

# LASERCENTRAL

Laser Central Pty. Ltd. trading as

**Laser Central**

ABN 87 081 505 580

## Terms of Trade

### 1. Definitions

#### 1.1. In this agreement the following words have the following meanings:

"**Customer**" means any individual, individuals, partnership or corporation that orders, goods or services from the Supplier whether by its servants, agents or otherwise and includes their heirs, successors and assigns and any related body corporate.

"**Date of Delivery**" means the date upon which the Supplier delivers the Goods to the Customer in accordance with the Customer's dispatch instructions.

"**Goods**" means goods manufactured, repaired and/or supplied and services rendered by the Supplier to for and/or at the request of the Customer.

"**Supplier**" means Laser Central Pty. Ltd. ACN 081 505 580 or any body corporate.

### 2. Construction

#### 2.1. In this document unless the contexts otherwise requires:

(a) **Numbers Words** importing the singular include the plural and vice versa.

(b) **Gender** Words importing any gender include the other genders.

(c) **Persons References** to persons include corporations and bodies politic.

(d) **Representatives and Assigns** References to a person include the legal personal representative, successors and permitted assigns of that person.

(e) **Statutory Amendments** A reference to a statute, ordinance, code or other law includes regulations and other statutory instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether of the same or any other legislative authority having jurisdiction).

(f) **Variation** References to this or any other document include the document as varied or replaced, and notwithstanding any change in the identity of the parties.

(g) **Joint Liability** An obligation of two or more parties shall bind them jointly and severally.

(h) **Defined Expressions** If a word or phrase is defined, cognate words and phrases have corresponding definitions.

(i) **Parts of Agreement** References to this agreement includes its recitals, schedules and annexures.

(j) **Headings** Headings are for convenience only and do not form part of this document.

(k) **Severance** If any term, covenant or condition of this agreement or the application of it to any personal circumstance shall be or become invalid or unenforceable the remaining covenants and conditions will not be affected but will be valid and enforceable to the fullest extent permitted by law.

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**3. Change of Terms and Conditions**

- 3.1. Laser central reserves the right to change the Terms of Trade at any time.
- 3.2. Customers will be taken to have received notice of any change of terms and conditions by Laser Central posting details of the updated terms and conditions on the Laser Central website, [www.lasercentral.com.au](http://www.lasercentral.com.au).

**4. Manufacture**

- 4.1. The Supplier will manufacture the Goods in accordance with the terms of written orders placed by the Customer with the Supplier and accepted by the Supplier.

**5. Payment**

- 5.1. The Customer will, unless otherwise agreed in writing, pay all amounts due to the Supplier within 30 days from the Date of Delivery.
- 5.2. If the Customer does not provide the Supplier with written dispatch instructions within 14 days of being advised by the Supplier, in writing, that the Goods are available; the Date of Delivery will be deemed to be the date which falls 14 days after the Supplier advises the Customer in writing that the Goods are available.
- 5.3. If the Customer does not collect the Goods or provide the Supplier with written instructions for dispatch within 14 days of being notified by the Supplier in writing of the availability of the Goods then the Supplier will store those Goods and the Customer will become liable for the storage charges calculated at \$3.00 per part square metre per week, payable monthly on demand. The Goods will be stored at the Customer's risk.
- 5.4. If the Supplier grants the Customer additional time to pay any amount owing by the Customer to the Supplier, such indulgence will not amount to a waiver by the Supplier of any of the provisions of this document in respect of any other Goods supplied by the Supplier to the Customer.
- 5.5. The Supplier will be entitled to call upon the Customer from time to time for security, or additional security as the Supplier may in its discretion think appropriate, and the security requested will be provided by the Customer at the Customer's expense. If the security or additional security requested by the Supplier is not provided by the Customer then the Supplier will be entitled to withhold Goods ordered by the Customer until the security or additional security is provided.

**6. Claims, returns and allowances**

- 6.1. Any claim the Customer has against the Supplier must be made in writing within 7 days from the date of delivery of the Goods except in the case of non-delivery. In the case of non-delivery claims which must be made within 14 days from the date upon which the Customer is notified in writing by the Supplier that the Goods are available. All claims must contain a reference to the original invoice number, date of invoice and set out in detail the reasons for the claim.
- 6.2. The Supplier will issue the Customer with a credit note upon inspecting Goods, the subject of a claim made under clause 5.1 and upon satisfying itself that any faults in the Goods are its responsibility.
- 6.3. The Supplier will not accept liability for freight charges for Goods returned to the Supplier by the Customer unless authorised by the Supplier in writing prior to the return of the Goods.
- 6.4. The Customer will be liable for restocking charges for Goods returned by the Customer without the Supplier's consent. Restocking charges will be calculated as follows 20% of the invoice value payable on return of the goods.
- 6.5. The Supplier does not accept responsibility for Goods manufactured in accordance with the Customer's specifications and which have been subsequently damaged or altered by the Customer without the prior written consent of the Supplier.
- 6.6. If the Supplier declines to issue a credit note, the Customer will be notified in writing. If the Goods, the subject of a claim under clause 5.1 have been returned to the Supplier, they will be made available for collection by the Customer. The Customer will arrange for collection of the Goods within 7 days from the date of receipt of the notification and if the Goods are not collected by the Customer within that time, the Supplier will be entitled to store the goods and charge the Customer storage fees calculated at \$3.00 per week per square metre, payable at the end of each calendar month until such time as the Goods are collected.

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6.7. If the Goods are not collected within 6 months from the date of notification under clause 5.6, the Supplier is entitled to dispose of the Goods and account to the Customer in writing for the cost of such disposal, which must be paid within 14 days of a written claim being received by the Customer.

7. **Liability**

7.1. Unless agreed in writing to the contrary, the provisions and tolerances contained in standard specifications for the raw materials used by the Supplier in the manufacture of the Goods will apply to all orders, and the Customer will be deemed to have knowledge of the standard specifications in existence at the date or dates upon which orders are accepted by the Supplier in accordance with Clause 3.

7.2. The Supplier will accept raw materials from the Customer, however, the Supplier reserves the right not to use those materials and to substitute other materials and charge the Customer for those substitute materials if the Supplier, in its absolute discretion, decides that the materials supplied by the Customer may damage the machine used in the Manufacture of the Goods or impose an unreasonable quality or cost burden upon the Supplier to complete the order.

7.3. Risk

7.3.1. If the customer provides raw materials to the supplier, those materials will be held on the supplier's premises at the customer's risk until such time as they are used to manufacture the specified goods.

7.3.2. Risk in the Goods passes to the Customer upon dispatch from the Supplier's warehouse, save and accept where the Goods are transported by the Supplier in its own vehicle, in which case risk in the Goods passes upon delivery to the Customer.

7.4. Except where Goods are manufactured by the Supplier and acquired by the Customer for re-supply or acquired by the Customer as a 'Consumer' within the meaning of the *Trade Practices Act*, the Supplier is not liable or responsible for any loss or damage or injury to any property or person (including loss of profits or other consequential indirect incidental loss or special damages) resulting from any defects in the Goods or arising out of or in connection with the acquisition, installation, use or possession of the Goods by the Customer, and all representations, terms, conditions and warranties that the Goods:

- (i) Correspond with their description;
- (ii) Correspond with any sample;
- (iii) Are of merchantable quality; or
- (iv) Is reasonably fit for a particular purpose,

express or implied by either common law, Federal, State or Territorial law (that are capable of being excluded) are hereby excluded.

7.5. If the Goods are manufactured by the Supplier and acquired by the Customer for re-supply or as a Consumer and the Goods are not of a kind ordinarily acquired for personal, domestic or household use or consumption within the meaning of the *Trade Practices Act* then the liability of the Supplier for a breach of a condition or warranty that the Goods will correspond with a sample, will be of merchantable quality or will be reasonably fit for a particular purpose, is limited to whichever of the following the Supplier, in its absolute discretion, considers appropriate:

- (a) 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; or
- (d) the payment of the cost of having the goods repaired,

Whichever the Supplier in its absolute discretion considers appropriate.

8. **Title**

8.1. Until payment in full has been made for the Goods, the Customer acknowledges and agrees that:

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- (a) ownership of the Goods remains with the Supplier; and property in any goods supplied by the supplier to the customer on credit does not pass to the Customer until the money owing for the goods, and any other money owing to the supplier by the Customer has been paid in full. The Customer in the meantime takes custody of the goods and retains them as fiduciary agent and bailee of the supplier.
- (b) it will store the Goods in such a manner that the Goods are clearly identifiable as the property of the Supplier;
- (c) it will comply with all reasonable demands the Supplier has concerning the manner and method by which the Goods are to be stored.
- (d) it must insure the goods at its cost from delivery of the goods until they are paid for in full against such risks as it thinks appropriate and must note the interest of the supplier on the policy, and produce a certificate to that effect to the supplier on request.
- (e) that where the customer does not make payment in respect of specific goods, payment must be treated as having been made first in respect of goods which have passed out of the possession of the customer, and then in respect of whatever goods still in the possession of the customer the customer elects.
- (f) That until the goods have been paid for in full:
  - (f)1. the customer may sell the goods, in the ordinary course of its business, but only as fiduciary agent of the Supplier. Any right to bind the supplier to any liability to a third party by contract or as otherwise expressly negated. The customer receives all proceeds, whether tangible or intangible, direct or indirect, of any dealing with the goods (including any proceeds from insurance claims) in trust for the supplier and must keep the proceeds in a separate bank account until the liability to the supplier is discharged; and
  - (f)2. the customer agrees not to sell, assign, charge or otherwise encumber or grant any interest over any obligations which any third party may owe to the customer as a result of the use, manufacture or resale of the goods ("**Book Debts**").

8.2. The Customer confers upon the Supplier the right to enter into Customer's premises to inspect the manner in which the Goods are stored and to repossess the Goods if the Customer fails to pay for the Goods in accordance with the provisions of this document.

9. **Default**

- 9.1. If the Customer defaults in the payment of any money due under this document then all money payable by the Customer to the Supplier, whether due for payment as at the date of the default or otherwise, immediately becomes payable.
- 9.2. If the Customer fails to pay the Supplier within 14 days from the due date for payment then the Supplier will be entitled to charge the Customer interest at the standard variable ANZ rate published plus 2% per annum on all money then due and payable by the Customer to the Supplier, calculated from the date of such default to the date of actual payment.
- 9.3. The Customer's credit arrangement with the Supplier will immediately cease upon any default by the Customer in the performance of any of its obligations contained in this document.
- 9.4. The Supplier will be entitled, without prejudice to any other rights or remedies it may have at law or in equity, to terminate all agreements between itself and the Customer and to suspend any further deliveries under any or every such agreement upon the Customer in the event of the Customer:
  - (a) failing to pay the Supplier in accordance with the provisions of this document;
  - (b) failing to provide security pursuant to clause 3.5;
  - (c) Committing an act of bankruptcy or engaging in insolvent trading or having appointed a receiver, official manager, administrator, provisional liquidator or liquidator or entering into a composition or arrangement with its creditors.
  - (d) Being the subject of a judgement or money order of any court or competent jurisdiction.

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10. **Change of Ownership - Register of Particulars**
- 10.1. The Customer will at least 14 days prior to any change in ownership, alteration or addition to its shareholding or directorship or any other material change to its structure, including changes of address, notify the Supplier in writing of the proposed changes and upon such change or changes occurring notify the Supplier in writing of the actual change.
11. **Cancellation of Orders**
- 11.1. No cancellation will be accepted if the order has been committed for dispatch.
- 11.2. All cancellations must be in writing and addressed to the Supplier.
12. **Goods and Services Tax**
- 12.1. The Customer will pay Goods and Services Tax as part of the full payment of the Tax Invoice issued by the supplier for the work completed, or in progress as agreed with the customer.
- 12.2. The customer will provide the supplier with an ABN number issued by the Australian Tax Office and any other details required to issue a Tax invoice or be subjected to additional Taxation office withholding provisions.
13. **Whole Agreement**
- 13.1. This document, together with the terms of any orders placed by the Customer, constitute the entire agreement between the Customer and Supplier.
14. **Variations**
- 14.1. This document cannot be varied unless such variations are recorded in writing and signed by both Customer and the Supplier.
15. **Confidentiality**
- 15.1. The customer warrants that all designs, drawings and intellectual property (proprietary information) provided to the supplier in pursuit of the work to be performed are his lawful property.
- 15.2. The supplier acknowledges that the proprietary information is confidential and may contain trade secrets that disclosure would cause a loss to the purchaser.
- 15.3. The Supplier shall implement all reasonable measures necessary to safeguard the customer's ownership and confidentiality of the proprietary information.
- 15.4. The customer indemnifies, and agrees to keep indemnified the supplier against any loss, cost, expenses, damages and harm suffered or incurred by the supplier in connection with or arising out of or as a result of misrepresentation under paragraph 14.1.
16. **Governing Law**
- 16.1. This document is governed by the laws in force in the State of Queensland and the parties submit to the non-exclusive jurisdiction of the Courts of Queensland in the event of a dispute.

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