

STANDARD TERMS AND CONDITIONS

1. PURPOSE AND APPLICATION

- 1.1. This Agreement is a Security Agreement for the purposes of the PPSA.
- 1.2. If more than one person is the Customer those persons contract jointly and severally for themselves and each other.

2. SUPPLY OF GOODS AND SERVICES

- 2.1. Blitz My Tree and the Customer agree that Blitz My Tree will supply Goods and Services to the Customer pursuant to the terms of this Agreement.
- 2.2. Blitz My Tree may in its absolute discretion decline to supply the Goods and Services to a Customer.
- 2.3. Blitz My Tree has no obligation to provide Goods and Services to the Customer unless and until written approval of the Quote is provided by the Customer to Blitz My Tree and subject to the payment of the Fees by the Customer in accordance with clause 3 of this Agreement.
- 2.4. The Customer has satisfied itself that the Goods and Services to be supplied under this Agreement are suitable for its intended purpose.

3. PAYMENT

- 3.1. In consideration of the provision of the Goods and Services, the Customer will pay the Fees to Blitz My Tree.
- 3.2. The Fees payable by the Customer will be paid to Blitz My Tree as follows:
 - 3.2.1. in accordance with the 'Payment Terms' set out in the Quote; or
 - 3.2.2. in the absence of any 'Payment Terms' set out in the Quote:
 - 3.2.2.1. 50% of the Fees will be payable within 21 days of receipt of the Invoice by the Customer (**Secure Fee**); and
 - 3.2.2.2. the remaining 50% of the Fees (**Remaining Fee**) will be payable by the Customer no later than 2 weeks prior to the Installation Date.

The Customer acknowledges:

- 3.2.3. that Blitz My Tree will incur costs and expenses upon the Customer providing written approval of the Quote; and
- 3.2.4. the Secure Fee is non-refundable and Blitz My Tree will not be required to refund the Secure Fee to the Customer other than as expressly stated in this document.

4. FEES

- 4.1. The Fees are inclusive of delivery, tree styling, and installation in accordance with the details and / or images provided by the Customer in the Enquiry Form.
- 4.2. The Fees are exclusive of all Exclusions as identified in the Quote.
- 4.3. There is no right of set-off in respect of any claims against Blitz My Tree.

5. BOND

- 5.1. Where the Goods and Services include Hired Goods, the Customer must pay the Bond in the amount set out in the Quote no later than 2 weeks prior to the Installation Date.
- 5.2. Subject to clause 5.3, the Bond will be refunded to the Customer within 5 days of the Collection Date.
- 5.3. In the event that the Hired Goods are lost, stolen, or damaged (beyond fair wear and tear) during the Hire Period, then Blitz My Tree may deduct the necessary amount from the Bond for the cost of making good or replacing the Hired Goods.

6. DELIVERY, INSTALLATION, AND COLLECTION

- 6.1. Blitz My Tree is under no obligation to deliver the Goods to the Customer and / or perform the Services until it receives full payment of the Fees by the Customer in accordance with clause 3.2.
- 6.2. Upon receipt by Blitz My Tree of payment of the Fees (and, where relevant, the Bond) by the Customer, Blitz My Tree will deliver the Goods to the Premises and / or perform the Services on the Installation Date.
- 6.3. Blitz My Tree will collect any Hired Goods on the Collection Date.
- 6.4. Blitz My Tree reserves the right to amend the Installation Date or Collection Date by providing notice to the Customer within 7 days of the relevant Date
- 6.5. The Customer must ensure that:

- 6.5.1. Blitz My Tree and its employees, agents and contractors have full, free and safe access to the Premises on the Installation Date and Collection Date for the purposes of providing the Services; and

- 6.5.2. any person taking delivery of the Goods is authorised by the Customer to do so.

- 6.6. In the event that the Customer fails to provide access to the Premises on the Installation Date or the Collection Date in accordance with clause 6.5 above, Blitz My Tree may charge a service fee of \$250.

7. CANCELLATION

- 7.1. If the Customer cancels the Goods and Services less than 5 days prior to the Installation Date, the Customer is not entitled to a refund of the Remaining Fee.
- 7.2. If Blitz My Tree has reason to believe that it will be unable to supply and the Goods and Services to the Customer, Blitz My Tree may, without penalty, cancel any order for the Goods and Services, in which case, Blitz My Tree will refund the Customer any amount of Fees and Bond already paid in respect of those Goods and Services.

8. SUPPLIER OBLIGATIONS

When carrying out work for the purposes of providing the Services, Blitz My Tree must perform that work in an efficient and professional manner and with due care and skill.

9. CUSTOMER'S OBLIGATIONS

- 9.1. The Customer must:
 - 9.1.1. provide Blitz My Tree with all instructions, documentation and information necessary for Blitz My Tree to provide the Services;
 - 9.1.2. cooperate fully with Blitz My Tree and its employees, agents and sub-contractors, and provide adequate facilities on the Premises and all reasonable assistance to enable Blitz My Tree to perform its obligations under this Agreement;
 - 9.1.3. use any of the Goods only for its intended use;
 - 9.1.4. not in any way alter, modify, tamper with, or damage the Hired Goods without the prior written consent of Blitz My Tree;
 - 9.1.5. not deface, remove, vary or erase any identifying marks, notices or safety information on the Hired Goods; and
 - 9.1.6. pay Blitz My Tree for any damage to, loss, theft or destruction of, the Hired Goods that occurs during the Hire Period. The amount payable under this clause is the cost of making good or replacing the Hired Goods.

10. CHANGE OF MIND

- 10.1. Blitz My Tree will provide the Goods and Services in accordance with the details and / or images provided by the Customer in the Enquiry Form.
- 10.2. Blitz My Tree is not liable for any and all expenses incurred as a result of a change of mind by the Customer in relation to the nature and/or scope of Goods or Services. Any expenses incurred will be invoiced to the Customer in addition to the Fees.

11. TITLE TO AND RISK OF THE GOODS

- 11.1. Ownership of and title to the Purchased Goods remains with Blitz My Tree until the Customer has paid Blitz My Tree in full the Fees and any other money that the Customer may owe to Blitz My Tree at any time on any account.
- 11.2. All risk in the Purchased Goods shall pass to the Customer upon delivery to the Premises.
- 11.3. The Customer acknowledges that Blitz My Tree owns the Hired Goods and in all circumstances retains title to the Hired Goods. The Customer's rights to use the Hired Goods are as a bailee only
- 11.4. In respect of the Hired Goods, the Customer will not, without the consent of Blitz My Tree:
 - 11.4.1. sell or dispose of the Hired Goods; and
 - 11.4.2. charge, encumber or create a Security Interest in the Hired Goods.

12. PERSONAL PROPERTY SECURITIES ACT 2009

- 12.1. The Customer acknowledges and agrees that:
- 12.1.1. this Agreement constitutes a Security Agreement under the PPSA which creates a Security Interest in favour of Blitz My Tree in the Goods and their Proceeds until the Fees have been paid for in full;
 - 12.1.2. Blitz My Tree may, without notice to Blitz My Tree, register its Security Interest in the Goods and in their Proceeds as a Purchase Money Security Interest on the Register;
 - 12.1.3. the Security Interest is not discharged nor the Customer's obligations affected by the administration of the Customer.
- 12.2. For the purposes of sections 115(1) and 115(7) of the PPSA, where the Goods are not used predominantly for personal, domestic or household purposes, Blitz My Tree need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4) of the PPSA and sections 142 and 143 are excluded.
- 12.3. To the extent the Law permits, the Customer waives its rights to receive any notice that is required by any provision of the PPSA (including a Notice of Verification Statement) or any other Law before Blitz My Tree or a Receiver exercises a right, power or remedy.

13. WARRANTIES

- 13.1. To the extent permitted by Law, all other guarantees, warranties, undertakings, or representations expressed or implied, whether arising by statute or otherwise, which are not given in this Agreement are expressly excluded.
- 13.2. Where the Customer purchases Goods and Services from Blitz My Tree as a Consumer but the Goods and Services are not of a kind ordinarily acquired for personal, domestic or household use or consumption, Blitz My Tree's liability under the ACL is limited, at the option of Blitz My Tree, to one or more of the following:
- 13.2.1. replacing or repairing the Goods; or
 - 13.2.2. reimbursing the Customer the cost of replacing or repairing the Goods; or
 - 13.2.3. re-supplying the Services again; or
 - 13.2.4. reimbursing the Customer the cost of having someone else supply the Services.
- 13.3. If the Customer is not a Consumer, to the full extent permitted by Law:
- 13.3.1. Blitz My Tree will not be liable in any circumstances for any Loss or damage (including Consequential Loss) to the Customer or any property or third party whatsoever arising out of or connected with this Agreement (whether caused by the negligence of Blitz My Tree or otherwise), the provision of the Goods and Services, the delay in delivery or non-delivery of the Goods, the delay in completing or the non-completion of the Services;
 - 13.3.2. The Customer shall indemnify Blitz My Tree against any claims arising out of or connected with this Agreement; the provision of the Goods and Services, the delay in delivery or non-delivery of the Goods, or the delay in completing or the non-completion of the Services.
- 13.4. The liability of Blitz My Tree under this Agreement is limited to the amount of the Fees and Blitz My Tree is not liable for any Consequential Loss.

14. FORCE MAJEURE

- 14.1. Neither party will be liable for any delay or failure in the performance of any obligation or the exercise of any right under this Agreement or for any Loss or damage if such performance or exercise is prevented or hindered in whole or in part by reason of a Force Majeure Event.
- 14.2. Nothing in this clause excuses payment of any money due or which becomes due under this Agreement.

15. INTELLECTUAL PROPERTY

- 15.1. The Customer acknowledges and agrees that any Intellectual Property developed, produced or created by Blitz My Tree in the course of, or in connection with, the performance of the Services (**Services Intellectual Property**), is owned by, and immediately vests in, Blitz My Tree.
- 15.2. The Customer assigns to Blitz My Tree all of the Customer's rights, title and interests in and to the Services Intellectual Property, including any future works of copyright as soon as it is created, to the extent necessary for all rights, title and interest of the Services Intellectual Property to vest in Blitz My Tree.

- 15.3. Whether before, during or after the expiry or termination of this Agreement, the Customer will:

- 15.3.1. not do anything which may conflict with Blitz My Tree's ownership or protection of the Services Intellectual Property or any other Intellectual Property owned by Blitz My Tree;
- 15.3.2. not use, disclose, reproduce, publish, copy, perform, communicate, exhibit, show, broadcast or adapt the Services Intellectual Property or any other Intellectual Property owned by Blitz My Tree, without the authorisation of Blitz My Tree; and
- 15.3.3. not register a business, company or association (whether incorporated or not) name, domain name or trade mark in Australia which includes all or part of any trade mark owned by Blitz My Tree is substantially identical with or deceptively similar to a trade mark owned by Blitz My Tree or is similar to or capable of being confused with a trade mark owned by Blitz My Tree.

16. CONFIDENTIALITY

Information supplied by a party to the other party is confidential except to the extent that it becomes public knowledge, and will not be disclosed to a third party without the written consent of the party who originally supplied the information, or as required by Law.

17. PRIVACY

Blitz My Tree will take reasonable endeavours to protect all personal information of the Customer in accordance with the Privacy Act 1998 (Cth).

18. TERMINATION

- 18.1. Blitz My Tree may terminate this Agreement immediately by giving notice to the other party, if:
- 18.1.1. the Customer breaches any term of the Agreement (including for breach of payment terms pursuant to clause 3) and fails to remedy the breach within 7 days of written notification of the breach; or
 - 18.1.2. that other party becomes bankrupt or insolvent, executes a personal insolvency agreement, enters into liquidation, administration, receivership or ceases to carry on business, subject to any rights the Customer may have under the Corporations Act 2001.
- 18.2. These rights of termination are in addition to any other rights either party has under the Agreement and does not exclude any right or remedy under law or equity.
- 18.3. On termination of this Agreement, the Customer must immediately return any Hired Goods to Blitz My Tree, and pay all outstanding amounts under this Agreement to Blitz My Tree, within 7 days of termination of the Agreement.
- 19. GOVERNING LAW AND AUSTRALIAN CONSUMER LAW**
- 19.1. This Agreement is governed by and construed in accordance with the laws of New South Wales, Australia and the parties submit to the jurisdiction of the New South Wales courts.
- 19.2. Nothing in this Agreement is intended to exclude, restrict or modify rights which the Customer may have under the ACL or any other Law.
- 19.3. If any provision of this Agreement is invalid under the ACL or any other Law, that provision is enforceable to the extent that it is not invalid, and if it is not possible to give that provision any effect at all, then it is to be severed from this Agreement and the remainder of this Agreement will continue to have full force and effect.

20. GENERAL

- 20.1. The Enquiry Form, Quote, and the Terms and Conditions contains the entire agreement between the parties about its subject matter and supersedes all prior discussions, representations, agreements and understandings between the parties in connection with the subject matter.
- 20.2. A single or partial exercise or waiver of a right relating to this Agreement will not prevent any other exercise of that right or another right.
- 20.3. This Agreement may be amended from time to time by Blitz My Tree amending the Terms and Conditions for legitimate business reasons upon written notice to the Customer.

21. INTERPRETATION

Unless otherwise inconsistent with the context:

ACL means The Australian Consumer Law, set out in Schedule 2 of the *Competition and Consumer Act* 2010 (Cth);

Agreement means the agreement between Blitz My Tree and the Customer for the ongoing supply of Goods and Services as constituted by the Enquiry Form, Quote, and the Terms and Conditions;

Collection Date means the date upon which Blitz My Tree will collect any Hired Goods from the Customer as identified in the Quote or as otherwise notified by Blitz My Tree to the Customer in writing.

Consequential Loss means loss of revenue, profits or business opportunity and any form of consequential, special, indirect, punitive or exemplary loss or damages;

Consumer has the meaning prescribed to it in the ACL;

Customer means the person or entity identified in the Quote;

Enquiry Form means any information provided by the Customer on the enquiry form on the Blitz My Tree website.

Exclusions means those Goods and Services listed as Exclusions in the Quote;

Fees mean the total fees payable as described in the Quote;

Force Majeure Event means a circumstance which is beyond the reasonable control of the affected party including but not limited to acts of God, war, terrorism, orders or regulations of governments of any relevant jurisdiction, fires, floods, pandemics or epidemics;

Goods means the goods contained in the Quote and supplied under this Agreement and includes the Purchased Goods and Hired Goods, as relevant;

Goods and Services means the goods and services contained in the Quote and includes the Purchased Goods and Hired Goods, as relevant;

Hire Period means the period of hire of any Hired Goods between the Installation Date and the Collection Date.

Hired Goods means the Goods agreed to be hired by Blitz My Tree as described in the Quote.

Installation Date means the date upon which the Goods and Services will be provided by Blitz My Tree to the Customer as described in the Quote or as notified in writing by Blitz My Tree.

Intellectual Property means all rights resulting from intellectual activity and includes copyright, inventions, patent rights, registered and unregistered trademarks, design rights, circuit layouts and all rights and interests of a like nature, including but not limited to methods and techniques, together with any documentation relating to such rights and interests;

Invoice means the invoice issued by Blitz My Tree in consideration of provision of the Goods and Services to the Customer.

Law means any relevant federal, state or local statute, ordinance, rule, regulation or standard, and includes the ACL, as amended from time to time;

Loss means any liability, including any loss, claim, damage, demand, injury or death, and any penalty imposed by a statutory or other authority;

Premises means the 'Premises' described in the Quote being the address that the Goods and Services are to be delivered and / or performed.

PPSA means the Personal Property Securities Act 2009 (Cth);

Proceeds, Purchase Money Security Interest, Register, Registration, Security Agreement, Security Interest and Verification Statement have the meanings prescribed to them in the PPSA;

Purchased Goods means those Goods purchased by the Customer as described in the Quote;

Quote means the document so titled and issued by Blitz My Tree offering to provide the Goods and Services to the Customer.

Remaining Fee has the meaning set out in clause 3.2.2.2 of this Document.

Secure Fee has the meaning set out in clause 3.2.1 of this document.

Services means the Services to be performed by Blitz My Tree as described in the Quote.

Services Intellectual Property has the meaning set out in clause 15.1 of this document.

Terms and Conditions means the provisions of this document;
