

Blue Lizard Services – Terms & Conditions of Trade

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| 1.1 | Definitions "Blue Lizard Services" means Red Brick Enterprise Pty Ltd T/A Blue Lizard Services, its licensors and assignors or any person acting on behalf of any of them with the authority of Red Brick Enterprise Pty Ltd T/A Blue Lizard Services. | 1.2 | "Customer" means the person buying the Goods as specified in any invoice, document or order, and if there is more than one customer it is a reference to each customer, jointly and severally. | 1.3 | "Goods" means all Goods or Services supplied by Blue Lizard Services as a reference to the Customer's request from time to time (where the context so permits the terms 'Goods' or 'Services' shall be interchangeable for the other). | 1.4 | "Price" means the Price as stated in any GST where applicable for the Goods as agreed between Blue Lizard Services and the Customer in accordance with clause 6 below. | 1.5 | "GST" means Goods and Services Tax as defined in the "A New Tax System (Goods and Services Tax) 1999" (Cth). | 10.1 | Acceptance The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods. | 11.1 | These terms and conditions may only be amended with the consent of both parties in writing, and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Blue Lizard Services. | 11.2 | Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2001 or any other applicable provisions of that Act or any Regulations referred to in that Act. | 11.3 | The Customer shall give Blue Lizard Services not less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address or contact details) and the Customer shall be liable for any loss incurred by Blue Lizard Services as a result of the Customer's failure to comply with this clause. | 12.1 | Specifications and Availability of the Goods The Customer acknowledges that any specifications (including product measurements, dimensions, and ratings etc.) displayed for/with the Goods are meant as a guide, or for identification purposes, only. It shall be the responsibility of the Customer to confirm the accuracy and reliability of the same in light of the use to which the Customer makes or intends to make of the Goods. | 12.2 | Whist Blue Lizard Services shall make every effort to fulfil the Customer's order, Blue Lizard Services shall accept no responsibility or liability in the event Blue Lizard Services is unable to supply the Goods or any other parts of the Goods, or where certain products are no longer manufactured. | 12.3 | Where Blue Lizard Services gives advice, recommendations, information, assistance or service to the Customer regarding the Goods (including the suitability or purpose of the Goods) then it is taken in good faith and Blue Lizard Services shall be liable in any way whatsoever for any damages, losses or costs however arising resulting from the Customer relying on the same. | 12.4 | Price and Payment At Blue Lizard Services' sole discretion, the Price shall be either: (a) as specified on any invoice provided by Blue Lizard Services to the Customer; or (b) Blue Lizard Services' quoted price (subject to clause 6.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days. | 12.5 | Blue Lizard Services' sole discretion, the Price shall be: (a) if a variation to the Goods which are to be supplied is requested; or (b) if a variation to the Services originally scheduled (including any applicable plans or specifications) is requested; or (c) where additional Services are required due to the discovery of hidden or unidentifiable difficulties (including, but not limited to, inclement weather, delays as a result of any event outside the control of Blue Lizard Services (including clause 8.4, and to supply the Goods or any other parts of the Goods, or where certain products are no longer manufactured); or (d) in the event of increases to Blue Lizard Services in the cost of labour or materials which are beyond Blue Lizard Services' control. | 13.1 | Variations will be charged for on the basis of Blue Lizard Services' quotation, and will be detailed in writing, and shown as variations on Blue Lizard Services' invoice. The Client shall be required to return to any variation to the quotation within ten (10) working days. Failure to do so will entitle Blue Lizard Services to add the cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion. | 13.2 | At Blue Lizard Services' sole discretion, a non-refundable deposit may be required. | 13.3 | Time for payment for the Goods being of the essence, the Price will be payable by the Customer on the date(s) determined by Blue Lizard Services, which may be: (a) on delivery of the Goods and duties that may be payable before delivery of the Goods; (b) by way of instalments/progress payments in accordance with Blue Lizard Services' payment schedule; (c) the date specified on any invoice or other form as being the date for payment of the Goods; (d) failing any notice to the contrary, the date which is seven (7) days following the date of any invoice given to the Customer by Blue Lizard Services. | 13.4 | Payment may be made by cash, cheque, bank cheque, electronic-in-line banking, credit card (a surcharge may apply per transaction), or by any other method as agreed between the Customer and Blue Lizard Services. | 13.5 | The Customer shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Customer by Blue Lizard Services or payment of any invoice to the Customer because part of that invoice is in dispute. | 13.6 | Unless otherwise stated the Price does not include GST. In addition to the Price, the Customer must pay to Blue Lizard Services an amount equal to any GST on Blue Lizard Services must pay for any supply by Blue Lizard Services under this or any other agreement for the sale of the Goods. The Customer must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Customer pays the Price. In addition, the Customer must pay any GST on the cost of delivery if they are expressly included in the Price. | 13.7 | Delivery of Goods Delivery ("Delivery") of the Goods is taken to occur at the time that: (a) the Goods are nominated to be delivered to the Customer in possession of the Goods at Blue Lizard Services' address; or (b) Blue Lizard Services (or Blue Lizard Services' nominated carrier) delivers the Goods to the Customer's nominated address even if the Customer is not present at the address. | 13.8 | At Blue Lizard Services' sole discretion, the cost of delivery is either included in the Price or is in addition to the Price. | 13.9 | Any time specified by Blue Lizard Services for delivery of the Goods is an estimate only. The Client must take delivery by receipt or collection of the Goods whenever they are tendered for delivery. Blue Lizard Services will not be liable for any loss or damage incurred by the Customer as a result of delivery being late. In the event that the Client is unable to take delivery of the Goods as arranged then Blue Lizard Services shall be entitled to charge a reasonable fee for re-stocking of the Goods. | 14.1 | Blue Lizard Services may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions. | 14.2 | Risk Risk of damage to or loss of the Goods passes to the Customer on Delivery and the Customer must insure the Goods on or before Delivery. | 14.3 | If any of the Goods are damaged or destroyed following delivery but prior to ownership passing to the Customer, Blue Lizard Services is entitled to receive the Price in full by the Customer for the Goods. The production of these terms and conditions by Blue Lizard Services is sufficient evidence of Blue Lizard Services' rights to receive the insurance proceeds without the need for any person dealing with Blue Lizard Services to make further enquiries. | 14.4 | If the Customer requests Blue Lizard Services to leave Goods outside Blue Lizard Services' premises for collection or to deliver the Goods to an unattended location, then such Goods shall be left at the Customer's sole risk. | 14.5 | The Services are subject to an inspection by Blue Lizard Services prior to commencement. In the event that the pool (surfacing cracks, or otherwise) is deemed unsuitable or defective for the Services, then Blue Lizard Services shall notify the Customer, and the Services shall be suspended until such time as: (a) the Customer rectifies the pool in order for Blue Lizard Services to continue the Services; or (b) where Blue Lizard Services is to rectify the pool, it is agreed between Blue Lizard Services and the Customer as to the | 14.6 | additional cost. The additional cost shall be charged as a 15.3 variation to the quotation as per clause 6.2. | 14.7 | Customer Responsibilities The Customer shall be responsible for the Goods and agreed by the Customer that it is the responsibility of the Customer to: (a) ensure that any surface requiring waterproofing is suitable for the purpose. In the event that the Customer requires Blue Lizard Services to repair the surface, the Customer shall be charged for the additional work, and shall become immediately due and payable; (b) ensure that no other tradesmen work on the membrane applied to the surface until the membrane is fully cured and cured to manufacturer's specifications. Blue Lizard Services shall not be liable for any costs, damages or loss however arising from the Customer's failure to comply with this clause. | 14.8 | Access The Customer shall ensure that Blue Lizard Services has clear and free access to the site at all times to enable them to undertake the Services. Blue Lizard Services shall not be liable for any loss or damage to the site (including, without limitation, damage to pathways, driveways and concrete or paved or grassed areas) unless due to the negligence of Blue Lizard Services. | 14.9 | Compliance with Laws The Customer and Blue Lizard Services shall comply with the provisions of any laws, regulations and by-laws of government, local and other public authorities that may be applicable to the Services. The Customer shall obtain (at the expense of the Customer) all licenses and approvals that may be required for the Services. The Customer shall ensure that the work complies with work, health and safety (WHS) laws relating to building/construction sites and any other relevant safety standards or legislation. | 14.10 | Title Blue Lizard Services and the Customer agree that ownership of the Goods shall pass to the Customer: (a) if the Customer has paid Blue Lizard Services all amounts owing to Blue Lizard Services; and (b) the Customer has met all of its other obligations to Blue Lizard Services. | 14.11 | Receipt of Blue Lizard Services of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised. It is further agreed that, until ownership of the Goods passes to the Customer in accordance with clause 14.10, the Customer shall hold the Goods and must return the Goods to Blue Lizard Services on request. (b) the Customer holds the benefit of the Customer's insurance of the Goods on trust for Blue Lizard Services and must pay to Blue Lizard Services the amount of any insurance or otherwise in the event of the Goods being lost, damaged or destroyed. (c) the Customer must not sell, dispose, or grant any work with possession of the Goods other than in the ordinary course of business and for market value. If the Customer sells, disposes or otherwise transfers the Goods, the Customer must hold the proceeds of any such act on trust for Blue Lizard Services and must pay or deliver the proceeds to Blue Lizard Services on demand. (d) the Customer should not convert or process the Goods or otherwise alter the Goods or otherwise use the Goods so that the Customer holds the resulting product on trust for the benefit of Blue Lizard Services and must sell, dispose of or return the resulting product to Blue Lizard Services as it so directs. (e) the Customer irrevocably authorises Blue Lizard Services to enter any premises where Blue Lizard Services believes the Goods are kept and recover possession of the Goods. (f) Blue Lizard Services may recover possession of any Goods in which the Customer has a monetary obligation to the Customer to Blue Lizard Services shall not charge or grant an encumbrance over the Goods nor grant or otherwise give away any interest in the Goods while they remain the property of Blue Lizard Services. (g) Blue Lizard Services may commence proceedings to recover the Price of the Goods sold or otherwise if that ownership of the Goods has not passed to the Customer. | 14.12 | Personal Property Securities Act 2009 ("PPSA") In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA. Upon assenting to these terms and conditions in writing the Customer acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in all Goods and collateral (including but not limited to the Goods) of the Customer to Blue Lizard Services for Services – that have previously been supplied and that will be supplied in the future by Blue Lizard Services to the Customer. The Customer undertakes to: (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Blue Lizard Services may reasonably require to: (i) register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register; (ii) register any other document required to be registered by the PPSA; or (iii) cause to be filed in a statement referred to in clause 13.3(a)(i) or 13.3(a)(ii). (b) indemnify, and upon demand reimburse, Blue Lizard Services for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any Goods charged thereby. (c) not register a financing change statement in respect of a security interest without the prior written consent of Blue Lizard Services. (d) not register, or permit to be registered, a financing statement or a financing change statement in relation to the Goods and/or collateral (account) in favour of a third party without the prior written consent of Blue Lizard Services. (e) immediately advise Blue Lizard Services of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales. | 14.13 | Blue Lizard Services and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions. | 14.14 | The Customer waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA. | 14.15 | The Customer waives their rights as a grantor and/or a debtor under section 95 of the PPSA. | 14.16 | Unless otherwise agreed to in writing by Blue Lizard Services, the Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA. | 14.17 | The Customer must unconditionally ratify any actions taken by Blue Lizard Services under clauses 13.3 to 13.5. | 14.18 | Subject to any express provisions to the contrary (including those contained in this clause 13), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA. | 14.19 | Security and Charges The Customer agrees to Blue Lizard Services agreeing to supply the Goods, the Customer charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being used as security for the Goods, now or in the future, to secure the performance by the Customer of its obligations under these terms and conditions (including, but not limited to, the payment of any money). The Customer indemnifies Blue Lizard Services from and against all Blue Lizard Services' costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Blue Lizard Services' rights under this clause. The Customer irrevocably appoints Blue Lizard Services and each director of Blue Lizard Services as the Customer's true and lawful agent to execute and do all things necessary to give effect to the provisions of this clause 14 including, but not limited to, signing any document on the Customer's behalf. | 14.20 | Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA) The Customer must inspect the Goods on delivery and must within seven (7) days of delivery notify Blue Lizard Services in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the Goods as soon as reasonably possible after any such defect becomes evident. Upon such notification the Customer must allow Blue Lizard Services to inspect the Goods. Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied warranties and warranties are implied into the contract. The statutory warranties under the CCA may be implied into these terms and conditions (Non-Excluded Guarantees). | 14.21 | Blue Lizard Services acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees. Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Blue Lizard Services makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Goods. Blue Lizard Services' liability is limited to the extent permitted by law. If the Customer is a consumer within the meaning of the CCA, Blue Lizard Services' liability is limited to the extent permitted by section 64A of Schedule 2. If Blue Lizard Services is required to replace the Goods under this clause or the CCA, but is unable to do so, Blue Lizard Services may refund any money the Customer has paid for the Goods. If the Customer is not a consumer within the meaning of the CCA, Blue Lizard Services' liability for any defect or damage in the Goods is limited to: (a) limited to the value of any express warranty or warranty card provided to the Customer by Blue Lizard Services at Blue Lizard Services' sole discretion; (b) limited to any warranty to which Blue Lizard Services is entitled, if Blue Lizard Services did not manufacture the Goods; (c) otherwise negated absolutely. Subject to this clause 15, returns will only be accepted provided that: (a) the Customer has complied with the provisions of clause 15.1; and (b) Blue Lizard Services has agreed that the Goods are defective; and (c) the Goods are returned within a reasonable time to which the Customer is not liable for any cost (if that cost is significant); and (d) the Goods are returned in as close a condition to that in which they were delivered as is possible. Notwithstanding clauses 15.1 to 15.5 but subject to the CCA, Blue Lizard Services shall not be liable for any defect or damage which has occurred after the date of delivery of the Goods: (a) the Customer failing to properly maintain or store any Goods; (b) the Customer using the Goods for any purpose other than that for which they were designed; (c) the Customer continuing the use of any Goods after any defect has become apparent to a reasonably prudent operator or user; (d) the Customer failing to follow any instructions or guidelines provided by Blue Lizard Services; (e) fair wear and tear, any accident, or act of God. | 14.22 | Where Blue Lizard Services has designed, drawn or developed Goods for the Customer, then the copyright in any designs and drawings and documents shall remain the property of Blue Lizard Services. Under no circumstances may such designs, drawings and documents be used without the express written approval of Blue Lizard Services. The Customer warrants that all designs, specifications or instructions given to Blue Lizard Services will not cause Blue Lizard Services to infringe any patent, registered design or trademark in the jurisdiction to which the Goods are to be delivered, and to indemnify Blue Lizard Services against any action taken by a third party against Blue Lizard Services in respect of any such infringement. The Customer agrees that Blue Lizard Services may (at no cost) use the products to Blue Lizard Services' any money the Customer shall indemnify Blue Lizard Services from and against all costs and disbursements incurred by Blue Lizard Services in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Blue Lizard Services' contract default fee, and bank disbursement fees). Further to any other rights or remedies Blue Lizard Services may have under this contract, if a Customer has made payment to Blue Lizard Services, and the transaction is subsequently reversed, the Customer shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Blue Lizard Services under this clause 17 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Customer's obligations under this agreement. (a) the Customer's obligations under other remedies at law Blue Lizard Services shall be entitled to cancel all or any part of any order of the Customer which remains unfulfilled and all amounts owing to Blue Lizard Services shall, whether or not due for payment, become immediately payable if: (i) the Customer or Blue Lizard Services becomes overdue, or Blue Lizard Services' opinion the Customer will be unable to make a payment when it falls due; (ii) the Customer has exceeded any applicable credit limit provided by Blue Lizard Services; (iii) the Customer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with its creditors, or makes an assignment for the benefit of its creditors; or (iv) the Customer's manager, liquidator (provisional or otherwise) or any other person is appointed in respect of the Customer or any asset of the Customer. | 14.23 | Cancellation Without prejudice to any other remedies Blue Lizard Services may have at any time the Customer is in breach of any obligation (including those relating to payment) under these terms and conditions Blue Lizard Services may suspend or terminate the supply of Goods to the Customer. Blue Lizard Services will not be liable to the Customer for any loss or damage the Customer suffers because Blue Lizard Services has exercised its rights under this clause. Blue Lizard Services may cancel any contract to which these terms and conditions apply or cancel delivery of Goods at any time before the Goods are delivered by giving written notice to the Customer. The Customer shall be liable to pay to Blue Lizard Services any money paid by the Customer for the Goods. Blue Lizard Services shall not be liable for any loss or damage whatsoever arising from such cancellation. In the event that the Customer is in breach of the delivery of Goods the Customer shall be liable for any and all loss incurred (whether direct or indirect) by Blue Lizard Services as a direct result of the cancellation (including, but not limited to, any loss of profits). Cancellation of orders for Goods made to the Customer's specifications, or for non-stocked goods, will constitute an accepted once production has commenced, or an order has been placed. | 14.24 | Privacy Act 1988 The Customer agrees that Blue Lizard Services to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Customer in relation to credit provided by Blue Lizard Services. The Customer agrees that Blue Lizard Services may exchange information about the Customer with those credit providers and with related body corporates for the following purposes: (a) to assess an application by the Customer; and/or (b) to notify other credit providers of a default by the Customer; and/or (c) to exchange information with other credit providers as to the status of this credit account, where the Customer is in default with other credit providers; and/or (d) to assess the creditworthiness of the Customer including the Customer's repayment history in a preceding two (2) years. The Customer consents to Blue Lizard Services being given a consumer credit report to collect overdue payment on commercial credit. | 14.25 | The Customer agrees that personal credit information provided may be used and retained by Blue Lizard Services for the following purposes (as stated or for other purposes or required by): (a) provision of Goods and/or Services; (b) analysing, verifying and/or checking the Customer's credit, payment and/or status in relation to the provision of Goods; and/or (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Customer; and/or (d) enabling the collection of amounts outstanding in relation to the Goods. Blue Lizard Services may then inform about the Customer to a CRB in the following manner: (a) to obtain a consumer credit report; (b) allow the CRB to create or maintain a credit information file about the Customer including credit history. The information given to the CRB may include: (a) personal information as outlined in 19.1 above; (b) name of the credit provider and that Blue Lizard Services is a current credit provider to the Customer; (c) whether the credit provider is a licensee; (d) type of consumer credit; (e) details concerning the Customer's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested); (f) advice of consumer credit defaults, overdue accounts, loan defaults or overdrawn accounts; and Blue Lizard Services will respond by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Customer no longer has any overdue accounts and Blue Lizard Services has been paid or otherwise a contract to the all details surrounding that discharge (e.g. dates of payments); (g) information that, in the opinion of Blue Lizard Services, the Customer has committed a serious credit infringement; (h) advice that the amount of the Customer's overdue payment is less than one hundred and fifty dollars (\$150). The Customer shall have the right to request (by e-mail) from Blue Lizard Services: (a) a copy of the information about the Customer retained by Blue Lizard Services and the right to request that Blue Lizard Services correct any information that is incorrect; and (b) that Blue Lizard Services does not disclose any personal information about the Customer for the purpose of direct marketing. Blue Lizard Services will destroy personal information upon the Customer's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this agreement or is required to be maintained and/or stored in accordance with the law. The Customer can make a privacy complaint by contacting Blue Lizard Services via e-mail or by phone. Blue Lizard Services will respond to a complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Customer is not satisfied with the resolution provided, the Customer can make a complaint to the Information Commissioner at www.oaic.gov.au . Unpaid Seller's Rights Where the Customer has left any item with Blue Lizard Services for repair, modification, exchange or for Blue Lizard Services to perform any other service in relation to the item and Blue Lizard Services has not received the full payment for the whole of any monies owing to it by the Customer, Blue Lizard Services shall have, until all monies owing to Blue Lizard Services are paid: (a) a lien on the item; and (b) the right to retain or sell the item, such sale to be undertaken in accordance with any legislation applicable to the sale or disposal of uncollected goods. The lien of Blue Lizard Services shall continue despite the commencement of proceedings, or judgment for any monies owing to Blue Lizard Services having been obtained against the Customer. | 14.26 | Building and Construction Industry Security of Payments Act 1999 At Blue Lizard Services' sole discretion, if there are any disputes or claims for payment under the Building and Construction Industry Security of Payments Act 1999 may apply. Nothing in this agreement is intended to have the effect of contracting out of any applicable provisions of the Building and Construction Industry Security of Payments Act 1999 of New South Wales except to the extent permitted by the Act where applicable. Service of Notices Any written notice given under this contract shall be deemed to have been given and received: (a) by handing the notice to the other party, in person; (b) by sending it to the address of the other party as stated in this contract; (c) by sending it by registered post to the address of the other party as stated in this contract; (d) if sent by facsimile transmission to the fax number of the other party as stated in this contract (if any), on receipt of confirmation of the transmission; (e) if sent by email to the other party's last known email address. Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered. General The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall the failure by either party to subsequently enforce that provision, if any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired. These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales, the state in which Blue Lizard Services has its principal place of business, and are subject to the jurisdiction of the courts in New South Wales. Subject to clause 15, Blue Lizard Services shall be under no liability whatsoever to the Customer for any indirect or consequential loss and/or expense (including loss of profit) suffered by the Customer arising out of a breach by Blue Lizard Services of these terms and conditions (alternatively Blue Lizard Services' liability shall be limited to damages which under no circumstances shall exceed the Price of the Goods). Blue Lizard Services may licence and/or assign all or any part of its rights and/or obligations under this contract without the Customer's consent. The Customer cannot licence or assign without the written approval of Blue Lizard Services. Blue Lizard Services may elect to subcontract out any part of the Services but shall not be relieved from any liability or obligation under this contract by so doing. Furthermore, the Customer agrees and understands that they have no authority to give any instruction to any of Blue Lizard Services' sub-contractors without the authority of Blue Lizard Services. The Customer agrees that Blue Lizard Services may amend these terms and conditions by notifying the Customer in writing. These changes shall be deemed to take effect from the date on which the Customer accepts such changes, or otherwise at such time as the Customer makes a further request for Blue Lizard Services to provide Goods to the Customer. Neither party shall be liable for any default due to any act of God, war, riot, strike, lock-out or industrial action, fire, flood, storm or other event beyond the reasonable control of either party. Both parties warrant that they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, and they are not solvent or insolvent at that agreement creates binding and valid legal obligations on them. |
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