

This are the Terms and Conditions of sales and supply of any product and/or services by:

MicroDOT Pty Ltd, ABN 54 163 492 028, of 94 Pinnaroo Drive, Padbury WA 6025 AUSTRALIA, which shall include licensed Agents and other licensed Sales Representatives, ("the Company"), to their Customers ("the Customer").

## ORDER AND SUPPLY OF PRODUCTS

### **Supply Time**

Subject to the availability of the Products, the Company agrees to use its best endeavours to supply the Products in accordance with orders made by the Customer and to meet delivery schedules reasonably requested by the Customer.

### **Cancellation of Order**

No order after it is accepted by the Company is subject to cancellation, partial cancellation, deferment of delivery or change in specification by the Customer, unless agreed to in writing by the Company.

### **Defective Products**

The Customer must give written notice to the Company of any claim in respect of any item of defective Products within fourteen (14) days after delivery to the Customer of the defective Products, otherwise the Customer is deemed to have waived all claims in respect to any such Products subject to the clause immediately following.

The Company has the sole and binding decision on whether any Product is to be deemed defective. In such case of defective Products, claim shall be limited to replacement of Product or credit of Product purchase value only, at the sole discretion of the Company.

### **Products' Specifications and Supply**

The Company shall not be under any obligation to continue the supply of all or any of the Products and shall be entitled to make such alterations to the specifications of the Products as it may deem fit at any time.

The Company has sole and binding discretion as to acceptance of orders, subject to purchasing restrictions that the Company may have in place from time to time.

### **Product Warranty**

Many of the Company's products contain adhesive. When delivered and unopened, warranty on quality and suitability for use of these products is limited as follows:

Brush-wands – 12 months after delivery  
Spray Cans – 6 months after delivery  
Plastic Jars – 6 months after delivery  
Metal Cans – 6 months after delivery  
All other dispensers – 6 months after delivery

Once opened, warranties on any and all dispensers are waived, and the Company shall not be liable for continued product quality or suitability for any use.

In any case, warranty shall be limited to replacement of Product or credit of Product purchase value only, at the sole discretion of the Company.

## CUSTOMER'S OBLIGATIONS

The Customer must make sole choice as to the fitness for purpose of any product purchased from the Company.

The Customer shall not use Company signs, labels, stickers, decals, posters, or other supporting items without the recommended usage of MicroDOT Product.

The Customer must not do, permit, suffer to be done or omit to do anything in relation to the sale, supply, distribution, advertising or use of the Products which would be likely to bring the Products and/or the Company into disrepute or ridicule, other than which is in the public domain.

## PAYMENT FOR PRODUCTS

### **Price**

The Customer must pay the Company the prices quoted by the Company in correspondence and/or sales documents for the Products ordered by the Customer, or other pricing as mutually agreed at the time of sale, and all related goods and services taxes (GST) or any other tax or duty related to the Products. Handling and delivery charges may apply to each order, subject to delivery instructions from the Customer.

### **Payment**

The Customer must make payment in full to the Company for each order of the Products on or as soon as practical after the order date and before any Products are despatched, or on other terms as mutually agreed in writing between the Parties.

### **Retention of Title and Risk**

Title to the ordered Products will pass to the Customer upon the Company receiving full payment for the ordered Products.

## INTELLECTUAL PROPERTY

The Customer acknowledges the Company owns all the Intellectual Property rights in the Products.

The Customer must not use or permit the use of any of the Rights or other Intellectual Property of the Company except to the extent authorised by the Company in writing.

## CONFIDENTIALITY

Except with the written consent of the Company, which the Company may grant or withhold at its absolute discretion, or except as the Customer is strictly required by law, the Customer must not disclose or publish and must use its best endeavours and take all necessary or desirable measures to prevent the disclosure or publication of any Confidential Information to any third-party.

## ASSIGNMENT AND SUB-LICENSE

### **Assignment**

This Agreement is strictly personal to the Customer and the rights granted to the Customer under these Terms & Conditions shall not be assigned in whole or in part, which may be granted or withheld at the Company's absolute discretion. The Company will require as a condition to the grant of any such consent to the assignment of these Terms & Conditions to a third-party, that the third-party wholly agrees with these Terms & Conditions.

## FORCE MAJEURE

The Company shall not be liable for delays in delivery or failure to manufacture or deliver the Products due to acts of God acts of civil or military authority fires strikes labour disputes or disturbances floods epidemics war civil commotion riots or delays in transportation or due to any other cause beyond the Company's reasonable control. In the event of the occurrence of any such circumstances the Company must notify the Customer in writing of the commencement and cessation of same.

## DISPUTE RESOLUTION

### **Negotiation**

If any dispute arises between the Parties in respect of the performance of obligations under these Terms & Conditions, the Parties must negotiate in good faith to settle that dispute. Either Party must give a written notice to the other Party specifying the matters in dispute and requiring the other Party to provide a written notice in response within ten (10) Business Days of delivery of that notice.

### **Arbitration**

If the Parties are unable to resolve the dispute within twenty (20) Business Days of exchange of notices previously described, the dispute must be submitted to an independent arbitrator agreed by the Parties or, failing agreement, an arbitrator nominated by the Australian Commercial Disputes Centre and failing him by the President or his nominee of the Institute of Chartered Accountants in Australia (who must be suitably skilled and familiar with products and systems similar to the Products).

The decision of an Arbitrator in respect of the matter the subject of a dispute is final and binding upon the Parties.

Unless a Party has complied with this Clause, that Party may not commence Court proceedings relating to any such dispute, provided however that if a Party properly seeks urgent interlocutory or equitable relief that Party need not comply with this Clause before seeking such relief.

## INDEMNITY

The Customer shall indemnify and keep indemnified the Company, its servants or other agents against any actions, proceedings, claims, demands, costs or expenses arising out of or in connection with any negligence of the Customer and/or its servants, or misrepresentation or breach of any contractual or legislative stipulation as to the standard quality or fitness of the Products by the Customer its servants sub-agents or employees and the Customer shall forthwith on demand by the Company pay all such monies due by the Customer to the Company pursuant to this indemnity and the Company shall not be liable or responsible for any loss or damage suffered by the Customer by reason of any act done or omitted by the Company or its servants or agents in pursuance of, or in purported or attempted pursuance of these Terms & Conditions or otherwise except where such act done or omitted constitutes a breach of these Terms & Conditions or is wilfully negligent.

## ENTIRE AGREEMENT

It is expressly acknowledged and agreed by and between the Parties that the terms and conditions set out herewith contain the entire agreement of terms and conditions as concluded between the Parties notwithstanding any negotiations or discussions prior to any purchase of Products by the Customer and notwithstanding anything contained in any brochure, report or other document prepared by or for the Company for submission to the Customer or others. The Customer further acknowledges that it has not been induced to enter into any purchase arrangement for the Products by any representation verbal or otherwise made by or on behalf of the Company which is not set out in these Terms & Conditions. Negotiations, discussions, documentary material and representations as provided for above include, without limitation, any in relation to potential benefits of the use of the Products.

## VARIATIONS TO TERMS & CONDITIONS

Any modification, alteration, change or variation of any term of these Terms & Conditions shall only be made in writing and agreed by both Parties.

## SEVERABILITY

The provisions of these Terms & Conditions shall be deemed to be severable and any invalidity of any provisions of these Terms & Conditions shall be severed from and shall not affect the validity of the remaining provisions of these Terms & Conditions.

## GOVERNING LAW

This Agreement shall be read interpreted and construed according to the laws of the state of Western Australia in Australia and the parties hereby submit themselves to the jurisdiction of the Courts of Western Australia.

## DEFINITIONS

"Party" means the Company and the Customer, either separately or jointly.

"Products" means the items available for purchase at any given time by the Company.

"Intellectual Property" means all intellectual, industrial and other proprietary rights in the Products, including, without limitation:

- a. the Patents, utility models, copyrights, registered or unregistered trademarks and service marks, trade names, brand names, indications of source or appellations of origin, registered designs and commercial names and designations;
- b. All inventions, discoveries, trade secrets, know-how, computer Products and confidential, scientific, technical and product information;
- c. all enhancements, changes or modifications to anything referred to in this Clause.

"Confidential Information" means information relating to these Terms & Conditions and its application, all trade secrets and all financial, marketing and technical information, ideas, concepts, know-how, technology, processes and knowledge which is confidential or of a sensitive nature to the Company but excludes that information which is in the public domain.

"Rights" means all rights in connection with any trademark or brand name used in connection with the Products.

The singular shall include the plural and vice versa.