
WARRANTY – Lusty EMS

Manufacturer Warranty

- (1): Lusty EMS Pty Ltd ABN 82 073 705 263 of 787 Boundary Road, Richlands, Queensland 4077 (the **Company**) which can be contacted on 07 3375 0000 or sales@lustyems.com.au expressly warrants that Lusty EMS trailers and their component parts (the **Products**) will be free from defects in materials and workmanship for two (2) years from the date of delivery to the customer or the date of invoice to the customer, whichever is earlier (the **Warranty Period**).
- (2): The Products come with guarantees that cannot be excluded under the Australian Consumer Law set out in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), as amended or replaced from time to time (**Australian Consumer Law**). You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage (but only if the Products were mainly used to transport goods on public roads). You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure is not a major failure (but only if the Products were mainly used to transport goods on public roads).
- (3): Subject to the applicable laws, including the Australian Consumer Law, this Manufacturer Warranty does not apply to proprietary items such as tyres, brakes, rims, wheels, suspensions, tarps, hoists and similar equipment which are covered by individual manufacturers' warranties.
- (4): Subject to the applicable laws, including the Australian Consumer Law, this Manufacturer Warranty will only apply during the Warranty Period so long as the following conditions are met:
 - a) the Products were manufactured by the Company and were new at the date of delivery;
 - b) the Products have been used in accordance with legal loading and speed limits, correctly coupled and operated in such a manner as may be prescribed by the Company or if the Company does not prescribe such conditions, then in such manner as is considered good practice for such Products;
 - c) the customer has submitted the Products for testing and inspection during the Warranty Period in accordance with the Company's Owner Service Policy dealing with adjustments and inspections (*a copy of this policy is available online at www.lustyems.com.au or on request from the Company*);
 - d) no replacement part has been used in relation to the Products other than one manufactured and supplied or approved by the Company;
 - e) the Products have not been repaired, altered or modified in any way whatsoever by persons other than the Company or its authorised service representatives;
 - f) the Products (or affected component parts) have been returned to the Company's authorised dealer for rectification or replacement within the Warranty Period (the cost of transportation of the Products to and from the dealer will be paid by the customer);
 - g) the Products have been fully paid for; and
 - h) the Products have been maintained and serviced in accordance with the Company's Owner Service Policy.
- (5): Subject to the applicable laws, including the Australian Consumer Law, this Manufacturer Warranty will not make the Company liable in any way for defects arising directly or indirectly from:
 - a) accidents which were not caused through a defect in the Products;
 - b) fair wear and tear of the Products (for instance: tarps, tyres, rims, bumpers, body, paintwork);
 - c) incorrect, faulty or negligent operation or maintenance of the Products including coating or cleaning of tarps, signage, aluminium or steel work with any preparation not approved in writing by the Company;
 - d) misuse or other unsuitable operation of the Products, including overloading;
 - e) negligence or error in storing, maintaining or handling the Products including the use of unsuitable cleaning agents;

- f) use of the Products following discovery of a deficiency which has not been rectified;
 - g) any cause not directly attributable to the Company.
- (6): Except as provided in this Manufacturer Warranty, the Company makes no express warranties in respect of the Products, although you may have other rights and remedies available to you under the applicable laws, including the Australian Consumer Law. Subject to the applicable laws, including the Australian Consumer Law, the Company will, under no circumstances, be liable for any damage, whether direct, indirect, special or consequential, arising in any way out of the use of or in relation to the Products, whether as a result of the Company's negligence or otherwise. This includes loss of freight, loss of earnings or loss of contracts.

Warranties Implied by Law

- (7): Nothing in this Manufacturer Warranty operates to exclude, restrict or modify the application of any provision of any statute (including the Australian Consumer Law) where to do so would:
- a) contravene that statute; or
 - b) cause any part of this clause to be void.

The Company excludes all implied conditions and warranties except any implied condition or warranty the exclusion of which would contravene any statute including the Australian Consumer Law or cause any part of this clause to be void.

Limitation of Liability

- (8): Subject to the applicable laws, including the Australian Consumer Law, the Company's liability for a breach of the Manufacturer Warranty is limited to any one or more of the following as determined by the Company:
- a) the replacement of the Products or the supply of equivalent Products; or
 - b) the repair of the Products; or
 - c) the payment of the cost of replacing the Products or of acquiring equivalent Products; or
 - d) the payment of the cost of having the Products repaired; or
 - e) in the case of goods, to any one or more of the above as determined by the Company.
- (9): Replaced parts become the property of the Company. If parts are returned under this Manufacturer Warranty the customer is not entitled to make any deduction from remittances or current accounts without the Company's consent.
- (10): Warranty work is only to be undertaken by an authorised Lusty EMS dealer. Warranty work may only be undertaken by an alternative repairer with the prior written approval of the Company.

Remedies

- (11): To make a claim in relation to the Products under this Manufacturer Warranty the customer must contact their selling dealer or the Company within the Warranty Period on the contact details provided in clause 1. If the Company determines that the customer has a claim under this Manufacturer Warranty, the Company will act in accordance with clause 8. The customer will be responsible for its costs of making a warranty claim under this Manufacturer Warranty.