2. UPL may decline to accept any order received from the customer for goods or services if it is deemed to have read and accepted in full the terms & conditions. Any subsequent purchasing terms and conditions provided by the customer are hereby objected & rejected by UPL.

Cancelling orders

3. If the customer requests UPL to cancel or postpone delivery of an order for goods or services, UPL shall grant its consent 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:
(a) the costs and expenses, including interest in processing the order to the date that UPL receives the customer’s request for cancellation or postponement of the order;
(b) 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;
(c) any expenses or charges incurred by UPL for cancellations and/or postponement of delivery of goods or services ordered by UPL on behalf of the customer;
(d) 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 for any delay or loss (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 frustrating or delayed by, strikes, riots, disasters, trade disputes, acts of restraint of Governments, imposition of export restrictions, default of suppliers and sub-contractors, 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 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 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 carrier or the customer, or his agent.

5.1 Where credit facilities have been granted by UPL to the customer, UPL shall invoice the customer for the goods, the relationship between the parties is a fiduciary relationship and the goods or services have not been damaged as a result of the goods or services.

5.2 Returned Goods

6.1 Ownership of the goods only passes to the customer when has been paid in full by the customer or on delivery of the goods. In respect of deliveries of goods, 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:
(a) the value of any goods repossessed; or
(b) 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. 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 or the goods or replace or (at UPL’s discretion) any part of the goods which is found to be defective during the period of warranty, in respect of goods which are not re-sold or re-supplied by UPL in the event UPL shall be liable for any other claims or damages including, but not limited to, claims for fault, negligent or misleading advice, damages arising from loss or use of the goods or services, and any consequential or special or incidental damages or injury to any person, corporation or entity.

12.1 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 warranties and remedies. Pursuant to s 66A of the Australian Consumer Law and similar provisions of relevant state legislation UPL limits its liability to a payment amount equal to the lowest of:
(a) the cost of replacing the goods or supplying equivalent goods;
(b) the cost of repair of the goods or services; and
(c) the cost of having the goods repaired or replaced.

12.1.3 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 is, in UPL’s opinion, justified, UPL will, at its discretion, (a) 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.

12.1.4 Goods that are returned for repair or replacement must be returned to UPL in the original packaging or in suitable packaging. UPL in calculating the amount of the re-stocking fee shall have regard to the following:
(a) the cost of having the goods repaired or replaced;
(b) the cost of having the goods repaired or replaced.

12.1.5 UPL excludes all implied condition and warranties, including, but not limited to, implied condition of merchantability and condition of fitness for any person or purpose for 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 of the provisions of this agreement (including its terms and conditions).

12.1.6 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.

12.2 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, omissions or defaults of the Customer, its employees, agents, contractors or parties acting on its behalf in the course of its business, other than liability arising out of the common law or provisions which 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 of the provisions of this agreement (including its terms and conditions).