

# General Terms and Conditions of Trade of Ultimate Business Solutions (NSW) Pty Ltd

## 1. Services

1.1 The Services shall be as described on any invoices, quotation, work authorisation, or any other forms which are provided by Ultimate Business Solutions (NSW) Pty Ltd ATF The Ultimate Business Solutions Trust T/A Ultimate Business Solutions Pty Ltd (hereinafter referred to as UBS) to the Client.

## 2. Price and Payment

2.1 The Price shall be as indicated on invoices provided by UBS to the Client in respect of the Services supplied.

2.2 Time for payment for the Services shall be of the essence and will be stated on the invoice, quotation, or any other order forms. If no time is stated then payment will be due seven (7) days following the date of the invoice.

2.3 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by UBS.

## 3. Default and Consequences of Default

3.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and at UBS's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.

3.2 If the Client owes UBS any money the Client shall indemnify UBS from and against all costs and disbursements incurred by UBS in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, UBS's collection agency costs, and bank dishonour fees).

3.3 Without prejudice to any other remedies UBS may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions UBS may suspend or terminate the supply of Services (including but not limited to, any paperbased statements and electronic accounting files) to the Client. UBS will not be liable to the Client for any loss or damage the Client suffers because UBS has exercised its rights under this clause.

3.4 Without prejudice to UBS's other remedies at law UBS shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to UBS shall, whether or not due for payment, become immediately payable if:

- (a) any money payable to UBS becomes overdue, or in UBS's opinion the Client will be unable to make a payment when it falls due;
- (b) the Client becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.

## 4. Defects, Warranties and the Competition and Consumer Act 2010 (CCA)

4.1 The Client must inspect UBS's Services on completion of the Services and must within seven (7) days notify UBS in writing of any evident defect in the Services provided (including UBS's workmanship) or of any other failure by UBS to comply with the description of, or quote for, the Services which UBS was to supply. The Client must notify any other alleged defect in UBS's Services as soon as is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow UBS to review the Services that were provided.

4.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions (**Non-Excluded Guarantees**).

4.3 UBS acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.

4.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, UBS makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. UBS's liability in respect of these warranties is limited to the fullest extent permitted by law.

4.5 If the Client is a consumer within the meaning of the CCA, UBS's liability is limited to the extent permitted by section 64A of Schedule 2.

4.6 If UBS is required to rectify, re-supply, or pay the cost of re-supplying the Services under this clause or the CCA, but is unable to do so, then UBS may refund any money the Client has paid for the Services but only to the extent that such refund shall take into

account the value of Services which have been provided to the Client which were not defective.

4.7 If the Client is not a consumer within the meaning of the CCA, UBS's liability for any defective Services is:

(a) limited to the value of any express warranty or warranty card provided to the Client by UBS at UBS's sole discretion;

(b) otherwise negated absolutely.

4.8 Notwithstanding clauses 4.1 to 4.7 but subject to the CCA, UBS shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:

- (a) interference with the Services by the Client or any third party without UBS's prior approval;
- (b) the Client failing to follow any instructions or guidelines provided by UBS;
- (c) fair wear and tear, any accident, or act of God.

## 5. Privacy Act 1988

5.1 The Client agrees for UBS to obtain from a credit reporting agency a credit report containing personal credit information about the Client in relation to credit provided by UBS.

5.2 The Client agrees that UBS may exchange information about the Client with those credit UBSs either named as trade referees by the Client or named in a consumer credit report issued by a credit reporting agency for the following purposes:

- (a) to assess an application by the Client; and/or
- (b) to notify other credit UBSs of a default by the Client; and/or
- (c) to exchange information with other credit UBSs as to the status of this credit account, where the Client is in default with other credit UBSs; and/or
- (d) to assess the creditworthiness of Client.

The Client understands that the information exchanged can include anything about the Client's creditworthiness, credit standing, credit history or credit capacity that credit UBSs are allowed to exchange under the Privacy Act 1988.

5.3 The Client consents to UBS being given a consumer credit report to collect overdue payment on commercial credit (Section 18K(1)(h) Privacy Act 1988).

5.4 The Client agrees that personal credit information provided may be used and retained by UBS for the following purposes and for other purposes as shall be agreed between the Client and UBS or required by law from time to time:

- (a) provision of Services; and/or
- (b) marketing of Services by UBS, its agents or distributors in relation to the Services; and/or
- (c) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or
- (d) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
- (e) enabling the daily operation of the Client's account and/or the collection of amounts outstanding in the Client's account in relation to the Services.

5.5 UBS may give information about the Client to a credit reporting agency for the following purposes:

- (a) to obtain a consumer credit report about the Client;
- (b) allow the credit reporting agency to create or maintain a credit information file containing information about the Client.

5.6 The information given to the credit reporting agency may include:

- (a) personal particulars (the Client's name, sex, address, previous addresses, date of birth, name of employer and driver's licence number);
- (b) details concerning the Client's application for credit or commercial credit and the amount requested;
- (c) advice that UBS is a current credit UBS to the Client;
- (d) advice of any overdue accounts, loan repayments, and/or any outstanding monies owing which are overdue by more than sixty (60) days, and for which debt collection action has been started;
- (e) that the Client's overdue accounts, loan repayments and/or any outstanding monies are no longer overdue in respect of any default that has been listed;
- (f) information that, in the opinion of UBS, the Client has committed a serious credit infringement (that is, fraudulently or shown an intention not to comply with the Client's credit obligations);
- (g) advice that cheques drawn by the Client have been dishonoured more than once;
- (h) that credit provided to the Client by UBS has been paid or otherwise discharged.