

## Terms and Conditions

### 1. Interpretations and definitions.

#### 1.1 in these Terms:

"ACL" means the Competition and Consumer Act 2010 (Cth);

"Goods" means all goods and services including any inventory purchased and/or provided by Blake Sign Co to the Customer;

"Customer" means a person, firm or corporation which requests or purchases Goods from Blake Sign Co;

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

"Blake Sign Co" includes any company within Blake Sign Co including Blake Sign Co Pty. Ltd. (ABN 79 620 128 878); and

"Terms" means these Terms and Conditions.

#### 1.2 in the interpretation of the Terms unless the contrary intention appears:

1.2.1 headings are for convenience only and do not affect the interpretation of the Terms.

1.2.2 the words 'includes' or 'including' will not limit whatever follows;

1.2.3 a reference to a person includes a reference to a corporation, firm, association or other entity, and vice versa; the singular includes the plural and vice versa;

1.2.4 a reference to any gender includes a reference to all other genders; and

1.2.5 a reference to any legislation includes a reference to any modification or re-enactment.

### 2. Application of terms.

2.1 the Customer agrees that these Terms and Conditions of Sale (Terms) shall apply to all orders or purchases of Goods by the Customer and to all Goods supplied by Blake Sign Co to the Customer.

2.2 if the Customer comprises more than one person, the persons shall be jointly and severally liable for their obligations under these Terms.

2.3 these Terms may only be varied in writing by Blake Sign Co.

### 3. Quotations.

3.1 all quotations and tenders by Blake Sign Co for the sale of Goods to the Customer shall be valid for acceptance by the Customer for thirty (30) days from the date of issue of the quotation or tender to the Customer.

3.2 all orders made by the Customer, shall be in writing either in the form of an official Blake Sign Co order or other documentation signed by the Customer.

3.3 unless in writing to the contrary, all quotations and tenders by Blake Sign Co to the Customer shall exclude all fees, costs and charges for: Transportation Packing; Crating; Insurance; Delivery; Taxes, including Goods and Services Tax; Duties; Supply or installation of electrical feeds; and all permits, engineers' computations and statutory requirements.

#### 4. Delivery.

4.1 if Blake Sign Co is unable to effect delivery or provision of the Goods to a Customer through circumstances beyond the control of Blake Sign Co, it may cancel the Customer's order by notice in writing to the Customer and the

Customer agrees that Blake Sign Co will be under no liability to the Customer or any third party for any damage, loss or other liability resulting from such cancellation.

4.2 in the event that Blake Sign Co finds problems at the premises where the Goods are to be delivered or installed which cause additional costs to be incurred by Blake Sign Co and such problems were not advised by the Customer to Blake Sign Co before or at the time of quotation, the Customer agrees to be liable to Blake Sign Co for any costs associated with such problems.

4.3 for the purposes of 4.2, additional costs shall include, but not be limited to, excessive rock or sub-standard soil conditions in excavation sites, lack of structural integrity, or conditions imposed by statutory authorities or third parties.

4.4 Blake Sign Co shall use all reasonable efforts to deliver and where applicable install the Goods to the Customer's specified location by the agreed date.

4.5 Blake Sign Co will not be liable for any loss, damage or other liabilities whatsoever arising either directly or indirectly from a delay in delivery or installation by Blake Sign Co or its agents.

#### 5. Payment.

5.1 Credit applications are available upon request for a 30-day trading account. These applications can take up to 2 weeks to process and approve. In the absence of an account any project with is subject to the below payment terms.

Non-Account holders are required to pay a 50% deposit prior to commencement of artwork, ordering of materials or manufacture. Payment of the balance of the fees and charges is required before installation or dispatch of materials. For works under \$1000, full payment is requested at the time of order.

Payments are accepted by electronic funds transfer, cash or credit card. Invoices will be emailed to the client on receipt of job acceptance.

Accounts which are in arrears by 60 days or more will incur an administrative charge of \$120 per month.

All legal costs (on a full indemnity basis), charges, duties and other expenses incurred by Blake Sign Co as a result of you failing to perform your covenants and obligations contained herein, shall be paid by you to Blake Sign Co. The expenses include, but are not limited to, the commission payable to a mercantile agent or a debt collector, to pursue or recover outstanding

monies pursuant to these terms, and the liability to pay this commission arises at the time the recovery is placed in the hands of the debt collector.

- 5.2 the Customer agrees that Blake Sign Co is under no obligation to commence work on any order until receipt by Blake Sign Co of the payment described in 5.1.
  - 5.3 the Customer shall pay the balance of the quotation or tender within set term days of the date of invoice by Blake Sign Co to the Customer.
  - 5.4 the payment by the Customer to Blake Sign Co in accordance with 5.3 shall be free of all and any deductions by the Customer.
  - 5.5 the Customer agrees that Blake Sign Co is entitled to invoice the Customer for progress claims and that the Customer shall pay such progress claims within set term days of the invoice of the progress claims.
  - 5.6 in the event that the Customer fails to make payment in accordance with 5.3 or 5.5, the Customer shall pay to Blake Sign Co interest at the penalty interest rate for the time being fixed under s.2 of the State Penalties Enforcement Act 1999, together with all costs, charges and expenses (including legal costs on a solicitor client basis) incurred by Blake Sign Co in the recovery by Blake Sign Co of any overdue amount from the Customer.
  - 5.7 in the event that the Customer fails to provide delivery instructions within fourteen (14) days of a request by Blake Sign Co for such information, Blake Sign Co shall be entitled to charge the Customer the reasonable costs associated with storage of the Goods pending delivery.
  - 5.8 all invoices and/or claims for payment are covered under the relevant legislation for construction industry security of payment applicable to the state or territory in which supply was made.
- 6. Retention of title.**
- 6.1 neither ownership of nor property in the Goods sold by Blake Sign Co passes until the Customer has paid to Blake Sign Co all monies owing by the Customer on any account.
  - 6.2 until payment of all monies owed by the Customer to Blake Sign Co on any account, the Customer holds the Goods as fiduciary bailee and agent for Blake Sign Co and must keep the Goods physically separate from all other goods purchased or owned by him, and clearly identified as owned by Blake Sign Co, until they have been paid in full.
  - 6.3 in the event that the Customer fails to make payment in accordance with 6.1, 6.3, or 6.5, then without prejudice to Blake Sign Co's other rights, whether under these Terms or by law, Blake Sign Co may lawfully and without notice enter the location or any premises of the Customer and remove the Goods from any part of the location or premises to which they have been fixed.
  - 6.4 in the event that the Customer sells any of the Goods while money is owed to Blake Sign Co, the Customer must keep the proceeds of the sale in a separate account and not mix them with any other funds.

- 6.5 risk of the Goods passes to the Customer at the time of delivery, and for so long as ownership and property of the Goods remains with Blake Sign Co, the Customer must keep the Goods insured in Blake Sign Co's name for at least the price at which the Customer acquired them from Blake Sign Co.
- 6.6 if the Customer mixes the Goods with other Goods, so that the Goods are no longer separately identifiable, the purchaser and Blake Sign Co will be owners in common of the mixed Goods.
- 7. Personal Property Securities Act.**
- 7.1 unless otherwise stated, a term contained in these Terms that is defined in the PPSA (but not otherwise defined in these Terms) has the meaning given to it in the PPSA.
- 7.2 the Customer acknowledges and grants Blake Sign Co a security interest for the purposes of the PPSA in:
- 7.2.1 all Goods and any proceeds from Goods previously supplied by Blake Sign Co to the Customer;
- 7.2.2 all Goods and any proceeds that will be supplied in the future by Blake Sign Co to the; customer created under this Agreement (as the accepted and adopted security agreement between the parties); and
- 7.2.3 this security interest secures all monies owing by the Customer to Blake Sign Co under these Terms or otherwise.
- 7.3 the Customer acknowledges and agrees the security interest is a continuing and subsisting interest in the Goods with priority over any registered or unregistered general (or other) security interest and any unsecured creditor.
- 7.4 the Customer grants to Blake Sign Co a security interest over Goods or their proceeds arising under this clause 7 and acknowledges the security interest is a 'purchase money security interest' (PMSI) under the PPSA to the extent that it secures payment of the amounts owing in relation to the Goods
- 7.5 for the avoidance of doubt and without prejudice to Blake Sign Co's rights under the PPSA:
- 7.5.1 the Customer may process the Goods supplied by Blake Sign Co to the Customer and accession or commingle them with other property in which case Blake Sign Co will have a security interest in any processed, accession and commingled Goods; and 7.5.2 the Customer may sell the Goods to its customers and if it does so, then Blake Sign Co will have a security interest in the proceeds of sale.
- 7.6 the Customer will do everything reasonably required of it by Blake Sign Co to enable Blake Sign Co to register its security interests with the priority Blake Sign Co requires and to maintain those registrations including:
- 7.6.1 signing any documents and/or providing any information which Blake Sign Co may reasonably require to register a financing statement or a financing change statement in relation to a security interest; or
- 7.6.2 to correct a defect in a statement.

- 7.7 the security interests arising under this clause 7 will be perfected by Blake Sign Co prior to the Customer obtaining possession (on delivery of the Goods) and the parties confirm they have not agreed that any security interest attaches at any later time.
- 7.8 any time the Customer makes a payment to Blake Sign Co, irrespective of whether the payment is made under or in connection with these Terms, Blake Sign Co may apply that payment:
- 7.8.1 first to satisfy an obligation that is not secured;
- 7.8.2 second, to satisfy an obligation that is secured, but not by a PMSI;
- 7.8.3 third, to satisfy an obligation that is secured by a PMSI for that obligation and using proceeds from the sale of the collateral subject to that PMSI;
- 7.8.4 fourth, to satisfy an obligation that is secured by a PMSI using funds or proceeds from any source; or
- 7.8.5 despite the foregoing, any manner Blake Sign Co sees fit.
- 7.9 Blake Sign Co does not need to give the Customer any notice under the PPSA (including notice of the single financing statement or verification statement) unless the notice is required by the PPSA and that requirement cannot be excluded and if Blake Sign Co is required to give a notice to the Customer under the PPSA, and the Customer may, under the PPSA, waive the Customer's right to receive that notice, then the Customer hereby waives that right.
- 7.10 if Chapter 4 of the PPSA would otherwise apply to the enforcement of the security interests created under this Agreement, the Customer agrees that sections 95, 120, 121(4), 125, 128, 129, 130, 132(3) (d), 132(4), 134(1), 135, 142 and 143 of the PPSA will not apply to the enforcement of those security interests.
- 7.11 the Customer agrees not to disclose to an 'Interested person' (as defined in section 275(9) of the PPSA) or any other person, any information of the kind described in section 275(1) of the PPSA including the security agreement between the Customer and Blake Sign Co.
- 7.12 the Customer will notify Blake Sign Co immediately in writing if the Customer changes its name and address for service, contact details or if there are any changes to data required to register a financing statement under the PPSA.
- 7.13 the Customer agrees, until title in the Goods passes to it, to keep and maintain all Goods free of any charge, lien, or security interest except as created under these Terms and not otherwise to deal with Goods in a way that will, or may, prejudice the rights of Blake Sign Co under these Terms or the PPSA.
- 7.14 the Customer irrevocably grants to Blake Sign Co the right to enter any premises of the Customer without notice, and without being in any way liable to the Customer or any other person, if Blake Sign Co has cause to exercise any of its rights under the PPSA (and in particular s123) and the Customer agrees to indemnify Blake Sign Co against any such liability.

**8. Claims.**

Subject to rights provided for under the ACL, the Customer accepts the Goods unless it makes a written claim noting any defects to Blake Sign Co with seven (7) days of delivery and or installation.

**9. Warranty.**

- 9.1 our goods come with guarantees that cannot be excluded under the 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. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.
- 9.2 if the Customer is a consumer as defined in the ACL, nothing in this warranty restricts, limits or modifies the Customer's rights or remedies against Blake Sign Co for failure of a statutory guarantee under the ACL and specifically the statement in 9.1 is made in accordance with section 102 of the ACL and only applies if the Customer acquires goods from Blake Sign Co as a Consumer according to the Australian Consumer Law.
- 9.3 if clause 9.2 does not apply, any liability under this warranty is expressly limited at the sole discretion of Blake Sign Co to:
- 9.3.1 the repair of the Goods at the Customer's premises; or
- 9.3.2 the replacement or resupply of the Goods or parts to the Customer's premises.
- 9.4 Blake Sign Co warrants that Goods supplied will be free from defects in material and workmanship for a period of 12 months from the date of the supply or installation of the Goods by Blake Sign Co. The benefits provided by this warranty are in addition to other rights and remedies which the Customer may have under a law in relation to the Goods to which this warranty relates.
- 9.5 to the maximum extent permitted by law, the Customer agrees that Blake Sign Co shall only be liable to make good, replace, repair or resupply the Goods in accordance with 9.3 in the event that:
- 9.5.1 the alleged defects have arisen solely from faulty materials or workmanship by Blake Sign Co;
- 9.5.2 the Goods have not received maltreatment, inattention or interference from the Customer; and
- 9.5.3 the Customer at their own costs promptly returns any defective parts of the Goods to Blake Sign Co.
- 9.6 if the Goods are not manufactured by Blake Sign Co but are manufactured by a third party, the Customer agrees that Blake Sign Co does not provide any guarantee in addition to that of the manufacturer as to the performance of the Goods.
- 9.7 Blake Sign Co is not responsible or liable for indirect, special or consequential damages arising out of or in connection with the use or performance of the Goods or other damage with respect to any economic loss, loss of property, loss of revenue or profit, loss of enjoyment or use, cost of removal, installation or other consequential damage of any nature.

- 9.8 during the Warranty Period, defective Goods will be repaired, replaced or resupplied in accordance with clause 9.3 if: 9.8.1 the defect is drawn to the attention of Blake Sign Co in writing, within 7 days of the Customer detecting the defect; and 9.8.2 the Customer supplies the original receipt showing the date and proof of purchase.
- 9.9 warranty service may be obtained by contacting Blake Sign Co using one of the methods detailed below.

Address: Unit 13, 13 Kayleigh Drive, Maroochydore, 4558 QLD

Phone: 0754 792 830

Website: [www.blakesignco.com.au](http://www.blakesignco.com.au)

## 10. Indemnity.

- 10.1 the Customer agrees to indemnify and keep indemnified Blake Sign Co, its agents, employees or contractors from all claims, demands, actions or suits arising from:
- 10.1.1 loss or damage to any property or death or injury to any person in connection with supply to and use of the Goods by the Customer; and
- 10.1.2 infringement by Blake Sign Co of any patent, design or other intellectual property.

## 11. Default.

- 11.1 If the Customer:
- 11.1.1 commits any breach of these Terms;
- 11.1.2 refuses or fails to accept delivery of the Goods;
- 11.1.3 becomes bankrupt, insolvent or, if the Customer is a corporation, a liquidator, receiver, manager or administrator is appointed to the Customer;
- 11.1.4 has an application for winding up made against it;
- 11.1.5 enters into any composition or arrangement with the creditors, collectively referred to as an Event of Default, Blake Sign Co may without limitation to its rights;
- 11.1.6 refuse, suspend or withhold any further supply of the Goods; and
- 11.1.7 revoke any credit arrangement that the Customer may have had with Blake Sign Co.
- 11.2 in the event the Customer commits an Event of Default and Blake Sign Co so demands, the Customer shall immediately deliver-up the Customer's expense any Goods for which payment has not been made to Blake Sign Co in full, together with any other monies then outstanding from the Customer to Blake Sign Co.
- 11.3 if the Customer fails to return the Goods, the Customer agrees that Blake Sign Co may retake possession of the Goods and for that purpose Blake Sign Co, its servants or agents may without notice enter the location or any other premises of the Customer and remove the Goods from any part of the location or premises to which they have been fixed.

**12. Jurisdiction.**

These Terms shall be governed by the laws of the State of Queensland.

**13. Severability.**

If any provision of these Terms is found to be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

**14. Returns and Refunds.**

14.1 should your order be damaged or incorrectly supplied in any way, you may return the goods for a replacement or full refund, only if:

14.1.1 you have contacted the Blake Sign Co Head Office on 0754 792 830 immediately upon receiving the goods;

14.1.2 you are within 7 days of the original purchase date;

14.1.3 you have a tax invoice or receipt as proof of purchase; and

14.1.4 the items are in the original condition as purchased.

**15. Freight Charges.**

15.1 these terms and conditions confirm your agreeance to freight charges that are charged on a case by case basis. Fees will be quoted prior to dispatch and not sent until approval of fees is received by Blake Sign Co from the client.

15.2 all deliveries are sent by registered post/freight service and are traceable by contacting Blake Sign Co head Office on 07 5479 2830.

**16. General.**

16.1 these Terms supersede all prior representations, arrangements and agreements between the parties in relation to the subject matter and form the entire agreement between the parties.

16.2 each provision of these Terms, capable of having effect after termination, shall survive termination and shall not merge on such termination.