

## LDU Group - General Conditions of Quotation and Sale (Copyright © 2006)

Any order placed with or by The LDU Group (LDU) incorporating Lightning Down Under Pty Ltd (ABN 43 090 105 589) LDU Consultants Pty Ltd (ABN: 23 105 309 199) (hereafter referred to as the company) or any of the LDU Group business units being LDU Services or LDU Technologies, implies acceptance of these conditions, which may vary only after mutual consent in writing between the company and the purchaser.

### **Account Customers:**

Payment in full is **strictly 30 days from the date of invoice or dispatch** whichever ever the latter unless otherwise stated or negotiated by the company in writing. Payments falling outside the 30 days will be subject to a surcharge of 2.5% per month on the outstanding amount accumulating for any outstanding months. Payments strictly within the 30 days will attract an early payment discount of 2.5% and only after approval by our CFO in writing. Unless otherwise negotiated, purchase orders with a value above \$10,000.00 will be subject to special payment conditions i.e. payment in advance, bank guarantees etc.

The customer has Ten (10) working days from the date on the invoice to identify and contact LDU in respect to any errors or disputes in or with the invoice. After the ten (10) working day period no disputes with the invoice will be entertained.

### **Purchase of goods & Services:**

Under no circumstances will any goods or services be accepted without an official Purchase Order issued by the company. All purchase orders will indicate the value of the good or service with freight and GST. Occasionally a purchase order will be issued without a value indicated. In this case, the maximum value of the purchase order will be \$AUD1000.00 including freight and GST.

### **Progress Payments:**

For all installation projects where an extended period of time occurs between the start and finish of the installation, progress payments will apply. A monthly progress payment invoice will be issued by the 25<sup>th</sup> of the month or in accordance with the customers purchase order. The progress payment amount will be decided based upon the work completed or to be completed by the end of each month.

### **Non-Account Customers:**

Non-account customers are to pay by cash, cheque, direct deposit or credit card. All sales for export will require a deposit of the total invoiced amount into the bank account of Lightning Down Under Pty Ltd before release and dispatch of the goods.

### **Governing Law:**

All transactions are subject to the laws of the state of NSW, Australia.

### **Prices:**

All prices are FOB our factory dock unless otherwise stated. Delivery charges will apply except where otherwise stated. The provision of variation will apply except where additions or alterations to orders or quotations are required over and above specifications of the original quotation. Prices are in Australian Dollars unless otherwise stated. If an order is based on special quantity pricing per unit and the customer does not honour purchase of quantities quoted or scheduled the company shall invoice the customer the difference in unit values per quantities purchased based on the original quotation. Any variation in rates of exchange or the manufacturers price of imported components from the date of quotation will be added to the customers account.

### **Goods and Services Tax (GST):**

All prices quoted do not include GST. GST will be added to the customers account if applicable. Failure to provide a tax exemption certificate or the formal submission of a purchase order without quoting exemption details will automatically incur sales tax. Sales tax once levied can only be recovered by application to the Australian Tax Office. As of the 1<sup>st</sup> July 2000, GST will be added to the customers account at a rate of 10% on all goods and services supplied including freight. Exported product is GST exempt.

### **Acceptance of Order:**

Any contract/agreement or order based on this or any quotation is accepted upon and subject to the company's conditions of sale as herein printed. Unless expressly accepted in writing by the company, any variation, alteration or additions to these Conditions of Quotation and Sale in a Purchaser's order or order form will be deemed as inapplicable.

### **Cancellation:**

A Contract/Agreement or order for goods or services resulting from this or any quotation cannot be cancelled except by mutual consent in writing between the company and the customer.

### **Validity of Quotations:**

Prices will be held firm for 60 days from the date of issue unless otherwise stated on the quotation. Prices quoted outside 60 Days from the date of issue should be confirmed before placement of order. Due to the fluctuating value of copper, all copper prices are valid for a period on 30 days from the date of the quote. Confirmation after this time should be sought. The company reserves the right to confirm or reject quoted prices at the time of receipt of any official order. This quote is issued based on the information supplied by the customer to LDU at the time of quoting.

### **Variations:**

Prices quotes are fixed. Variations will only apply if the following occurs:

- Any services or materials required which was not included in the information supplied to the company when the quote was issued.
- Any services or materials required or supplied outside of the contracted works.
- Any changes to the design of the system after acceptance of the contract.
- Access variations after the acceptance of the contract including limited or no access to site due to whatever reason without 14 days advanced advice. This includes RDO's, Union picnic days and strikes.
- Any alteration to our works underway or completed by other contractors, builder or persons without our knowledge or authorisation.
- As build drawings will be in the form of modified plan and elevation drawing supplied to the company in CAD format. If these are not supplied then any required CAD drawings will be classified as a variation.
- If the project is located outside the Sydney metropolitan area, any extra site visits than allowed for when quoted due to inadequate information supplied by the company requesting the quote or for causes outside or control.

### **Risk After Dispatch:**

Unless the company has quoted free into store prices (FIS) or free on site delivery (FOS), it is the responsibility of the purchaser to insure against loss or damage prior to the goods being dispatched from the company.

### **Installation:**

Where the company or its agent undertakes to install on site, it is the customer's responsibility to provide all service utilities required such as electrical services etc. If special equipment is required, such as heavy lift gear at the installation site, the expenses involved in hiring or using such equipment and any associated charges will be added to the client's account.

### **Delivery:**

Unless otherwise stated in writing, delivery times are an estimate only. The company does not accept any responsibility or liability or claims whatsoever relating to late or non-delivery, or the stated delivery times not being met for any reason. This includes but is not limited to labour shortages, strikes, lockouts, late or non delivery of components or sub assemblies, failure of third parties or freight contractors or suppliers to perform, acts of god, fire, flood, war, rebellion, incursion, lack of freight space, accident or any cause beyond the control of this company.

### **Privacy Act:**

Under section 18E(c) of the Privacy Act Lightning Down Under Pty Ltd or its representative is allowed to give a credit reporting agency personal information about your credit application. The information is covered by section 18E(1) of the Act and includes:

- Identify particulars (as permitted by the Privacy Commissioner’s determination issued under Section 18E(3); (to be advised)
- The fact that you have applied for credit and the amount
- The fact that the company is a current credit provider for you
- Payments which become overdue more than 60 days and for which collection action has commenced
- Advice that payments are no longer overdue
- Cheques drawn by you which have been dishonoured more than once
- In specific circumstances, that in the opinion of the company you have committed a serious credit infringement
- That credit provided to you by the company has been paid or otherwise discharged.

If the company considers it relevant in assessing the application, you agree to the company obtaining from a credit report containing personal credit information about you in relation to commercial credit by the company.

The company may seek from a credit reporting agency a credit report containing personal credit information about the customer to access whether to accept the customer as a Guarantor for credit applied for, or provided to, the customer.

If the company considers it relevant to collecting overdue payments in receipt of commercial credit provided to the customer, the customer agrees to the company receiving from a credit reporting agency a credit report containing personal information about the customer in relation to collecting overdue payments.

The customer agrees that the company may give to and seek from any credit providers named in the credit account application any credit providers that may be named in a credit report issued by a credit reporting agency information about the customers credit arrangements. The customer understands that this information can include any information about the customers credit worthiness, credit standing, credit history or credit capacity that credit providers are allowed to give and receive from each other under the privacy act.

**Rights in Relation to Goods:**

The company reserves the following rights in relation to the purchased items until all accounts owed by the customer have been paid in full.

1. Legal ownership of the goods
2. To enter the customers premises (or the premises of any associated company or agent where the goods are located without liability for trespass or any resulting damage) and take possession of the goods.
3. To keep or resell any goods repossessed pursuant to (2) above.

If the goods are resold, or other products manufactured using the goods sold, by the customer, the customer shall hold such part of the proceeds of any such sale as represents the invoice price of the goods sold or used in the manufacture of the goods sold, in a separate identifiable account as beneficial property of the company and shall pay such amount to the company upon request. Notwithstanding the provisions above, the company shall be entitled to maintain an action against the customer for the purchase price and the risk of the goods shall pass to the customer.

**Return of Purchased Goods:**

The company will accept the return of all goods from the Customer for any reason deemed acceptable by the company providing notification by the customer to the company occurs within 30 days after delivery. Notification of any goods wanting to be returned between 30 and 60 days after delivery will be accepted only with a restocking fee. The restocking fee will be set at 20% of the purchase price. Any goods that are to be returned 60 Days after the delivery date will not be accepted unless otherwise agreed to by the State Manager of the company. Any goods returned after 90 days will not be accepted. Freight for all returned goods will be the responsibility of the customer. For any returned goods to be accepted they must be in original sale condition with the original packaging, warranty card and any other paperwork which accompanied the product. If these criteria are not met then the returned goods will not be accepted. Please contact this company for the procedure when wanting to return goods.

**Warranty:**

All products produced or repaired by the company except for, consumables contained therein or thereon including in the case of electrical components, illumination sources, items made wholly or partly of glass or ceramic material, electrical elements, transformer windings and cooling solutions, electric motor windings, printed circuit boards and parts there of, reconditioned replacement parts, batteries) hereafter referred to as the product), are guaranteed to be free from defects in material for a period of **Ten (10)** years from the date of acceptance by the customer. This guarantee or any other implied warranty or condition whatsoever incorporated doesn’t and shall not cover:

1. The repair of any fault in the product or the replacement of any part thereof where such repair or replacement has resulted from negligence or malpractice of the customer, its servants, agents, employees or any other third parties or persons.
2. Any consequential loss or damage suffered by the customer arising from any defect in design, materials or workmanship of the product, including any damage or cost due to loss of operation or lost profit or any other direct or indirect cost or damages.
3. The cost of freight or insurance to or from the company’s workshop and unless otherwise agreed to by the Company in writing prior to shipment, the customer shall return the product freight prepaid.
4. The repair or replacement of any product where the product has been altered or modified by the purchaser, or where the Customer has not installed the product, in strict accordance with the initial specifications upon which the Company’s quotation for the product was based.
5. Natural Corrosion of copper materials caused by atmospheric conditions.

The above guarantee is additional to rights which arise for the sale of industrial and technical products and services to knowledgeable buyers under the Australian Trade Practices Act 1974 as amended. However, to the extent that the Trade Practices Act permits a company to limit its liability to a breach of a condition or warranty implied by the said Act, the company’s liability for such breach of a condition or warranty shall be limited to:

- The replacement of the product.
- The repair of the product.
- The payment of the cost of having the product repaired.
- In the case of a service:
  - The supply of the service again.
  - The payment of having the service repeated.

The purchaser agrees that since atmospheric lightning discharge is a natural and unpredictable process and subject to the laws of nature, under these conditions a guarantee cannot be given with respect to the operation of our equipment such as surge or transient protection products. Total protection is not offered i.e. 100% protection cannot be guaranteed. Component parts of our products may be sacrificial when exposed to the effect of lightning and also voltage surges and transients. Unless otherwise agreed in writing, such parts are therefore not covered by any warranty.

**Reports:**

Any reports issued by the company are issued for the express use of the company or any of its authorised agents or sub-contractors only. No responsibility or liability will be borne by the company should any other person or party utilise the report without express written authorisation from the company to the person or party.

Once the customer has placed their purchase order on the company, it is deemed by the company that the customer has read, understood and accepted these General Conditions of Quotation and Sale.

**Preventative Maintenance:**

For the warranty to remain in effect the system or filter must be inspected every 12 months. This only applies to direct strike systems or filters above 63A. The system must be inspected by an authorized LDU representative and re-certified by LDU. Inspections conducted by any other persons will not be considered as an authorized inspection and therefore certification will not be recognized by LDU reducing the warranty to 12 months from the date of purchase. Any replacement parts or service conducted on the system or filter by unauthorized personnel will void the warranty.