

Credit Application Form

(Please complete and return by post or fax with letter heading)

Full Trading Name:

(including any other trading style or title)

STATUS (X) PLC Partnership Limited Sole Trader LLP

Other Type of Organisation:

Nature of Business:

Trading Address:

Telephone No.

Fax No

Co. Registration No.

VAT No

Date Trading Commenced

Credit Limit Required

Finance Contact

Email Address

PARTNERS/PROPRIETOR where application (delete as appropriate)

Name

Name

Address

Address

TRADE REFERENCES (not associated companies)

Name

Name

Address

Address

Tel No.

Tel No.

BANK DETAILS

Name

Sort Code

Address

Account No.

Account Name

We hereby apply for a credit account with Micro Heaven Ltd and agree to abide by the terms and conditions of business which are attached to this document, and also on the reverse side of our invoices. We also agree to comply with the payment terms which are 'settlement within 30 days of invoice date'.

Name

Position

Signed

Date

PROMPT COMPLETION AND RETURN OF THIS FORM IS ESSENTIAL. CREDIT FACILITIES WILL NOT BE CONSIDERED UNTIL WE ARE IN RECEIPT OF THIS COMPLETED FORM TOGETHER WITH AN ORIGINAL LETTERHEAD

Terms of Trading

Terms and Conditions of Business

1 Definitions

- “Conditions” means the terms contained in this document (as amended from time to time)
“Contract” means any agreement for the supply of Goods between you and us and which is subject to these Conditions
“Force Majeure” means Act of God, accident, explosion, fire, transport delays, strikes and other industrial disputes and difficulty in obtaining supplies
“Goods” means any products available for sale by us at the time of the contract (which, for the avoidance of doubt, shall also include any services carried out for you by us such as duplication)
“RMA Procedure” means the returns procedure pursuant to clause 8.3

“We/us/our” means Micro Heaven LTD of Unit 2 Chapel Lane Works, Wescott, Surrey, KT233PJ

“You/your” means the person who enters into this Contract for the purchase of the Goods

2 Basis of Sale

- 2.1 We shall sell and you shall purchase the Goods in accordance with any quotation of ours which is accepted by you, or any written order of yours which is accepted by us subject in either case to these Conditions, which shall govern the Contract to the exclusion of any other terms and conditions. By placing an order you are deemed to have accepted these Conditions.
2.2 Our employees or agents are not authorised to give any advice or recommendations or make any representations (“Representations”) concerning the Goods unless confirmed by us in writing. In entering into a Contract you acknowledge that you do not rely on any such representations which are not so confirmed and consequently we shall not be liable for any such Representations which are not so confirmed
2.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by us shall be subject to correction without any liability on our part and all brochures, catalogues and other promotional materials are to be treated as illustrative only. Their contents form no part of any Contract between us and you should not rely on them in entering into any Contract with us
2.4 No order submitted by you shall be deemed to be accepted by us unless confirmed by us
2.5 You shall be responsible for ensuring the accuracy of the terms of your orders (including any applicable Specifications) and for giving us any necessary information relating to the Goods within a sufficient time to enable us to comply with our obligations hereunder
2.6 The price, quantity, quality and description of the Goods shall be those set out in our quotation (if accepted by you) or your order (if accepted by us)
2.7 We reserve the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory or EC requirements which do not materially affect their quality or performance

3 Price

- 3.1 The price quoted excludes VAT and the cost of delivery for which you will be additionally liable (unless otherwise stated in writing). VAT will be charged at the rate applying at the time of delivery.
3.2 When you are given a quotation you will be notified of the period that the quotation is available for acceptance (“Quotation Period”). The price quoted is only valid for the Quotation period.
Thereafter (unless otherwise agreed) if we accept your order the price charged will be our price current at the time of our acceptance
3.3 Rates of tax and duties on the Goods will be those applying at the time of our acceptance.
3.4 At any time before delivery we may adjust the price to reflect any increase in our costs of supplying the Goods.

4 Delivery

- 4.1 We shall deliver the Goods pursuant to the terms of clause 7.2. Delivery times quoted are estimates only and time shall not be of the essence. If delivery is to take place pursuant to clause 7.2.1 you must ensure you make all necessary delivery arrangements
4.2 If we fail to deliver within a reasonable time, you may (by informing us in writing) cancel the Contract, however:
4.2.1 you may not cancel if we receive your notice after the Goods have been dispatched; and
4.2.2 if you cancel the Contract, you can have no further claim against us under that Contract.
4.3 If you accept delivery of the Goods after the estimated delivery time, it will be on the basis that you have no claim against us for delay (including indirect or consequential loss, or increase in the price of the Goods).
4.4 We may deliver the Goods in instalments. Each instalment is treated as a separate Contract and our failure to deliver any one or more of the instalments in accordance with these Conditions or any claim by you in respect of any one or more instalments shall not entitle you to treat the Contract as a whole repudiated
4.5 We may decline to deliver if:
4.5.1 we reasonably believe that it would be unsafe, unlawful or unreasonably difficult to do so; or
4.5.2 the premises (or the access to them) are unsuitable for our vehicle.

5 Payment terms

- 5.1 You are to pay us in cash (or otherwise in cleared funds) on or before delivery, unless you have an approved credit account (which shall be agreed by us in our absolute discretion)
5.2 If you have an approved credit account, payment is due no later than 30 days after the date of our invoice unless otherwise agreed in writing
5.3 If you fail to pay us in full on the due date:
5.3.1 we may suspend or cancel any future deliveries
5.3.2 we may cancel any discount offered to you;
5.3.3 you must pay us interest at the rate equivalent to that set for the purposes of s6 of the Late Payment of Commercial Debts (Interest) Act 1998:
a. calculated (on a daily basis) from the date of our invoice until payment;
b. compounded on the first day of each calendar month;
c. before and after any judgement (unless the court orders otherwise); and
d. any legal costs (including court fees) incurred by us in recovering any outstanding monies due under any Contract
5.4 In addition to the provisions of clause 5.3, if you have an approved credit account and we believe that your creditworthiness or payment record has or is likely to deteriorate, we may withdraw it or reduce your credit limit or bring forward your due date for payment. We may do any of those at any time without notice.
5.5 You do not have the right to deduct from such payment due under this Contract or exercise any right of set off or contribution howsoever arising. The time of payment of the price shall be the essence of the Contract
5.6 You are bound by the invoice if you do not advise us within five days of receipt of any fault in it.
5.7 While you owe money to us, we have a lien on any of your property in our possession.

6 Title

- 6.1 Until you pay all debts you may owe us:
6.1.1 all Goods supplied by us remain our property;
6.1.2 you must store them separately from your own goods and so that they are clearly identifiable as our property;
6.1.3 you must insure the Goods (against the risks for which a prudent owner would insure them) and hold the policy on trust for us;
6.1.4 you may use those Goods and sell them in the ordinary course of your business, but not if
a. we revoke that right (by informing you in writing); or
b. you become insolvent.
6.2 You must inform us (in writing) immediately if you become insolvent.
6.3 If your right to use and sell the Goods ends you must allow us to remove the Goods.
6.4 We have your permission to enter any premises where the Goods may be stored:
6.4.1 at any time, to inspect them; and
6.4.2 after your right to use and sell them has ended, to remove them, using reasonable force if necessary.
6.5 Despite our retention of title to the Goods, we have the right to take legal proceedings to recover the price of Goods supplied should you not pay us by the due date.
6.6 You are not our agent. You have no authority to make any Contract on our behalf or in our name.

Risk

7.1 The Goods are at your risk from the time of delivery.

7.2 Delivery takes place either:

7.2.1 at our premises (if you are collecting them or arranging carriage); or

7.2.2 at your premises as specified in your order or any location specified in writing (if we are arranging carriage)

7.3 You must inspect the Goods on delivery. If any Goods are damaged (or not delivered), you must write to tell us within five working days of delivery (or the expected delivery time). You must give us (and any carrier) a fair chance to inspect the damaged Goods.

8 Warranties and Liability

8.1 We warrant that the Goods:

8.1.1 comply with their description; and

8.1.2 are free from material defect at the time of delivery (as long as you comply with clause 7.3).

8.2 Unless specified to the contrary we warrant that the Goods will be free from component failure for an appropriate period ('Warranty Period'). The details and length of the Warranty Period for

particular items are available on request

8.3 Subject to the terms of clause 11 we will (at our option) repair or replace any Goods which suffer component failure during the Warranty Period but you must contact us to request a return merchandise authorisation ("RMA") form and comply with the returns procedures detailed on the form. These should be carried out in full otherwise the return of the Goods will be refused. The Goods will only be authorised for return when you have received an authorisation number from us

8.4 We may charge you a reasonable fee for our inspection of the Goods but we will waive that fee if the Goods are found to be faulty

8.5 Where the Goods have been repaired or replaced under the provisions of the Warranty Period the Warranty Period shall not be extended.

8.6 Our decision will be final as to whether or not an alleged defect has occurred within the Warranty Period

8.7 We do not warrant that the Goods are compatible with or upgradeable to other Goods or items whether hardware or software unless we have agreed this in writing

8.8 Our warranties shall not apply:

8.8.1 if there has been improper use of the Goods or if the Goods have been modified without our prior written authorisation;

8.8.2 if the Goods malfunction because of abnormal environmental causes including (but not limited to) mains power transients or extremes of humidity which we had not been informed of when you placed your order; or

8.8.3 the price of any of the Goods has not been paid by the due date for payment

9 Liability

9.1 Subject as expressly provided in these Conditions, we give no other warranty (and exclude (to the fullest extent possible) any warranty, term or condition that would otherwise be implied by statute or common law) as to the quality of the Goods or their fitness for any purpose.

9.2 The following sets out our entire liability (including any liability for the acts and omissions of our employees agents and subcontractors) to you in respect of any breach of our contractual obligations arising under this Contract

9.3 Any act or omission on our part by our employees agents or subcontractors falling within clause 9 shall for the purposes of this clause 9 be known as an "Event of Default"

9.4 Our liability to you for death or injury resulting from our own or that of our employees agents or subcontractors negligence shall not be limited

9.5 Subject to the provisions of clause 9.4 above our entire liability in respect of an Event of a Default shall be limited to damages of an amount equal to the price of the Goods except in the case of destruction of your property caused by our negligence where the limit shall be £5m (five million pounds)

9.6 Subject to clause 9.5 above we shall not be liable to you in respect of any Event of Default for loss of profits goodwill or any type of special indirect or consequential loss (including loss or damage suffered by you as a result of any action brought by a third party) even if such loss was reasonably foreseeable or we have been advised of the possibility of your incurring the same

9.7 If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under this Contract

9.8 You hereby agree to afford us not less than 30 days (following notification by you) in which to remedy any Event of Default hereunder

9.9 Except in the case of an Event of Default arising under clause 9.4 above we shall have no liability to you in respect of an Event of Default unless you shall have served notice of the same on us within 4 weeks of the date on which you became aware of the circumstances giving rise to the Event of Default or the date on which it ought reasonably to have become so aware

9.10 Nothing in this clause shall confer any right or remedy on you to which it would not otherwise be legally entitled

9.11 You are to indemnify us in full and hold us harmless from all expenses and liabilities we may incur (directly or indirectly and including finance costs and legal costs on a full indemnity basis) following any breach by you of any of your obligations under these terms

10 Specifications and designs

10.1 If we supply the Goods in accordance with your specifications, designs or instructions ("Specifications") you:

10.1.1 must ensure that the Specifications are accurate;

10.1.2 must ensure that the Goods supplied in accordance with those Specifications will be fit for the purpose for which you intend to use them; and

10.1.3 warrant that the Specifications will not result in the infringement of any rights belonging to a third party and that you will indemnify us in respect of all loss, damage, costs or expenses (including legal fees on a full indemnity basis) which we may incur in connection with any such claim or threatened claim by a third party.

10.2 If you breach clauses 10.1.1 and/or 10.1.2 we shall not:-

10.2.1 be liable to you for any loss or damage suffered by you as a result of such a breach; or

10.2.2 be obliged to accept the return of Goods

10.3 By supplying Goods to you we do not waive any intellectual property rights (including any design rights) that we may have in respect of them.

11 Return of Goods

11.1 Where these Conditions permit a return of Goods, we will only accept the return of Goods from you:-

11.1.1 by prior arrangement (confirmed in writing);

11.1.2 on payment of a handling charge specified by us which will be no less than 15% of the invoice value of the Goods being returned (unless the Goods were defective when delivered);

11.1.3 if you follow our RMA Procedure; and

11.1.4 where the Goods are as fit for sale on their return as they were on delivery, and include all accessories originally supplied.

12 Export terms

12.1 Clause 12 of these terms shall apply to export sales of the Goods except where inconsistent with any written agreement between us.

12.2

Goods are supplied by us to you by way of export from the United Kingdom then the 'Incoterms' of the International Chamber of Commerce which are in force at the time of the date when the Contract is made shall apply and the Goods shall be supplied ex-works unless otherwise agreed.

12.3 The Incoterms are treated as amended by these terms (read as a whole) to the extent that they are inconsistent with them

12.4 You are responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties due.

12.5 Where the Goods are to be sent by us to you by a route including sea transport we shall be under no obligation to give a notice under section 32(3) of the Sale of Goods Act 1979.

12.6 You are responsible for arranging the testing and inspection of the Goods at our premises before shipment except where otherwise agreed (in writing). We are not liable for any defect in the Goods which would be apparent on inspection unless a claim is made before shipment. We are not liable for any damage during transit

12.7 Payment of all amounts due to us shall be made as stipulated by us, unless otherwise agreed in writing.

12.8 We shall have no liability for death or personal injury arising from the use of the Goods where the Goods are to be delivered in the territory of another State (within the meaning of s.26 (3) (b) Unfair Contract Terms Act 1977).

13 Cancellation

13.1 You may only cancel an order which has been accepted by us on the following terms:-

13.1.1 you do so in writing;

13.1.2 we agree to the cancellation in writing; and

13.1.3 you fully indemnify us in respect of any loss (including loss of profit) whether direct or indirect we may suffer as a result of your cancellation whereupon clause 4.2.2

13.2 We may suspend or cancel your order, by written notice if:
13.2.1 you fail to pay us any money when due (under the order or otherwise); or
13.2.2 you become insolvent; or
13.2.3 you fail to honour your obligations under these terms; and
13.2.4 we agree to such cancellation
13.3 Clause 4.2.2 will apply to cancellations under this clause 13

14 General

14.1 No waiver or variation of these terms is binding unless made (or recorded) in writing; signed on behalf of each party; and expressly stating an intention to vary these Conditions
14.2 If you are more than one person, each of you has joint and several obligations under these terms
14.3 If any provision of these Conditions is declared by any judicial or any other competent authority to be void, voidable, illegal or otherwise unenforceable or indications to that effect are received by either of us from any competent authority then that provision shall be limited or eliminated to the minimum extent necessary so these Conditions shall otherwise remain in full force and effect and enforceable
14.4 We may treat you as insolvent if:
14.4.1 you are unable to pay your debts as they fall due; or
14.4.2 you (or any item of your property) become the subject of:
a. any formal insolvency procedure (examples of which include receivership, liquidation, administration, voluntary arrangements (including a moratorium) or bankruptcy);
b. any application or proposal for any formal insolvency procedure; or
c. any application, procedure or proposal overseas with similar effect or purpose.
14.5 Any notice or other information required or permitted to be given by either party under these Conditions shall be deemed to have been validly given if served personally upon that party or is sent by first class pre-paid post to in our case the address shown in these Conditions, in your case the address shown on your order. If sent by first class pre-paid post the notice shall be deemed to have been received 2 working days after the date of posting. If any such notice or other information is given by means of facsimile or other immediate form of communication, then notice shall be deemed to have been received on the same day, provided it is sent within normal working hours
14.6 Pursuant to section 1(2)(a) Contracts (Rights of Third Parties) Act 1999 we both agree that no term of these Conditions may be enforced by a third party
14.7 The only statements upon which you may rely in making the Contract with us, are those made in writing by someone who is our authorised representative and either:
14.7.1 contained in our estimate (or any covering letter) and not withdrawn before the Contract is made; or
14.7.2 which expressly state that you may rely on them when entering into the Contract.
14.8 Nothing in these terms affects or limits our liability for fraudulent misrepresentation.
14.9 If we are unable to perform our obligations to you (or able to perform them only at unreasonable cost) because of an event of Force Majeure, we may then cancel or suspend any of our obligations to you, without liability.
14.10 This Contract shall be governed and construed in accordance with the laws of England and the English Courts shall have the non-exclusive jurisdiction to decide any dispute arising hereunder.

16 Data Protection

16.1 We pass information concerning your payment records to credit reference agencies and other businesses in the industry. We may also give references based on your credit history. By purchasing on these terms you are giving consent to these disclosures.
16.2 You agree to keep us informed of any changes in personal data and indemnify us in respect of any loss or damage we may suffer as a result of the personal data you supply being inaccurate or misleading.
16.3 You agree that we may transfer any personal data outside the European Economic Area for the purpose of verifying payment records, marketing, billing and the giving of trade references.

17. Duplication

The following terms shall apply where we carry out any duplication for you

17.1 You are responsible for any master file provided to us by you or on your behalf. Where such master file is approved by you we are not responsible for any mistakes that may subsequently be discovered. Your approval is an unconditional approval of all the detail contained within the master file.
17.2 You agree that you will not use our duplication service for any unlawful purpose or in breach of any applicable law or regulation. In particular you will not use the service to commit any criminal act or any act constituting infringement of any intellectual property right, or to copy any material that is blasphemous, obscene, indecent, or pornographic or which is of a defamatory, offensive, abusive, or menacing character or which contains a computer virus or which is in breach of the Data Protection Act 1998 (or equivalent legislation abroad). We reserve the right to remove any material from the duplication service which we at our sole discretion find objectionable.
17.3 You warrant to us that you have the right to copy any information that you provide to us for duplication and that such copying by us will not infringe the intellectual property rights (including copyright) of any third party.
17.4 Where we provide a duplication service to you our responsibility is restricted to such service and we do not accept any additional responsibilities.
17.5 You agree to indemnify us against all losses (including, without limitation legal costs) we may incur as a result