

**MIELE AUSTRALIA PTY LTD**  
**TERMS AND CONDITIONS OF SERVICE**  
**EFFECTIVE FROM FEBRUARY 2010**



**1. AGREEMENT**

1.1 An agreement is made between Miele and the customer for the service or repair of the product/s and the purchase of the parts incorporated in the product/s in the course of the service or repair (“**agreement**”) if and when Miele accepts the product/s for service or repair.

**2. PRICE**

2.1 The price payable by the customer to Miele for the service or repair of the product/s is the price specified in the invoice.

**3. PAYMENT**

Non-Account customer

3.1 Full payment of the price is required on completion of service / repair.

3.2 If the agreement relates to two or more products and they are serviced / repaired on different dates, the part of the price (or the balance of it) which relates to the product serviced / repaired on a particular date is payable on completion of the service / repair of that product.

Account customer

3.3 The customer must pay Miele the applicable price for each product it submits for service or repair under its account.

3.4 Miele will invoice the customer for the works completed and any other incidental charges relating to the works through a monthly statement.

3.5 The customer must pay Miele each invoice issued under clause 3.4 within 30 days from the end of the month of the monthly statement issued by Miele.

3.6 Miele may require that the customer provide security (such as a directors' / bank guarantee) or Miele may complete a credit reference check prior to executing a transaction on behalf of the customer.

**4. DEFAULT IN PAYMENT**

4.1 If the customer fails to make any payment to Miele when due (including payment of any charges), the customer must, without prejudice to any other right or remedy of Miele:

- i. pay interest on the amount outstanding calculated daily at a rate equal to the Reserve Bank of Australia base rate plus 5%;
- ii. reimburse Miele for all reasonable costs and expenses incurred by Miele in relation to the debt and chasing payment of it; and

- iii. upon reasonable notice by Miele, return the parts and/or product/s to Miele or permit a representative of Miele reasonable access to the location of the parts and/or product/s to repossess the parts and/or product/s.

**5. COLLECTION / DELIVERY**

5.1 Upon completion of the service or repair of the products, Miele will notify the customer of that completion and make the product/s the subject of the service or repair available for collection by the customer.

5.2 In its sole discretion and by prior arrangement with a customer, Miele may elect to deliver the product/s to a location, and at a time, agreed with the customer.

5.3 Miele will use reasonable commercial endeavours to deliver the product/s on or about the delivery date agreed with the customer under clause 5.2. If Miele is unable to deliver the product/s, it will use reasonable commercial endeavours to do so within a reasonable period after the delivery date.

5.4 In the event that the customer is not present to accept delivery at the nominated delivery time, the customer will be liable to pay Miele a fee to have the product/s re-delivered at a new delivery time/date, as arranged by Miele and the customer. This re-delivery fee is payable by the customer prior to Miele re-delivering the product/s at the new nominated delivery time/date.

5.5 If the customer:

- i. fails to collect the product/s in accordance with clause 5.1 within 30 days of being notified by Miele that they are available for collection,
- ii. fails to accept delivery of the product/s, or
- iii. fails to accept delivery of the product/s by Miele within 30 days of being notified by Miele that they are ready for delivery;

Miele will give the customer 5 business days notice of termination of this agreement. If the customer fails to collect or accept delivery within that notice period, this agreement is terminated on expiry of that period (and Miele may deal with the product/s the subject of the service or repair in accordance with applicable uncollected goods legislation).

5.6 If Miele is unable to contact the customer after making reasonable attempts to arrange collection or delivery of the product/s, Miele may give the customer 30 days notice of termination of this agreement. If the customer fails to make arrangements within this notice period, this agreement is terminated upon expiry of that period (and Miele may deal with the product/s the subject of the service or repair in accordance with applicable uncollected goods legislation).

## **6. OWNERSHIP AND RISK**

6.1 The risk of loss or damage to the product/s the subject of the service or repair lies with Miele for the duration of the service or repair, and passes to the customer upon the delivery or collection of the relevant product/s. The risk of loss or damage to the parts placed in the product/s in the course of the service or repair passes to the customer upon the delivery or collection of the relevant product/s containing the parts.

6.2 The customer remains the owner of the product/s the subject of the service or repair. Miele remains the owner of the parts until the customer has made payment in full and the relevant product/s containing the parts have been delivered or collected.

6.3 The customer must not sell or otherwise deal with the parts (and product/s containing the parts) until the price is paid in full to Miele. If the customer purports to do so, the customer will be deemed to hold the proceeds of that sale or other realisation (or the amount outstanding) on trust for Miele.

## **7. SPARE PARTS AND SERVICE**

7.1 While Miele will use reasonable commercial endeavours to have all necessary spare parts available for the purpose of repair / service, Miele is not liable for delays due to sourcing of unusual parts which are required, or due to circumstances beyond the control of Miele.

7.2 All Miele appliances are designed and manufactured to the highest standards of quality and durability, however, should a repair become necessary, you will find that Miele original spare parts are available for many years following the end of series production. This will ensure that any problem you might have can be resolved.

7.3 If a product/s is located outside of Miele's service region, additional fees such as travel and transportation charges may be applicable in respect of the service or repair, details of which will be provided to the customer by Miele prior to any agreement being made in respect of a service or repair.

## **8. WARRANTY**

8.1 Miele warrants that the parts placed in the product/s in the course of the service or repair will be free from defects in materials and workmanship and that the product/s will be free from any defect directly caused by or resulting from the service of the product/s by Miele or a Miele Service Agent for a period of:

- i. 12 months in the case of household appliances and vacuum cleaners; and
  - ii. 3 months in the case of professional appliances, and
  - iii. 3 months in the case of household appliances and vacuum cleaners used in commercial environments.
- commencing from the date of completion of the repair or service of the relevant product/s.

8.2 The warranty in this clause is independent of, and does not exclude or limit, any non-excludable statutory warranties and conditions implied by consumer protection legislation. Such legislation implies warranties and conditions as to the merchantability and fitness for purpose of the parts and that the service of the product/s will be performed with due care and skill.

8.3 The warranty in this clause is independent of, and in addition to, any residual Miele warranty in respect of the product/s.

8.4 Miele reserves the right to inspect and test the parts for the purpose of determining the extent of any defect and the validity of any claim made under warranty.

8.5 All defective parts replaced by Miele under the warranty will be deemed to be the property of Miele.

8.6 The Miele warranty is not applicable if the part or product/s subject of the service is rendered faulty by a factor other than a defect in materials and workmanship or a defect caused by the service or repair. Such factors include but are not limited to:

- i. damage through misuse (including failure to maintain, service or use with proper care), neglect, accident or ordinary wear and tear (including deterioration of parts and accessories and glass breakage);
- ii. use for a purpose for which the product was not sold or designed;
- iii. in the case of household appliances and vacuum cleaners, commercial use;
- iv. use or installation (where applicable) which is not in accordance with any specified instructions for use or installation;
- v. use or operation after a defect has occurred or been discovered;
- vi. damage through freight, transportation or handling in transit (other than when Miele is responsible);;
- vii. damage through exposure to chemicals, dusts, residues, excessive voltage, heat, atmospheric

conditions or other forces or environmental factors howsoever outside Miele's control;

- viii. repair, modification or tampering with by the purchaser or any person other than Miele or an authorised Miele Service Agent;
- ix. use of parts, components or accessories which have not been supplied by or specifically approved by Miele; or
- x. in the case of vacuum cleaners, uses or contains a faulty or poor fitting dust bag other than genuine high performance Miele dust bag.

8.7 This warranty does not apply to consumables such as batteries, globes or filters.

8.8 To the extent permitted by law, Miele's liability for the parts placed in the product/s in the course of the service or repair, any defect in materials or workmanship, any breach of this Agreement or any negligence is limited to, at Miele's option:

- i. repair or replacement of the parts;
- ii. payment of the cost of repairing or replacing the parts; or
- iii. payment of the cost of acquiring equivalent parts.

8.9 To the extent permitted by law, Miele's liability for the service or repair of the product/s is limited to, at Miele's option:

- i. resupply of the service; or
- ii. payment of the cost of resupply of the service.

8.10 To the extent permitted by law, Miele's liability is limited in accordance with clauses 8.8 and 8.9 and Miele is not liable for any indirect, special or consequential loss or damage arising in any way in relation to any manufacturing

defect or use of the parts, or the service or repair of the product/s.

8.11 Customer must retain proof of purchase (receipt) in order to be eligible to make a warranty claim under this clause 7.

## **9. PRIVACY**

9.1 Miele will collect and deal with the customer's personal information (including name, address, telephone contact or personal details) only in accordance with Miele's Privacy Charter and the Privacy Act 1988 (Cth). A copy of the Privacy Charter is available from Miele or [www.miele.com.au](http://www.miele.com.au).

9.2 Miele may disclose personal information to its related companies and to organisations which provide services (including delivery services) to Miele or which assist Miele in providing services (including repair and warranty services) to its customers.

## **10. GOVERNING LAW**

10.1 This Agreement is subject to the laws of the State of Victoria, Australia and the parties submit to the exclusive jurisdiction of the Courts of that State.

## **11. DEFINITIONS**

'**Agreement**' means the agreement entered into pursuant to clause 1.1.

'**Customer**' means the person or entity whose name and address appears on the order as the customer for the service or repair.

'**Miele**' means Miele Australia Pty Ltd.

'**Price**' means the price payable by the customer to Miele for the part/s and service/s, as specified in the invoice.