

STANDARD SALE ORDER TERMS AND CONDITIONS
for supply of goods by iMedia
Effective March 2006

- 1. Definitions**

In the Terms or the Order:-
"The Seller" means Paperlink Australia Pty Limited (ABN 84 007 228 113) trading as iMedia of 7 Dalmore Drive Scoresby Victoria 3179 and includes its successors and assigns.
"The Buyer" means any person, firm, corporation or entity, which purchases or orders Goods from the Seller.
"Goods or The Goods" means the paper or other articles or materials described in any invoice issued by the Seller and supplied to, or to be supplied to the Buyer under an Order.
"Goods and Services Tax" means the tax created by A New Tax System (Goods and Services Tax) Act 1999 and its associated legislation.
"Insolvent" means:-
(a) In the case of an individual, an application is made to a court for a sequestration order against that person, or the person commits an act of bankruptcy or takes any steps to obtain protection, or is granted protection from that person's creditors under any applicable legislation; or
(b) In the case of a company, an application is made to a court for an order, or an order is made, that the company be wound up; an application is made to a court for an order appointing a provisional liquidator or receiver of the company; a meeting is convened or a resolution is passed to appoint an administrator of the company; the company calls a meeting for the purpose of appointing a liquidator; or any of the events described in Sections 459C(2)(a) to 459C(f) and Section 585 of the Corporations Act occurs in relation to the company;
(c) In either case, a person or company entering into a composition, assignment or arrangement with creditors.

"Order" means the agreement resulting from the acceptance by the Buyer of the Seller's offer for the Goods, and shall be deemed to include the terms and conditions contained in the Terms, the current price list of the Seller, the information on the face of any invoice, and any variations thereof agreed to in writing by the parties.
"The Terms" means these terms and conditions for the supply of the Goods by the Seller or such other terms and conditions as may be notified in writing by the Seller to the Buyer, including those on any invoice or delivery docket.
 - 2. Contract**

An Order contains the whole understanding of the parties relating to the subject matter of the Terms and the Terms cannot be altered or varied without the written agreement of the Seller. The Terms and the current price list of the Seller supersede all previous terms and price lists of the Seller. If any dispute arises over any Order (including any question of identity, authority or any telephone, facsimile, computer or e-mail order) the internal records of the Seller will be conclusive evidence of what was ordered. Each Order placed shall be and be deemed to be a representation made by the Buyer at the time that it is solvent and has the present and future ability to pay all of its debts as and when they fall due.
 - 3. Acceptance**

The Buyer shall be deemed to accept the Terms for the purposes of any Order, upon a copy of the Terms being sent or delivered by or on behalf of the Seller to the Buyer, and the Buyer subsequently placing an Order with the Seller for the Goods.
The Postal Acceptance Rule is expressly excluded. The Buyer's acceptance shall be effective only when their Order is received by the Seller, irrespective of the means of communicating that acceptance.
 - 4. Representation**

The Buyer represents that they shall not apply, and shall not attempt to apply, terms or conditions inconsistent with, or additional to, these Terms to any transaction with the Seller, without the prior written approval of the Seller.
 - 5. Price and Terms of Payment**
 - 5.1 The Buyer shall pay the price stated in any invoice of the Seller and payment of the invoice shall be made by a method of payment approved by the Seller without deduction or set off.
 - 5.2 The chargeable weight for the quantity actually delivered is:
 - (a) In the case of paper in sheets, the nominal weight of reams (inclusive of the weight of ream wrapper, whether or not the paper is wrapped); and
 - (b) In the case of paper on reels, the actual weight (inclusive of the weight of reel wrappers, cores and wooden plugs).
 - 5.3 Unless Goods are specified in the price list as "Under Millpack", goods may only be purchased by the Buyer in Millpacks.
 - 5.4 All payments due under an Order are to be made in Australian currency free of exchange and shall be made to the Seller's office in Australia stated on the invoice relating to such Order or, to such other place as may be notified by the Seller to the Buyer in writing.
 - 5.5 The Seller shall invoice the Buyer upon delivery of the Goods. Unless notified on the face of the invoice or otherwise in writing by the Seller payment of the price stated on the invoice shall be made by the Buyer on or before the last business day of the month following the month in which the invoice is raised (the "due date"). In the event of any discrepancy between the Terms and any terms and conditions of the Seller appearing on the invoice, the latter shall prevail. Time shall be of the essence in relation to all obligations of the Buyer to make payment for the Goods.
 - 5.6 If the invoice is not paid by the due date:-
 - (a) the Seller is entitled to suspend all further deliveries of the Goods to the Buyer until payment is made in full on all outstanding invoices; and
 - (b) the Seller is entitled to charge interest at the Penalty Interest Rate (as gazetted from time to time) on all overdue amounts (including late payment charges and amounts other than the price), calculated daily on all monies due but unpaid, such interest charge to be computed from the due date. Payments received from The Buyer will be credited first against any interest charge and all such charges shall be payable on demand; and
 - (c) the Buyer will pay or reimburse to the Seller any costs or expenses incurred by it or its legal advisers, mercantile agents and other parties acting on the Seller's behalf, in respect of anything instituted or being considered against the Buyer whether for debt, possession of any products, taking security or otherwise.
 - 5.7 Subject to Statute, the Goods may only be returned for credit or exchange, and no refunds will be made. Custom-made or custom-processed Goods, or Goods acquired specifically for the Buyer, will only be returnable with the Seller's written consent. Goods may only be returned for credit or exchange within 7 days of the date of invoice and must be in saleable condition. At the Seller's discretion, Goods returned for credit or exchange may incur a fee equal to the Seller's costs of receiving the returned Goods and administration of the transaction, provided however that the maximum fee per Order shall be \$300.
 - 5.8 The Seller shall not under any circumstances be liable for any claim, loss or damage sustained or incurred by the Buyer or any other party arising in any way as a result of the unavailability of the Goods, any delay in delivery of the Goods or any part thereof, or any failure to deliver the Goods or part thereof.
 - 5.9 The Seller reserves the right at any time to suspend credit or to change credit terms provided to the Buyer when in the Seller's sole opinion the financial condition of the Buyer so warrants. In any such case, in addition to other remedies herein or at law, cash payments or satisfactory security from the Buyer may be required by the Seller before dispatch of the Goods, or the due date for payment by the Buyer under any Order with the Seller may be accelerated by the Seller.
 - 5.10 The Buyer agrees that, subject to the terms of the Privacy Acts, the Seller may in its absolute discretion disclose the status of the Buyer's account to any person or corporation.
 - 5.11 If the Buyer elects to pay an amount by credit card, the Buyer agrees that the Seller is entitled to charge an additional amount to recover costs imposed on the Seller by the credit card provider, including (but not limited to) merchant fees and account administration fees. The additional amount is:
 - (a) For payment by American Express, 3% of the invoice value; or
 - (b) For payment by other credit cards, 1% of the invoice value.
 - 6. Security For Payment**
 - 6.1 To secure monies owing to the Seller, the Buyer agrees on request to charge in favour of the seller:
 - (a) by a fixed charge, all its books of account, financial records, goodwill, documents of title, and current and later acquired real property and intellectual property; and
 - (b) by a floating charge, the whole of the Buyer's other undertakings, property and assets; and the Buyer agrees to do all things necessary to stamp and register such charges.
 - 6.2 To effect the Buyer's obligations under these Terms, and so far as is necessary to effect the Buyer's obligations, the Buyer appoints any solicitor for the Seller as its attorney in all things.
 - 7. Goods and Services Tax (GST)**

Unless otherwise specifically stated, all prices and amounts listed are exclusive of GST. If GST is payable by the Seller on the supply of goods or services to the Buyer, the Buyer will pay the Seller the price or other amount invoiced plus GST. The Seller agrees to provide the Buyer with a tax invoice as required by the GST legislation for amounts to be paid by the Buyer in accordance with the Seller's price list.
 - 8. Delivery and Storage**
 - 8.1 While the Seller shall make every endeavour to deliver the correct quantity, quality and where applicable, size and weight of Goods ordered, the Buyer acknowledges that the Seller may experience difficulty in supplying the Goods in the exact terms as ordered. Accordingly, the Buyer agrees that in relation to the supply of Goods it shall accept and pay for Goods supplied by the Seller notwithstanding inaccuracies in the precise quantity, quality, size or weight of Goods (as the case may be) in comparison to the precise terms of Order, on the following basis:
 - (a) In the case of raw paper products, in accordance with percentage tolerance levels prescribed under the Terms and Conditions of supply of the manufacturing paper mill supplying the Seller, or as may be agreed between the Buyer and the Seller from time to time.
 - (b) In all cases, an appropriate pro-rata adjustment shall be made for the value of any over- or under-supply, with a commensurate variation to the purchase price payable.
 - 8.2 Unless agreed otherwise in writing, the Goods shall be delivered to the Buyer Free on Truck to the Buyer's store in a capital city, or Free on Truck at a railroad outside a capital city. Inland orders shall be delivered as per supplying mill conditions.
 - 8.3 Risk in the Goods passes to the Buyer upon the earliest of:
 - (a) delivery to the Buyer or his agent,
 - (b) delivery to a carrier nominated by the Buyer or by the Seller on the Buyer's behalf, and
 - (c) despatch of the invoice for the Goods to the Buyer.
 - 8.4 Goods delivered to the Buyer are subject to freight and/or courier charges as determined by the Seller from time to time and which shall be payable by the Buyer. Freight and/or courier charges will be included in the invoice for the relevant Order.
 - 8.5 In the event that the Buyer requests the Seller to withhold delivery of the Goods or any part thereof, or if delivery is delayed for any other reason as a consequence of the Buyer's instructions or lack thereof, the Seller may in its absolute discretion store the Goods for the Buyer and the Buyer shall pay the Seller all storage charges charged or incurred by the Seller and (if the Goods are stored elsewhere) all cartage and handling charges incurred by the Seller.
 - 8.6 Notice by the Seller to the Buyer that the Goods have been stored in accordance with this clause shall constitute delivery of the Goods.
 - 8.7 The Seller reserves the right, upon notice to the Buyer at any time, to withhold deliveries if the Seller in its sole discretion considers that the financial condition of the Buyer so warrants and that such action is advisable to protect the Seller's interests.
 - 8.8 Whether or not risk has passed to the Buyer, the Seller shall to the full extent permitted by law be under no liability in respect of any damage caused to, or any deterioration of, the Goods during the course of transit.
 - 8.9 A certificate purporting to be signed by an officer of the Seller confirming delivery shall be conclusive evidence of delivery, as shall any signed delivery docket.
 - 9. Partial Delivery/Forward Orders**

If the Buyer places any forward order, the Buyer agrees:
 - (a) to pay for so much of any order as is from time to time delivered by the Seller; and
 - (b) that no delay or failure to fulfil any part of any order shall entitle the Buyer to cancel or vary the Order, or delay or reduce any payment.
 - 10. Packing**

Packing will be effected in accordance with the Seller's standard practice and the cost of packing is included in the price. If the Buyer requests other packing the Buyer will bear the cost of such packing.
 - 11. Pallets**
 - 11.1 The Buyer will return all pallets and any other re-usable packaging or delivery material provided by the Seller and indemnifies the Seller for the full replacement cost of any which are not returned to the Seller promptly and in serviceable condition.
 - 11.2 The Buyer agrees to pay the Seller for any charges incurred in hiring pallets from a third party, from the date of delivery until the date such pallets are returned to the Seller or are otherwise released from hire.
 - 12. Time**
 - 12.1 The obligations of the Seller shall be suspended during the time and to the extent that the Seller is prevented from or delayed in complying with these obligations by Force Majeure.
 - 12.2 Force Majeure means circumstances beyond the control of the Seller which occur without default or negligence of the Seller including (but not limited to) inevitable accident; storm; flood; fire; earthquake; explosion; peril of navigation; hostility; war (declared or undeclared); insurrection; strike; lockout or other labour difficulty; executive or administrative order; or act (either general or of particular application) of any government (whether de jure or de facto) or of any official purporting to act under the authority of that government; prohibition or restriction by domestic or foreign laws, regulations or policies; quarantine or customs restriction; break down; or damage to, or confiscation of, property.
 - 13. Limitation of Liability**
 - 13.1 To the extent permitted by law, all statutory and other implied conditions and warranties relating to the supply of the Goods by the Seller are negated, and the liability of the Seller pursuant to any provision of legislation of the Commonwealth or any State or Territory, or pursuant to any other potential liability (whether arising from negligence or not) including consequential loss, is limited at the option of the Seller to the replacement of the Goods or supply of equivalent goods, the repair of the Goods, the payment of the cost of replacing the Goods or acquiring equivalent goods, or the payment of the cost of having the Goods repaired.
 - 13.2 Except as expressly provided in these Terms, the Seller shall not be liable to the Buyer, its servants, agents or contractors for any loss, damage, injury to property or persons (including but not limited to loss of profits or business or other direct, indirect, special, consequential or incidental damages) resulting from, arising out of, or in connection with the acquisition, delivery, re-supply, re-taking of possession, installation or use of the Goods or any other claim whatsoever arising directly or indirectly out of or in any way attributable to the performance or non-performance of an Order.
 - 13.3 The Buyer agrees to check all Goods for compliance with all applicable standards and regulatory bodies before use, on-sale or application and to use or apply the Goods in accordance with those standards and regulations.
 - 13.4 The Buyer is liable for and shall indemnify the Seller and its officers, employees, contractors and agents against any liability, loss, claim, charge, payments made, cost or expense whatsoever, whether arising under contract, statute or common law, incurred or sustained by the Seller or its officers, employees, contractors and agents in respect of:
 - (a) any property damage, loss, or loss of use of any property, including economic and consequential loss arising therefrom;
 - (b) personal injury to, or death of, any person; and
 - (c) all legal and other costs and expenses incurred by the Seller by reason of a breach of this Agreement by the Buyer or arising from the services provided by the Buyer or to the extent of, or contribution to, any act, matter or thing done, permitted or omitted to be done by the Seller including its employees or agents or contractors and their employees or agents.
 - 13.5 No dealing between the Seller and the Buyer shall be or be deemed to be a sale by sample. The Buyer warrants that they have assessed the suitability of the Goods for their purpose, and any advice, recommendation, information or representation given or provided by the Seller as to the quality or performance of the Goods or their suitability for a particular purpose or otherwise in relation to the Goods shall be accepted by the Buyer at its own risk and without any liability or responsibility on the part of the Seller.
 - 14. Taxes**

Without limitation to Clause 7, any GST, excise or other tax, impost or duty shall be payable by the Buyer and the Buyer shall not deduct any tax, impost or duty from the price payable to the Seller. Taxes, imposts and duties shall unless stated otherwise in the relevant invoice be added to invoices as separate charges.
 - 15. Price Variation**

The Seller reserves the right from time to time and at any time to vary the price of the Goods the subject of an Order by notice in writing to the Buyer provided always that upon receipt of that notice the Buyer may elect at any
- time within 14 days of the receipt of that notice to terminate the Order and shall notify the Seller in writing of its election. Within 14 days of receipt of that notice the Seller has the choice of either accepting the Buyer's election whereupon the Order is terminated or electing to sell the Goods to the Buyer at the original price which price shall be binding on the Buyer and the Buyer's election to terminate the Order shall have no effect.
- 16. Withdrawal of Quotation**

Unless withdrawn by the Seller, any quotation made by the Seller is open for acceptance by the Buyer for 30 days from the date of the quotation or such other period as may be notified from time to time in writing by the Seller to the Buyer.
- 17. Property and Risk**
 - 17.1 Notwithstanding any provisions in Clause 8 dealing with transfer of risk and notwithstanding that the Buyer has possession of the Goods, property in the Goods remains with the Seller and no legal or equitable interest or property in the Goods whatsoever shall pass to the Buyer or vest in the Buyer until the full amount due for the Goods (including any interest payable by the Buyer) has been paid.
 - 17.2 The risk of loss of, or damage to, the Goods will pass to the Buyer on delivery and the Buyer will insure the Goods until sold by the Buyer.
 - 17.3 Unless otherwise notified in writing by the Seller and subject to paragraph 17.4, the Buyer is authorised to sell the goods in the ordinary course of the Buyer's business.
 - 17.4 Until property passes to the Buyer:
 - (a) the Buyer holds the Goods as fiduciary and bailee for the Seller;
 - (b) the goods must be stored separately and in a manner to enable them to be identified and cross-referenced to particular invoices;
 - (c) the Seller, its employees and agents are entitled to enter the Buyer's premises between 9.00am and 5.00pm on any business day to inspect the goods;
 - (d) the proceeds of Goods sold by the Buyer are to be held in trust for the Seller and must be paid immediately into a separate account and must not be mixed with any other money, including funds of the Buyer.
 - 17.5 If the Buyer uses the Goods in some manufacturing or construction process of its own or some third party, then the Buyer must hold such part of the proceeds of such manufacturing or construction process as relates to the Goods in trust for the Seller. Such part shall be deemed to accrue in dollar terms at the amount owing by the Buyer to the Seller at the time of receipt of such proceeds.
 - 17.6 If payment is not made by the Buyer to the Seller on the due date, the Buyer must deliver the goods to the Seller on demand. If the Buyer does not comply with such a demand, the Seller, its employees and agents are entitled:
 - (a) to enter the Buyer's premises at any time to do all things necessary in order to take possession of the goods and the Buyer:
 - (i) must procure the consent of all other persons having any interest in the premises where the goods are situated to entry of those premises by the Seller, its employees or agents; and
 - (ii) indemnifies the Seller against any claim, loss, liability, cost and expense that may be incurred or sustained by the Seller, its employees or agents, as a result of the entry of those premises where the goods are situated; and
 - (b) with or without taking possession of the goods, to sell them as the Seller sees fit.
 - 17.7 The Buyer must pay to the Seller the costs and expenses incurred by the Seller of legal advisers, mercantile agents and other agents acting on the Seller's behalf in respect of any enforcement of these Terms and Conditions, or recovery or attempted recovery of either the money owing by the Buyer to the Seller or possession of the goods.
 - 17.8 The Buyer acknowledges that the goods are not intended to become affixed to any of its premises and must ensure that the goods may be removed from those premises without causing damage of any kind to the premises.
 - 17.9 The Buyer's right to hold and sell the goods will immediately cease if an administrator or a controller within the meaning of section 9 of the Corporations Act or similar officer is appointed to all or any assets or undertaking of the Buyer; or an order is made or resolution passed for the winding up of the Buyer; or the Buyer is deregistered. In any such case, and without the need for notice or demand by the Seller, the Buyer acknowledges any sale or purported sale of the goods will not be in the ordinary course of the Buyer's business and the proceeds of any goods sold in such circumstances will be held on trust for the Seller by the administrator, controller or similar officer as the case may be, or (if there is no such officer) by the Buyer.
 - 17.10 To effect to the Buyer's obligations under these Terms, and so far as is necessary to effect the Buyer's obligations, the Buyer irrevocably appoints any solicitor for the Seller as its attorney in all things.
 - 17.11 Any provision of this Clause which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Clause nor affect the validity or enforceability of that provision in any other jurisdiction.
- 18. Default and Termination**
 - 18.1 Without prejudice to any of its rights, powers or remedies the Seller may terminate an Order immediately without any liability to the Buyer if:
 - (a) any payment is not made by the due date or within the time or times specified in the Order;
 - (b) there is any other breach of the terms and conditions relating to the Order; or
 - (c) the Buyer becomes insolvent.
 - 18.2 Upon termination of an Order, the Seller shall be released from all liability under the Order and all Goods in the Seller's possession relating to the Order whether paid for by the Buyer or not shall be forfeited to the Seller absolutely.
- 19. Notices**
 - 19.1 A notice or other communication required or permitted to be given by a party to another shall be in writing and delivered personally or sent by pre-paid post or facsimile to that party's address or facsimile number stated in an Order or as notified in writing to each party from time to time. Any such notice may be signed by any director, manager or secretary of the Seller or by any other person authorised by the Seller.
 - 19.2 A notice or other communication is deemed given if:
 - (a) personally delivered, upon delivery;
 - (b) mailed, on the expiration of two business days after posting;
 - (c) sent by facsimile, on confirmation of successful dispatch by the sender machine; or if sent after 1700 hrs on a working day, at 0900 hrs on the next working day.
- 20. Intellectual Property**
 - 20.1 The Buyer warrants that any design or instruction furnished to the Seller will not cause the Seller to infringe any patent, registered design or trade mark in the execution of the Buyer's order. The Buyer indemnifies the Seller against any claim, loss, liability, cost and expense that may be incurred by the Seller as a result of any infringement or unauthorised use of patents, trade marks, designs or copyright arising out of the manufacture or use of the Goods.
 - 20.2 The sale and purchase of the Goods does not confer on the Buyer any licence or rights under any patents, trade marks or copyright which is the property of the Seller or any other person.
- 21. Exclusion of Vienna Convention**

The parties expressly agree that the Order shall not be governed by the provisions of the United Nations Convention on Contracts for the International Sale of Goods adopted in Vienna in 1980 (known as the Vienna Convention) and that the provisions of the Vienna Convention are expressly excluded.
- 22. Governing Law**

The law of these Terms and any Order is the law of Victoria and Australia. The parties submit themselves to the exclusive jurisdiction of the courts of any State or Territory within Australia as may be selected by the Seller in its sole discretion for proceedings in respect of any matter arising hereunder.
- 23. Severability**

In the event that any of the provisions or conditions of the Terms or any clause or subclause of the Terms cannot be given full force or effect by reason of statutory invalidity, uncertainty or otherwise, the said provision or condition, clause or sub-clause, as the case may be, which cannot be given full force or effect shall be severed, ignored or read down restrictively to maintain and uphold so far as possible, the remaining conditions and provisions of the Terms.
- 24. Waiver**

The failure of the Seller to enforce any right or part of any right under the Terms shall not be considered a waiver of that right or part of a right, and shall not prevent the Seller enforcing that right or part of a right in the future.