



Australian Owned & Operated since 1989

Lesside Pty Ltd – Terms and Conditions

August 2009

1. Property of Goods

- 1.1 Notwithstanding that all the goods shall in whole or in part be at risk of the Purchaser from the date of delivery to the Purchaser, the property in the goods shall remain with Lesside Pty Ltd (LESSIDE PTY LTD (ABN 74 010 868 28) until they have been paid for in full by the Purchaser.
- 1.2 If the purchaser is a corporation and before payment in full has been received by LESSIDE PTY LTD, the purchaser;
- Enters into any arrangement for the benefit of its creditors;
 - An administrator, liquidator, receiver or official manager is appointed in respect of the Purchaser;
 - An application is made to wind up the Purchaser;
- Warranty Jobs with no DOP (date of purchase or receipt attached)
- If no date of purchase is received the job will be deemed as a cash job and will be charged our inspection fee of \$77inc GST before the goods are released back to the client.
 - A holding fee (credit card details or cash) will be required from Lesside to hold your product at the premises. If a DOP is not receipted our inspection fee will be charged. If a DOP is produced further on the holding fee will be discounted and refunded.
 - If a warranty job is deemed as user fault or damaged (or rejected by the manufacturer) by user the initial inspection costs will need to be charged before the goods are released
- Then LESSIDE PTY LTD is specifically authorised as part of the consideration for the supply of the goods and services to enter the premises of the Purchaser and remove the goods supplied by LESSIDE PTY LTD for which payment has not been made in full.

2. Order and Delivery

- 2.1 The Purchaser will place all orders to LESSIDE PTY LTD in writing on the Purchaser's standard order form (if applicable) specifying order number, date of order, goods required (full description), services required, requested delivery/ installation date/s, quotation reference number, place of delivery and full name and title of person placing the order.

3. Goods Return Policy

- 3.1 It is the Purchaser's responsibility to fully inspect the goods upon receipt to ensure that the goods shipped by LESSIDE PTY LTD to the Purchaser are complete and conform to the Purchaser's order and specifications / requirements.

- 3.2 (a) LESSIDE PTY LTD must be notified in writing of incorrect supply within seven days of receipt by the Purchaser, LESSIDE PTY LTD will not be liable to correct or rectify any such claims reported outside this time period.
- LESSIDE PTY LTD will upon notification advise a Goods return number which is an invitation to return goods and is not to be taken as an acceptance of any credit claim.
 - After a Good return number has been issued the Purchaser must return the goods within seven (7) days with Goods return number clearly marked on the container/packaging of the goods;
 - Any goods returned must be in resalable condition; i.e. full pack qty's, unmarked packaging.
 - LESSIDE PTY LTD will not credit the cost of any non-standard, or customer specific products, specially manufactured products.

4. Conditions of Supply

- 4.1 The goods and/or services supplied by LESSIDE PTY LTD to the Purchaser are supplied on technical information and specifications and/or samples supplied by the Purchaser to LESSIDE PTY LTD and notwithstanding any circumstances whatsoever including any advice or assistance provided by LESSIDE PTY LTD to the Purchaser concerning the technical information, specifications and/or samples the Purchaser accepts full and complete responsibility whatsoever for goods and/or services supplied on the basis of faulty, incomplete, inaccurate, or defective technical information, specifications and/or samples.

- 4.2 If the goods and/or services supplied by LESSIDE PTY LTD to the Purchaser do not correspond with the samples the Purchaser specifically agrees that LESSIDE PTY LTD's liability shall be limited to:

- The replacement of the goods or the supply of equivalent goods;
- The repair of the goods;
- The payment of the cost of replacing the goods or acquiring equivalent goods;
- The payment of the costs of having the goods repaired.

And LESSIDE PTY LTD shall in no way be liable for any alleged consequential loss, damage, destruction, injury, harm of any nature whatsoever which may result from such non correspondence.

- 4.3 The Purchaser acknowledges and agrees to the full extent permitted by law and subject in particular to all rights and remedies in respect of the goods and services supplied by LESSIDE PTY LTD which the consumer has under the Trade Practices Act (as amended) (the "act") or equivalent or similar State Legislation;

- That the Purchaser has satisfied itself as to the suitability and fitness of the goods and/or services for the Purchaser's particular purpose as specifically disclosed to LESSIDE PTY LTD.
- The LESSIDE PTY LTD goods and/or services do not constitute those of any kind ordinarily acquired for personal, domestic or household use or consumption pursuant to the Act or equivalent or similar State Legislation. Then LESSIDE PTY LTD liability to the Purchaser shall in the case of any and all loss sustained by the Purchaser to be limited in the absolute discretion of LESSIDE PTY LTD to:

In the case of goods, one or more of the following:

- In the replacement of the goods or the supply of equivalent goods;
- The repair of the goods;
- The payment of the costs of replacing the goods or acquiring equivalent goods;
- The payment of the cost of having the goods repaired.

In the case of services:

- The supply of these services again; or
- The payment of the cost of having the services supplied again.

And LESSIDE PTY LTD shall in no way be liable for any alleged consequential loss, damage, destruction, injury, or harm of any nature whatsoever which may be caused to persons or property arising directly or indirectly from the use of the goods and/or services.

- All conditions and warranties implied by statute whether State, Commonwealth and at Common Law are hereby excluded so far as the law permits.

- 4.4 (a) The Purchaser acknowledges that its employees and agents may have access to private or confidential information owned or controlled by LESSIDE PTY LTD relating to equipment, apparatus, programs, software, specifications, drawings and other data, and such information may contain proprietary details and disclosures. All information and data so acquired by the Purchaser or its employees or agents thereof shall be and shall remain the exclusive property of LESSIDE PTY LTD. The Purchaser shall use a reasonable degree of care, which in any event shall not be less than the same degree of care which the Purchaser uses to protect its own proprietary and confidential information, to keep and have its employees and agents keep, any and all such information and data confidential. The Purchaser shall not copy, publish or disclose such information and data to others, or authorise its employees, or agents, or anyone else to copy, publish or disclose it to others, without LESSIDE PTY LTD prior written approval, and shall return such information and data to LESSIDE PTY LTD upon request.
- (b) With respect to all such information to be kept confidential the Purchaser agrees:

- Not to provide or make available any of the LESSIDE PTY LTD proprietary information in any form to any person other than those employees, agents and subcontractors of the Purchaser who have need to know consistent with the Purchaser's authorised use of the information;
- Not to use or reproduce such information except for use reasonably necessary in connection with the Purchaser's order from LESSIDE PTY LTD
- Not to publish or disclose any of the information to third parties without LESSIDE PTY LTD prior written consent; and
- To return or destroy all such information which is in written or graphic form at the conclusion of is authorised use.

5. Payment

The purchase price of the goods and any other charges are payable no later than (30) days from statement. If the purchase price and/or other charges are not fully paid within (30) days of the due date then the Purchaser shall pay interest on the monies outstanding from the date goods/ services delivered to you, until the date of full payment at the rate 5% a day, together with any costs expended in collecting any outstanding money.

If payment has not been made 30 days from statement and issue of final payment has not been paid. Our creditors ECC credit control will take 100% ownership of the debt and collection of monies owing. A default will be applied to both your personal as well as company name (if applies). A default will black list you or the company from credit for 5 years until debt including total expended cost in collecting this debt has been recovered in full.

6. Taxation

In addition to the service to the purchase price and delivery charges and extra charges applicable the Purchaser will pay by the due date all Federal and/or State Goods and Services taxes (GST), consumption or similar tax, duty or fee applicable to the purchase of the goods and/or services. And shall indemnify LESSIDE PTY LTD in respect of GST, consumption and/or similar tax, duty or fee.

7. These Terms and Conditions

- 7.1 May only be varied with written consent of LESSIDE PTY LTD;

7.2 Shall be governed and interpreted in accordance with the laws of Queensland and Australia as applicable and the parties submit to the non-exclusive jurisdiction of Queensland Courts;

7.3 Constitute the entire agreement between the LESSIDE PTY LTD and the Purchaser and supersede all previous communications whether oral or written between LESSIDE PTY LTD and the Purchaser with respect to the subject matter hereof;

7.4 No rules of construction shall apply to the disadvantage of any party on the basis that that party was responsible for the preparation of these terms and conditions or any part of them.

7.5 Any part of these terms and conditions which is prohibited or unenforceable, in any jurisdiction be ineffective to the extent of such prohibition or inability to enforce without invalidating the remaining parts of these terms and conditions.

8. Disputes

8.1 If a dispute arises out of or relates to these terms and conditions or the subject matter i.e. the goods and/or services the Purchaser and LESSIDE PTY LTD agree to first endeavour to settle the dispute by mediation conducted in accordance with Australian Commercial Disputes Centre (ACDC) mediation guidelines and administered by the ACDC.

8.2 In the event that any dispute has not been settled within (28) days (or such other period as agreed to in writing between the Purchaser and LESSIDE PTY LTD) after the appointment of the mediator and the dispute may be submitted to expert determination administered by the Australian Commercial Disputes Centre (ACDC). The conduct of the expert determination rules provided that the experts shall, where possible, be a suitably qualified member and determination shall not be binding unless agreed to by both parties.

9. Force Majeure

Neither LESSIDE PTY LTD nor any of its employees agents of subcontractors shall be under any liability whatsoever to the Purchaser for non-performance, part performance, defective performance or delay in the performance of any goods or services supplied or work carried out or to be carried out by LESSIDE PTY LTD its employees agents or subcontractors, which is directly or indirectly caused by or is a result of any circumstance beyond the reasonable control of LESSIDE PTY LTD. Without prejudice to the generality of the foregoing, the following shall be regarded as such circumstances:

- Act of God, explosion, flood lightning, fire or accident;
- War, hostilities (whether war be declared or not), invasion, act of foreign enemies;
- Rebellion, revolution, insurrection, military or usurped power or civil war;
- Riot, civil, commotion or disorder;
- Acts, restrictions, by laws, refusals to grant any licenses or permission, prohibitions or measures of any kind on the part of any government authority;
- Import or export regulations or embargoes;
- Strikes, lock outs, or other industrial actions or trade disputes of whatever nature (whether involving employees of the Contractor or third party);
- Defaults of suppliers or subcontractors (for any reason whatsoever) (where such delay is beyond reasonable control of the subcontractor or supplier concerned).
- Incompleteness or inaccuracy of any technical information which it is the responsibility of the Purchaser to provide;
- Any failure, default, delay in performance, or any act or omission of any nature whatsoever on the part of the Purchaser, or its employees, agents, suppliers or subcontractors.

10. Definitions

The following terms used in this Contract shall have the following meanings:- "Purchaser" shall mean Lesside Pty Ltd (ABN 74 010 868 283);

"Seller" shall mean that entity identified overleaf to whom this order is directed by the Purchaser and includes his servants, agents or representatives;

"Works" means that work described overleaf to be completed in accordance with this Contract and includes but is not limited to the manufacture and supply of goods, plant, equipment, units, components, fittings, attachments of whatsoever kind or nature, the repair, maintenance, improvements, supply of labour and the performance of work on site;

"Site" means that location where the works are to be undertaken.