods to work or perform in any way or any liability to End Users, Dealers or third parties except as set out in clause 14.1.

Customised and Development Work

These additional terms and conditions apply to any Goods and Services that include customisation and development work, that incorporates development or supply of any UMD intellectual property.

Customisation

15.0 Customised goods and services are developed by UMD to meet customer specific requests. These developments include, but are not limited to:

- (a) modification of existing product (hardware, software or firmware)
- (b) development of new product (hardware, software or firmware)
- (c) packaging design, including cosmetic (eg colour) and Customer specific graphic elements (e.g. logo)

Intellectual Property Rights

16.1 Intellectual Property Rights means all intellectual property rights including: patents, copyright, rights in circuit layouts, registered designs, trade-marks and the right to have confidential information kept confidential; and any application or right to apply for registration of any of those rights.

16.2 This agreement does not transfer to the Customer any intellectual property rights in the Customised Product, except in licence granted in clause 16.3 which is also subject to a commercial licencing agreement.

16.3 Where the Customer provides intellectual property, which is incorporated into the Customised Product and provided UMD has accepted and acknowledges the use of Customer's intellectual property, which is to be incorporated into the UMD developed product, then, UMD shall grant an exclusive licence to distribute the Customised product by the Customer. Specifically, UMD:

- (a) must supply, where possible, Customised product to Customer
- (b) grants to Customer an exclusive licence to distribute including the ability to sub-distribute the Customised product.
- (c) grants Customer ability to Assign these rights to a third party

16.4 UMD is not restricted in developing similar or same Customised products provided;

- (a) Customers confidentiality is not breached
- (b) Customer's Intellectual Property is not used.

Fitness for Purpose

17.0 Given the complexities of developing customised goods or services, no fitness for purpose is provided by UMD. It is therefore the responsibility of the Customer to:

- (a) verify the customised goods or services meets their functional requirements; and
- (b) establish their merchantability and fitness for purpose of the customised goods or service.