

Terms and Conditions of service

EPM NSW Pty. Ltd. T/A

EFFECTIVE PLANT MAINTENANCE



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1. EPM NSW Pty Ltd trading as Effective Plant Maintenance (herein called the "Company") and the Customer or the Customer's employee(s) and/or agent(s) and/or representative(s) (herein called the Customer) agree that these terms and conditions will apply to this service and to all quotations, offers and orders placed. These terms and conditions will prevail over all other conditions to the extent of any inconsistency and can only be varied or modified by the Company in writing.
2. Although all care will be taken there are times that other parts affected by age, corrosion, fatigue and/or wear might fail whilst being disconnected, moved, removed, reconnected and/or refitted. Unless expressly acknowledged in writing to the Customer prior to commencement of works the Company is not responsible for replacement costs of parts or components that may fail due to latent conditions, handling and/or manipulation during the works.
3. When diagnosing potential faults and issues with the Customer's property the Company relies on visual inspection, testing and interpretation of symptoms that present themselves. Whilst care is taken such inspections, testing outcomes and symptoms may not adequately indicate the full potential of works required to remedy the fault. The Company will make its best endeavours to provide definitive diagnosis but cannot guarantee that such diagnosis will identify the complete scope of works required. Any additional works required due to the discovery of further faults and issues which could not be detected by reasonable inspections and testing will result in additional costs to the customer.
4. The Customer will inspect labour, parts/products, settings, adjustments, tensions etc (herein called the "Works") undertaken by the Company immediately upon completion. Such inspection will include visual inspection and operational testing of the Works carried out.
5. The Company will redo any defective works which are shown to the Company's satisfaction to have been defective in materials or in workmanship. The Customer acknowledges that warranties/guarantees relating to parts/products are provided by the part/product supplier/manufacturer and that the Company will make reasonable attempts to recover such warranties/guarantees on the Customer's behalf should any parts/products used by the Company in this service be proved to be defective.
6. All conditions and warranties as to the quality of the Works or their fitness for any purpose, whether express or implied, whether statutory or otherwise and whether oral or in writing, are hereby expressly excluded and negated. The Company accepts no liability whatsoever for consequential loss or damage which may in any way arise out of or result from the Works or the use to which they have been put or any defect in same. This clause is to be read subject to clause 11 hereunder.
7. In the event the Company procures parts/products following the Customer's written or verbal instruction to undertake Works and the Customer later retracts such instruction the Company will make reasonable efforts to return the parts/products to its suppliers/manufacturers. The Company is entitled to charge freight, restocking fees, and or full price for any parts/products procured for works cancelled by the Customer.
8. Parts/products are specifically manufactured for use as specified by our suppliers/manufacturers. If you would like a copy of such specifications or instructions, please request this information and the Company will use reasonable endeavours to obtain this information for the Customer.
9. Instructions are contained in the aforementioned specifications and instructions of our supplier/manufacturer. Failure by the Customer to act or operate in accordance with such specifications and instruction could result in an unsatisfactory or dangerous product and, in such circumstances, any warranty expressed or implied is expressly excluded and negated and liability is disclaimed.
10. While the Company endeavours to keep service/delivery dates, any delay of service/delivery, for any reason whatsoever, will not entitle the Customer to claim for any consequential loss or damage or to cancel, rescind or terminate the agreement. Should circumstances beyond the control of the Company prevent or hinder service/delivery, the Company will be free from any obligation to deliver goods and or services while such circumstances continue. For as long as such circumstances exist, the Company may, at its option, cancel, rescind or terminate all or any part of the contract or keep the contract on foot until such circumstances have ceased. Such circumstances beyond the control of the Company include, but are not limited to: fire; acts of God; sickness and pandemics; shortages of raw materials; transport difficulties; and failures or malfunctions of computers or other information technology systems.
11. Any property of the Customer's under the Company's custody or control will be entirely at the Customer's risk as regards loss or damage caused to the property or by it.
12. Subject to clause 18 hereunder, any remedy available to the Customer herein is at the option of the Company nullified if the Customer fails to give the Company, its supplier/manufacturer, engineers and/or representatives a reasonable opportunity to inspect and remedy the Works at the Company's discretion.

13. To ensure that the Customer gets the best results from the Works, the Company will use reasonable endeavours to provide to you, on request, with our supplier/manufacturer's information, if available, as to any suggestions as to the uses, installation and care of its parts/products. The Customer acknowledges that these are suggestions only and do not in any way nullify or modify the conditions of service herein contained.
14. Notwithstanding any provision of any law, State or Federal to the contrary, the title and ownership of the parts/products hereby used in the Works for the Customer will remain with the Company and will not pass to the Customer until payment in full is received by the Company for such Works. If payment is made by cheque, title and ownership will only pass to the Customer once the cheque has been cleared. Until the Works are paid for in full the relationship between the Customer and the Company will be fiduciary and the Customer will possess the Works as bailee for the Company.
15. The Customer will not represent to any third parties that the Customer is acting for and on behalf of the Company and the Company will not be bound by any contracts with third parties to which the Customer is party.
16. The Customer is entitled to the period of credit set out in this contract or in any invoice or otherwise as agreed to in writing by the Company and the Customer, and the Customer will pay to the Company the sum specified in the contract or invoice at or before the expiration of the period of credit.
17. The Company will have the right to enter the premises of the Customer and take possession of any plant or equipment subject to Works for which payment has not been made in full in accordance with the terms hereof. This right will also apply if the Customer commits an act of bankruptcy or is made bankrupt or, if a company, a receiver, manager or liquidator is appointed, without affecting in any way any other rights which the Company may have. In the event that the Company takes possession of plant or equipment, the Company will have the unencumbered right to sell such plant or equipment without being in any way liable to the Customer or to any third party claiming title under the Customer. Following the sale of any such plant or equipment any moneys remaining after satisfaction of the debt and compensation of reasonable costs associated with the debt recovery to the Company will be surrendered to the Customer.
18. NOTWITHSTANDING any provisions to the contrary herein contained nothing in these terms and conditions will exclude, restrict or modify any right or remedy, warranty or condition available to the Customer pursuant to the Trade Practices Act 1974 or any similar State or Territory law. If necessary, clauses or parts thereof will be read down or clauses or parts thereof severed so far as is possible without affecting in any way the validity of the remaining clauses or parts thereof. Subject to the foregoing, these terms and conditions are to be construed to the maximum extent permitted by law.
19. With the exception of Customers holding accounts for credit with the Company all payments are due at the time of service in so far that there is no alternate condition of payment noted within a specific quotation or invoice provided by the Company.
20. A service charge of 2% will be payable by the Customer to the Company on any amounts not paid within the prescribed time on the invoice. A further service charge of 2% per month will be payable by the Customer on outstanding amounts. In the event that the Company incurs costs employing debt recovery remedies such costs will be payable by the Customer, implementation of debt recovery remedies will be at the sole discretion of the Company.
21. This document, the contract and these terms and conditions will be governed by the laws in force from time to time in the State of New South Wales and the parties accept and submit to the non-exclusive jurisdiction of the courts of the said State. No actions arising out of the Works, the contract or this document may be brought by either party more than three (3) years after the date when the cause of the action arose.
22. In this Agreement, words importing the 'singular' number include the 'plural' and vice versa and words importing gender include the masculine, feminine and neuter genders.
23. Any advice, recommendation, information, assistance or service given by the Company and/or its employees/agents to the Customer and/or the Customer's employees/agents in relation to the Works is given in good faith and is believed to be accurate, appropriate and reliable at the time it is given, but is provided without any warranty or accuracy, appropriateness or reliability and the Company does not accept any liability for any loss suffered from the Customer's reliance on such advice, recommendation, information, assistance or service.