

Ucontrol Pty Ltd Terms & Conditions of Sale. Revision 3. 30/03/2011

Ucontrol Pty Ltd ABN 18 150 270 161 herein referred to as "UPL" agrees to supply the Customer goods & services strictly subject to the terms & conditions set out below. The Customer in placing an order with UPL for goods or services is deemed to have read and accepted in full the said terms & conditions. Any subsequent purchasing terms and conditions provided by the customer are hereby objected & rejected by UPL.

Placements of orders

1. The customer shall order goods and services from UPL in writing. The order shall specify:

- The date of the placement of the order;
- The goods and services ordered;
- A preferred delivery date for the goods;
- Prices;
- For goods shipment, courier details (UPL's or customer nominated)

Declining Order

2. UPL may decline to accept any order received from the customer.

Cancellation of orders

3.1 If the customer requests UPL to cancel or postpone delivery of an order for goods or services, UPL may agree to the requested cancellation or postponement if the customer pays UPL a cancellation/postponement fee for all direct or indirect losses or expenses that UPL has suffered as a result of the cancellation or postponement including without limitation:

- the costs and expenses incurred by UPL in processing the order up to the date that UPL receives the customer's request for cancellation or postponement of the order;
- moneys paid or payable by UPL to third parties for goods or services ordered and/or received from third parties on behalf of the customer for the purpose of fulfilling the order;
- any penalties or cancellations or other fees payable to third parties for cancellations and/or postponement of delivery for goods or services ordered by UPL on behalf of the customers;
- any claims for losses or expenses made by third parties from UPL for cancelled or postponed order of goods or services ordered on behalf of the customer;

3.2 UPL shall be entitled to cancel or suspend an order for goods or services, without liability to the customer, by giving the customer written notice.

3.3 UPL shall not be liable in any way for loss or damage (including loss of trade or profit and economic loss) incurred by the customer in the event that delivery or supply of the goods or services 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 subcontractors unavailability or shortage of supply of the goods or any other circumstances beyond the reasonable control of UPL.

Packing of Goods

4. UPL shall ensure goods are safely and securely packed for transportation to the customer having regard to

- The fragility of the goods;
- The distance the goods are likely to travel; and
- The method of transportation used to transport the goods.

Delivery of Goods

5. Delivery of goods shall be ex UPL's premises. UPL shall notify the customer if required when the goods are available for collection by the customers or the customer's nominated carrier from UPL's premises. If requested by the customer, UPL can arrange delivery to the customer's address by UPL'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 UPL.

Missing Goods

6. The customer shall notify UPL within five (5) working days of delivery of the goods to the customer of any missing items from the shipment.

Loss or Damage in Transit

7. UPL is not responsible for any loss or damage:

- to the goods during loading and unloading of the goods by the carrier or the customer, whilst the goods are in transit;
- suffered by the customer due to a delay in delivery of the goods by UPL'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 customers of the customer. UPL 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 UPL, payment terms in respect of each order are strictly cash before delivery ("CBD"). For CBD customers, UPL shall issue the customer with a tax invoice upon delivery of the goods.

8.2 To apply for credit facilities with UPL, the customer must complete a 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 UPL and will be confirmed in writing.

UPL 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 UPL to the customer, UPL shall invoice the customer for goods and services delivered and the customer shall pay each invoice issued within the trading terms as agreed in writing.

Price

9.1 The price of the goods shall be the price published in UPL's published price list issued from time to time by UPL unless the parties have agreed otherwise in writing.

9.2 Unless otherwise stated, all prices quoted by UPL are exclusive of Goods and Service Tax (GST). The cost of the GST will be included in the invoice total.

Returned Goods

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

10.2 Goods may not be returned for credit to UPL without written prior consent of UPL. UPL 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 UPL of a re-stocking fee. UPL in calculating the amount of the re-stocking fee shall have regard to the following:

- When the original goods had been invoiced to the customer;
- The condition of the returned goods including the original packing and merchandisability; and
- Whether the goods are part of UPL's product range or have been specifically produced or manufactured for the customer.

Ownership of goods

11.1 Ownership of the goods only passes to the customer when 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 UPL for the goods, the relationship between the parties is a fiduciary relationship and the customer holds the goods as bailee and is authorised by UPL to sell the goods in the ordinary course of its business. The customer shall pay the proceeds of the sale into an

identifiable bank account and keep separate sales records of the said goods, pending payment to UPL for the goods.

11.2 If payment for the goods is not received by UPL within seven (7) days of the due date, or the customer becomes insolvent, the customer licenses UPL 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. UPL shall apply towards satisfying the outstanding indebtedness of the customer to UPL;

- the value of any goods repossessed; or
- if the repossessed goods are sold by the proceeds of the sale less the cost of repossession (including legal costs on a solicitor/client basis) and sale.

Limitation of Liability

12.1 Subject to clause 12.2 below and to the extent permitted by the Australian Consumer Law and relevant state legislation, in respect of goods the sole obligation of UPL under this agreement is to use its best endeavours to provide the goods or to repair the goods or repair or replace (at UPL's discretion) any part of the goods which is found to be defective during the period of warranty, and in respect of services is to supply the services again and in no event shall UPL be liable for any other claims or damages including, but not limited to, claims for faulty design, negligent or misleading advice, damages arising from loss or use of the goods or services, and any indirect, special or consequential damages or injury to any person, corporation or other entity.

12.2 If any goods or services supplied pursuant to this agreement are supplied to the Customer as a consumer' of goods or services within the meaning of that term in the Australian Consumer Law as amended or relevant state legislation the Customer will have the benefit of certain non-excludable rights and remedies in respect of the goods or services and nothing in these terms and conditions excludes or restricts or modifies any condition, warranty, right or remedy which pursuant to the Competition and Consumer Act or similar legislation is so conferred. However, if the goods are not ordinarily acquired for personal, domestic or household use or consumption, pursuant to s 64A of the Australian Consumer Law and similar provisions of relevant state legislation UPL limits its liability to payment of an amount equal to the lowest of:

- the cost of replacing the goods or supplying equivalent goods;
 - the cost of repair of the goods; or
 - the cost of having the goods repaired or replaced.
- And if the service is not ordinarily acquired for personal, domestic or household use or consumption, pursuant to s 64A of the Australian Consumer Law and similar provisions of relevant state legislation UPL limits its liability to:
- the supplying of the services again; or
 - the cost of having the services supplied again.

12.3 The Customer shall be responsible to notify UPL forthwith upon becoming aware of any defects in any goods or services supplied by UPL. Where notification of any alleged defect has been made within twenty-eight (28) days of supply of the allegedly defective goods or services and UPL is satisfied, acting reasonably, that the goods are defective, UPL's obligations in respect of clauses 12.1 and 12.2 above will only arise as long as that defect has arisen solely from faulty materials or workmanship, and the goods or services have not been damaged as a result of maltreatment, inattention or interference by the Customer, its employees or agents., and the goods have not been re-sold or transformed into something that is sold or used up

12.4 Subject to clause 12.2 UPL will not be liable for default or failure in performance of its obligations pursuant to this agreement resulting directly or indirectly from acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquakes, floods, the elements, strikes, labour disputes, shortage of suitable parts, components, materials including ink, chemicals and paper, labour or transportation or any other cause beyond the reasonable control of UPL.

12.5 UPL 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 UPL, its employees or agents or however otherwise caused or the 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 clauses 12.1 and 12.2.

12.6 The Customer agrees to indemnify and keep indemnified UPL against all actions, proceedings, costs, claims, demands, losses and expenses brought against or suffered by UPL which arise, directly or indirectly, from matters as set out in clause 12.5 and the deliberate or negligent acts or omissions of the Customer, its employees, agents, contractors or assigns in the course of its business, other than liability arising out of the common law or provisions or any Federal or State legislation which are not capable of being excluded by UPL or the Customer and where such liability does not arise as a direct or indirect consequence of negligence on the part of the Customer which shall be the limit of the extent of the responsibility of UPL to the Customer or any other person in respect of any claims, damages, losses or liabilities arising out of or relating to any goods and/or services or any provisions of this agreement (including its termination).

12.7 UPL's obligations are limited to those contained in this clause 12 and UPL does not authorise, and is not bound by any third party warranty obligations that may be created or implied by the Customer.

Passing of Risk

13. Risk of loss or damage of the goods shall pass to the customer upon delivery of the goods to the customer or his agent.

Warranty

14.1 UPL warrants the goods supplied by UPL to the Customer are free from defects in material and workmanship for the period of 12 months from ship date, unless specified otherwise.

14.2 The warranty does not extend to or include:

- defects that have been caused by misuse, mishandling, neglect, adjustments, damage caused by accident, non adherence to operating & maintenance instructions and/or improper voltage;
- failure resulting from use of the goods under arduous or unreasonable climatic or operating conditions.
- the goods have been serviced by unauthorised personnel;
- failure resulting from installation errors
- goods that have had identification marks altered or removed
- normal maintenance and service adjustment as part of goods operating instructions
- goods that have been returned to UPL in inadequate or unsuitable packaging

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

14.4 Warranty repairs of goods shall undertaken or handled solely by UPL.

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

Fitness for Purpose

15. Given the complexities of the goods or services supplied by UPL, no fitness for purpose is provided by UPL: it is therefore the responsibility of the customer to:

- verify the goods or services meets their functional requirements; and
- establish their merchantability and fitness for purpose of the goods or services.