



EM Signs Terms and Conditions of Sale

1. Disclaimer:

The information presented in these Terms and Conditions of Sale have been prepared in accordance with Australian law, but may not satisfy the laws of other countries. If the customer resides in, or accesses this information from a country other than Australia, the customer must acknowledge that these terms are under conditions are bond between the company and the customer under Australian regulations.

2. Definitions of Terms used within this agreement

'Additional costs' refers to and shall include but not be limited to, sub-standard soil conditions or excessive rock ground in and around the excavation site which results in lack of structural integrity or does not meet restrictions and law imposed by third governing parties.

'Cancellation of Service & Goods' refers to any costs that have been incurred through the production of signage, the materials bought for manufacturing, labour, supply and distribution costs, transportation costs and government fees and charges.

'Customer' refers to you the customer, authorised officer of the customer, business, company, organisation, or entity who has requested a quotation of product or manufactured goods from EM Signs, and is bound by these Terms & Conditions of sale as written in this agreement.

'Goods' is defined and refers to any product, material, work or design of EM Signs which is made, created, or manufactured for sole distribution or sale.

'New Customer' means any new client of EM Signs where no prior trading history has been established in the past or current period.

'Written Notice' refers to any formal notice given to EM Signs by the customer, in the form of either personal delivery; facsimile; registered mail, ordinary mail and email.

'Price' can refer to the cost of a product within a quotation; transportation costs; government fees & charges costs; contracting costs; equipment costs.

'Product' refers to any manufactured or working materials, parts or signage goods utilised to construct the product.

'Progress Claim' refers to part or all of the Quoted or Tendered amount which EM Signs may require on confirmation and authorisation of the quotation; any time up to the completion and installation of the product; any time during the progress of the work; upon delivery of the product.

'Site' refers to the customer's advised place and location where the product is transported & installed.

'Quotation' refers to any order, tender or quotation requested from EM Signs for estimation or price of requested products or goods. By approving the quotation issued the customer is bound by EM Signs, Terms & Conditions of Sale as per this written agreement.

3. Application of Terms & Conditions:

The customer agrees that these terms and conditions shall apply to all orders of purchases of product or goods, by the customer and to all product or goods supplied by EM Signs to the customer.

4. Quotation or Tender

- All quotations or tenders by EM Signs for the sale or distribution of goods and services to the customer remains open and valid for acceptance within 60 business days from the date of quotation submission by EM Signs.
- EM Signs controls rights to vary or withdraw or cancel the quotation or tender at any time before it is accepted by the customer. EM Signs is under no liability to the customer or any third party for any damage, loss or other liability resulting from such withdrawal or cancellation.
- All approved orders (issued by the customer) must be placed in writing in official company order or other document signed by the appropriate authorised officer employed for; or acting on behalf of the customer. The customers written acceptance is not effective until received by EM Signs.
- EM Signs renders all rights to adjust the quotation or tender costs advised, following the customers quotation approval, but before completion and installation of the manufactured product. These circumstances include instances where distributor material costs have increased within this above timeframe.
- All Quotations exclude the following unless expressly stated:
 - Transportation
 - Packing
 - Crating
 - Insurance
 - Delivery
 - Power supply; fees and charges associated with the power supply or connection of

power supply.

- Fees and charges associated with any traffic control or third party property access to site.
- Any required special permits or engineer calculations including Dial Before You Dig locator service.
- Alterations to planned scope of works.
- Any problems with the premises on site for installation which cause additional costs for EM Signs delivery or installation of the product and which were not advised by the customer before the issue of any quotation or tender of the product.

f) The customer acknowledges that all quotations and tenders are based on EM Signs standard labour working hours from 8am to 5pm and does not include labour overtime for completion of manufactured product or goods. However, by negotiation with EM Signs a further fee can be issued if the customer requires overtime labour on the product or goods under quotation or tender.

g) Once a quotation is approved and accepted (within 60 business days), the customer may only cancel the agreed quotation, tender or contract by formal written notice by an authorised officer acting on behalf of the customer, and the customer, will incur liability for all EM Signs cancellation of services & goods costs associated with the cancellation costs to the date of cancellation advice.

h) By accepting the quotation the customer places all their interest in any real property you own now or in the future to secure payment of any monies you owe to or any debt you have with EM Signs.

i) EM Signs reserves the right to charge the client progress claims during the course of the contract.

j) EM Signs quotation is subject to final site details, including but not limited to, dimensions, conditions and restrictions.

k) EM Signs may at its option without any liability whatsoever elect not to complete an order if:

- the customer becomes insolvent, files a voluntary or involuntary petition for bankruptcy, makes an assignment for the benefit of creditors, has an administrator or receiver appointed, initiates reorganisation proceedings or where EM Signs has reasonable grounds for believing that the customer will not be able to meet its payment obligations to EM Signs; or
- an event listed in clause 6 (d) continues for a period in excess of one month or causes EM Signs to cease production of product for a period of greater than one month.

l) The customer will be responsible for any latent conditions.

m) Refer also to Clause 13 below

5. Terms of Payment

- Payment to EM Signs must be made in full without any deductions or restrictions for any set offs or counter claims by the customer on the due date advised.
- Payment of the amount specified by EM Signs in the quotation, tender or contract agreement must be made to EM Signs no later than 7 business days from the date of the invoice.
- The customer will incur and be liable for interest at a rate of 18% per annum on any outstanding amount, costs, charges and expenses (include legal costs) incurred by EM Signs in the recovery of any overdue payment from the due date specified, until paid.
- For any new customer where no prior trading history has been established or any customer that EM Signs is not totally satisfied that the customer will be able to fully make payment when it falls due. For quotes totaling under \$10,000(ex gst) EM Signs requires an upfront 100% payment by the customer or a deposit of 50%. For quotes totaling \$10,000(ex gst) a deposit of 30% must be paid and is subject to change at the discretion of EM Signs. This is to be paid prior to the commencement of any work by EM Signs following approval or authorisation of quotation or tender.
- The new customer shall pay the balance of the invoice within 7 business days of the date of invoice by EM Signs to the new customer as described also in (5.d).
- If the customer decides to pay an invoice with a credit card, the customer will be required to incur a 2% surcharge on top of their total invoiced price. This charge is to cover bank fees imposed by merchant services. Visa and Mastercard accepted.
- Payment to EM Signs must be made by the customer, in the amount specified in any progress claims within 7 business days of invoice of the progress claim.
- In the event that the customer fails to provide delivery or installation instructions within 10 business days of a request issued by EM Signs for such information, EM Signs will reserve right to charge for storage of the product pending delivery advice.

6. Delivery & Installation

- EM Signs shall deliver and install the product for the customer at the specified site location.
- EM Signs will not be liable or incur any loss, damage or any other liability directly or indirectly resulted from delay in delivery or installation by EM Signs of its acting agents/contractors.
- The customer is solely responsible for the correctness of any information regarding delivery and installation instructions you provide to EM Signs.

d) EM Signs shall not be liable for failure to deliver or for delay in delivery arising from any cause whatsoever beyond EM Signs control without limitation;

- 1) an act of God;
- 2) war;
- 3) fires, explosions, breakdown of machinery or equipment;
- 4) non delivery or shortage of supplies;
- 5) strikes or other industrial disputes or disturbances
- 6) and, notwithstanding any written warranty guaranteeing a date of delivery, the time for delivery will be extended for a reasonable period having regard to the effect of the cause of the delay on the manufacture or delivery of the product.

The events in clause 6 (d) do not relieve the customer from any obligation;

- i) to pay for any product already delivered; or
- ii) to accept delivery of any product tendered by EM Signs despite the delaying event or after the delaying event ends.

e) The customer shall not be relieved from any obligation to accept or pay for material by reason of any delay in delivery or dispatch.

f) In no event, except as provided by law, shall EM Signs be responsible for any loss of profit, penalties, expenditure, damages or losses incurred by the customer arising out of any delay in delivery or caused by or arising out of any use of or dealing with the product whether arising from any defect in the product, unsuitability for the customer's purpose, negligence by EM Signs or its employees or agents or in any other way.

7. Product Design, Specifications & Variation

a) The customer is solely responsible for the correctness of any information regarding product design and specifications of the product instructions provided to EM Signs.

b) EM Signs will not be liable or incur any loss, damage or any other liability directly or indirectly resulted from the customer supplied design plans and specifications for the product that do not meet Australian standards which are manufactured by EM Signs.

c) Any variations to the product need to be formally presented in writing to EM Signs. After review of the variations indicated in writing, the customer will be liable to pay all costs incurred by EM Signs in performing the additional work or any alterations of work in progress.

d) The customer will grant reasonable time frame extensions to the additional work and labour required to meet the requested product variations, as indicated in the written advice by the customer.

8. Product progress & completion

a) The customer agrees that EM Signs shall not be liable for any penalties or damage either direct or indirect for any failure to commence or complete the product by the estimated dates provided to the customer.

b) The customer agrees that estimations of completion dates will be based on the provisions of full cooperation from the customer; any goods from other suppliers; access to the site location for the purpose of installation of the product which shall be the customers sole responsibility; any necessary council or government permits or approvals which is the customers sole responsibility unless otherwise expressly stated.

c) EM Signs will make all attempts and effort to carry out the agreement of service between them and the customer.
If due to any event, EM Signs is unable to fulfill any contract or agreement of service, EM Signs will not be liable for any loss or damage which the customer may suffer.

d) EM Signs maintains all rights to provide written notice to the customer to terminate the contract or extend the time for the process and performance of work of the agreement of service and contract.

9. Indemnity

a) The customer agrees to indemnify and keep indemnified EM Signs, its agents, employees, contractors from all claims, demands, actions or suits arising from any loss or damage to any property or death or injury to any person or persons in connection with the supply to and the use of the goods or products by the customer.

b) The customer agrees to indemnify and keep indemnified EM Signs, its agents, employees, contractors from all claims, demands, actions or suits arising from infringement by EM Signs of any patent, design or other intellectual property.

c) The Quotation, terms of sale and subsequent Contract will be governed by the laws of New South Wales and the parties submit to the jurisdiction of that state

d) All unfixed products on site and location shall be at the customers own risk and EM Signs will not be responsible or liable for any damage caused as a result of the unfixed product.

10. Governing Law

The events in clause 6 (d) do not relieve the customer from any obligation;

- i) to pay for any product already delivered; or
- ii) to accept delivery of any product tendered by EM Signs despite the delaying event or after the delaying event ends.

a) All formal communication and notices must be in writing in the English language and forwarded by personal delivery, facsimile, registered mail, standard mailing system or email.

b) The customer shall not be relieved from any obligation to accept or pay for material by reason of any delay in delivery or dispatch.

c) In no event, except as provided by law, shall EM Signs be responsible for any loss of profit, penalties, expenditure, damages or losses incurred by the customer arising out of any delay in delivery or caused by or arising out of any use of or dealing with the product whether arising from any defect in the product, unsuitability for the customer's purpose, negligence by EM Signs or its employees or agents or in any other way.

d) This agreement will be governed by and constructed in accordance with the laws from time to time enforced in the State of NSW and both parties submit to the exclusive jurisdiction of the Court in that State.

11. Formal Written Notices

a) Upon acceptance or approval of any quotation or tender issued by EM Signs; or Variation of product, the customer must issue formal written notices in the form of either, personal delivery; facsimile, registered mail, standard mailing system or email where date of receipt will be recognised upon acknowledgement of the written notice.

12. Customer Acknowledgement of Terms of Sale

a) You acting as the customer acknowledge that you have read the above Terms of Sale and accepted these terms before proceeding with approval and authorisation of any Quotation or Tender/Contract with EM Signs.

13. PPSA

a) Defined terms used in this clause 13 have the same meaning as given to them in the PPSA.

b) EM Signs and purchaser acknowledge that a contract constitutes a Security agreement and gives rise to a Purchase Money Security Interest (PMSI) in favour of the Company over the goods supplied to the purchaser, as Grantor, pursuant to a contract, and over the Proceeds (including any sale monies or an account for such monies and insurance monies)

c) The goods supplied or to be supplied under a contract fall within the PPSA classification of "other Goods" acquired by the purchaser pursuant to these conditions.

d) The purchaser acknowledges that the Seller, as Secured Party is entitled to register its interest in the goods supplied or to be supplied to the purchaser, as Grantor, under a contract on the PPSA Register as Collateral.

e) The purchaser waives its right to any of the following under the PPSA:

- i) receive notification of or a copy of any Verification Statement confirming registration of a Financing Statement or a Financing Change Statement relating to a Security Interest granted by the purchaser, as Grantor, to EM Signs;
- ii) receive notice of removal of an Accession under section 95;
- iii) receive notice of an intention to seize Collateral under section 123;
- iv) receive notice of disposal of Collateral under section 130;
- v) receive a statement of Account if there is no disposal under section 130(4);
- vi) receive notice of retention of Collateral under section 135;
- vii) redeem the Collateral under section 142;
- viii) reinstate the security "Agreement under section 143;
- ix) object to the purchase of the Collateral by the Secured Party under section 129;
- x) receive a Statement of Account under section 132(3)(d) following a disposal showing the amounts paid to other Secured Parties and whether Security Interests held by other Secured Parties have been discharged.

f) The purchaser agrees that, to the extent permitted by law, nothing in sections 130 to 143 or the PPSA will apply to, or the Security under, these Conditions.