

Yum Australia Equipment Pty Ltd  
A.B.N 28 000 905 866 (Yum!)  
1030-1034 Canley Vale Road,  
Wetherill Park, NSW 2164  
Tel: (612) 8797 5000 Fax: (612) 9756 5891

All payments sent to:  
Locked Bag 522  
Frenchs Forest NSW 2046

#### TERMS AND CONDITIONS OF SALE

1. Any order placed by a Customer is deemed to be an order incorporating these terms and conditions. These terms and conditions will prevail any inconsistent terms and conditions which may be introduced in Customer's order or acceptance unless expressly agreed by Yum! In writing. Yum! may at any time amend these terms by reasonable notice in writing to the Customer.
2. Unless otherwise agreed by Yum! in writing, all goods will be charged for at the prices ruling at the date of delivery.
3. All payments must be received by Yum! within 28 days of the date of invoice. All payments must be made in Australian Dollars.
4. Unless otherwise expressly stated, all prices are exclusive of GST. If GST is imposed on any supply of goods, Customer must pay Yum! An additional amount equal to the GST payable on of for the taxable supply subject to Customer receiving a valid tax invoice in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time as the payment for the goods. The parties acknowledge that goods supplied are subject to GST.
5. In the event that any amount is not paid by Customer to Yum! when due, such amount will bear late interest calculated on a daily basis from the due date at the indicator lending rate quoted by Westpac Banking Corporation on the due date plus 2% per annum. This interest will continue to apply after any judgement. Without limiting foregoing, Yum! may apply any amount or credit owed by Yum! to Customer towards satisfaction of the outstanding amount due from Customer or stop supply of the goods to Customer until all outstanding amounts have been paid in full.
6. Yum! will not be liable to Customer for any shortage in delivery or for any defective or damaged goods unless written notice containing details of the defect or damage is received by Yum! within 7 days after delivery of those goods to Customer. In any event, the liability of Yum! will be limited to making up any shortage and replacing any defective or damaged goods and any claim which Customer does not notify within that time (time being of the essence) will be deemed to have been absolutely waived.
7. All conditions, warranties and guarantees expressed or implied by statute, the common law, equity, trade, custom, usage or otherwise are expressly excluded to the fullest extent permitted by law. Where so permitted, the liability of Yum! for a breach of a condition, warranty or consumer guarantee that cannot be excluded (including under the Competition and Consumer Act 2010 (Cth)) is limited at Yum!'s option to either: (a) the replacement of the goods or the supply of equivalent goods; (b) the repair of the goods; (c) the payment of the cost of replacing the goods or of acquiring equivalent goods; (d) the payment of the cost of having the goods repaired.
8. So far as the law permits, Yum! will not be liable in any way whatsoever for any indirect or consequential loss or damage, loss of profit or opportunity, delay costs, reputation damage, third party claims, or any other indirect, consequential or special kind of loss by reason of Yum's delay, negligence or any act, matter or thing done or permitted or omitted to be done by Yum!.
9. Additional Terms for Consumers.
  - a. Without limiting clause 6, if Customer (i) is a "consumer" under the Competition and Consumer Act 2010 (Cth), then (a) to claim a breach of any warranty under an agreement to which these terms and conditions apply, Customer must notify Yum! by contacting Yum! at [au-equipmentwarranty@yum.com](mailto:au-equipmentwarranty@yum.com) or on (02) 8797 5000 within 7 days after delivery of the goods to the Customer; (b) Customer will bear the expenses of claiming the warranty; and (c) the benefits to Customer given by each warranty are in addition to other rights and remedies of Customer under a law in relation to the goods or service to which the warranty relates; and (d) our goods come with guarantees that cannot be excluded un the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does no amount to a major failure.
  - b. If Customer (i) is a "consumer" under the Competition and Consumer Act 2010 (Cth), then (a) the limitations, exclusions and disclaimers contained in these terms and conditions or otherwise incorporated into the Customer's order will not apply to the extent that they purport to exclude any warranties or consumer guarantees that cannot be excluded under Australian law (including, without limitation, guarantees as to title and delay) under the Competition and Consumer Act 2010 (Cth)); and (b) the limitations of liability set out in clause 6 do not apply with

respect to claims relating to breach of any statutory guarantee by Yum!, in which case the liability of Yum! is as set out in clause 7.

10. Any time quoted for delivery is an estimate only and Yum! will not be liable in any way for any loss or damage howsoever arising out of or in connection with any failure to deliver or delay arising from any circumstances of whatsoever nature. If Yum! determines that it may not be able to deliver within a reasonable time or at all the contract may be cancelled by Yum!. In the event of cancellation, Customer will have no claim against Yum! for any damage, loss, cost or expense whatsoever. Customer will not be relieved of any obligation to accept or pay for goods by reason of any delay in delivery.
11. The risk of loss of or damage will pass to the Customer on delivery.
12. Customer will at all times keep the goods for which payment has not been made insured against fire, theft and such other risks as Yum! may from time to time require for their full insurable value with a reputable insurer. Customer must provide to Yum! When requested by Yum! a copy of such insurance policies and all renewals and evidence of payment of the premiums and all renewals.
13. Property in goods will not pass from Yum! until Customer has paid for the goods in full. Customer will hold the goods as bailee for Yum! until Customer has paid Yum! the price of the goods invoiced and any other moneys due and payable to Yum! in relation to the goods. Until payment in full of all amounts owing to Yum! from Customer in relation to the goods, Customer must not mortgagee, change, pledge or otherwise encumber the goods and must store the goods in a way that clearly preserves Yum!'s title to the goods.
14. In the event of sale of the goods to Customer's customer, Customer will, in its position as bailee of the goods, assign to Yum! The benefit of any claim against a customer and hold all proceeds of sale on trust for Yum! and account fully to Yum! For the proceeds of sale (unless and until Customer's indebtedness to Yum! under these Terms and Conditions of Sale is discharged).
15. Yum! may at any time and without notice to the Customer take possession of and resell the goods which remain the property of Yum! and for that purpose Customer authorises Yum! to enter any premises where Yum!'s goods may be situated and to use reasonable means as may be acquired to enter such premises. Customer undertakes to Yum! to procure the consent of all persons having an interest in the premises where Yum!'s goods may be situated to entry to the premises by Yum! and indemnifies and will keep indemnified Yum! from all claims, actions or suits whatsoever arising out of or in connection with or in relation to the entry by Yum! to any premises where Yum!'s goods may be situated.
16. In event Yum! is required to recall any of the goods delivered to Customer, Customer will use its best endeavours to assist Yum! in the recall in an efficient manner.
17. Yum! reserves the right to deliver by instalments and each instalment will be deemed to be sold under a separate contract. Failure of Yum! to deliver any instalment will not entitle customer to cancel the balance of the order. In the event of Customer making default in respect of any instalment, Yum! may elect to treat the default as a breach of contract relating to each other instalment.
18. Failure by Yum! to assist upon strict performance of any term of contract will not be deemed a waiver of such term or any rights Yum! May have and no express waiver will be deemed a waiver of any subsequent breach of any term.
19. Yum! reserves the right to subcontract the production, manufacture or supply of the whole or any part of the goods or of any materials or services to be supplied.
20. Any notice to be given by Customers to Yum! must be sent by prepaid mail to Yum!'s address. No notice will be deemed to have been given until it is actually received at such address.
21. Contracts will be governed by and construed in accordance with the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of or exercising jurisdiction in that State.