

## Conditions of Quotation

- This quotation is based on the information presently submitted. Costs and timescales may be amended if further testing is found to be necessary on receipt of full information.
- All pricing unless otherwise stated is exclusive of GST.
- Unless otherwise stated testing over and above the times quoted shall be charged at our hourly rates. You will be notified prior to commencement of any work that would incur extra charges and approval must be given.
- Testing outside normal hours incurs a 30% surcharge. Normal business hours are 8.30am to 5pm, Monday to Friday (except public holidays).
- **Australian clients:** Bookings can be confirmed with receipt of an official company purchase order or alternatively upfront payment. Results and/or test reports will be released when full payment has been received.
- **International clients:** Bookings can be confirmed with receipt of an official company purchase order or alternatively upfront payment. A deposit may be required depending on the circumstances, this will be confirmed at the time. Results and/or test reports will be released when full payment has been received.
- Bookings for projects that require upfront expenditure such as airfares and accommodation will not be made under any circumstances without an official company purchase order or prepayment.
- Precompliance testing - Test equipment setup and pre-test verification time is chargeable, customer equipment (EUT) setup time in the chamber is chargeable, any time spent beyond the minimum will be charged in 30 minute intervals, time will be charged from the agreed commencement time regardless of arrival time unless adequate prior notice is given, precompliance results and data cannot be used to generate a formal test report, precompliance data/plots will be issued with a "precompliance watermark" on each sheet/graph
- Unless otherwise stated costs are fixed. Where applicable the allocated time is an indication of how long it will take. Should this ultimately be *significantly* over-estimated we may only charge for time spent at the applicable standard rates.
- In case of aborted testing, the minimum charge for laboratory work is two hours and for Open Area Tests (iOATS) is three hours.
- In the event of a non-compliance being observed, you shall be notified and at your request EMC Technologies can provide consultation. Additional testing time and consultation over and above the times quoted will be charged at our hourly or daily rates.
- EMC Technologies are not responsible for the return of test samples. These should be returned under arrangements made by the client.
- All correspondence and deliveries regarding this application should be clearly marked with the EMC Technologies reference number quoted above to minimize delays.



## Quotation Terms and Conditions

### 1. DEFINITIONS

In this agreement, the following definitions apply:

**"EMCT"** means EMC Technologies Pty Ltd (ABN 82 057 105 549) incorporated in Victoria under the Corporations Law, having its principal place of business at 176 Harrick Road, Keilor Park, Victoria.

**"Equipment"** means any equipment specified for testing in the Estimate and includes such data, programs, documentation and records as may be necessary to enable EMCT to perform its obligations under this agreement.

**"Estimate"** means the Estimate submitted to the Customer and which is intended to serve as an indication only of the actual charges which shall be made by EMCT for its Services.

**"Services"** means the services as selected by the Customer which may be specified in the Estimate.

### 2. SCOPE OF AGREEMENT

2.1 Subject to the terms and conditions of this agreement, EMCT agrees to provide to the Customer the Services requested by the Customer from the range of services offered by EMCT in its Estimate or such other Services as are agreed between the parties.

2.2 Whether or not the purpose of the provision of the Services is wholly or partly to test the Equipment, the Customer accepts full responsibility and liability for any Equipment which it manufactures, supplies, sells or offers for sale and which does not comply with any applicable standards or regulations.

### 3. REQUESTS FOR SERVICES

3.1 Prior to the provision of Services by EMCT, the Customer may submit a request for service, including by Email.

3.2 EMCT may reject a Customer's application in its absolute discretion.

### 4. CHARGES

4.1 In consideration of EMCT providing the Services, the Customer agrees to pay EMCT the charges for the Services calculated in accordance with the rates and charges usually charged by EMCT for the work performed.

4.2 EMCT shall make an additional charge in relation to retesting and or delays due to non-compliant, faulty, modified or defective Equipment.

4.3 The Customer shall pay EMCT within 14 days of receipt of EMCT's invoice, or within the time scale previously agreed upon.

4.4 Reports may be withheld pending confirmation of invoice payment, unless an acceptable payment history has been established. Reports will be held for international customers.

4.5 All fees and charges payable by the Customer under this agreement are exclusive of any taxes, duties, fees or other government levies or charges which may be imposed on or in respect of EMCT's services under this agreement or otherwise.

4.6 The Customer shall pay interest at 2% above the EMCT banker's overdraft rate on all overdue payments, calculated from the due date until payment is made and payable on demand.

4.7 The Customer shall pay all debt recovery costs including all legal, administration and debt collection costs.

4.8 If ongoing testing cannot progress due to customer delays of greater than one month after initial testing has commenced, an invoice will be forwarded for work completed to date.

- 4.9 For ongoing projects progress invoices may be issued at the end of each calendar month.

## 5. DELIVERY and RETURN OF EQUIPMENT

- 5.1 The Customer is responsible for delivering to EMCT's premises at the Customer's cost and risk, any Equipment that may be the subject of the Services being provided by EMCT. All Equipment delivered to EMCT's premises under this agreement will be held by EMCT for the performance of the Services at the Customer's sole risk.
- 5.2 EMCT are not responsible for customs charges, duties and taxes relating to international shipments. Goods shipped to us from international destinations must be clearly marked "for testing or calibration purposes only". If EMCT is incorrectly charged and they cannot be reversed we will pass on all charges to the client plus a 5% admin surcharge.
- 5.3 At the expiration or termination of this Agreement the Customer shall be responsible for the prompt removal of all Equipment from EMCT's premises at the Customer's cost and risk. EMCT Reception/Logistics will advise that the goods have been packed and are ready for collection. If necessary, the Customer will forward consignment notes and other relevant paperwork to [logistics@emctech.com.au](mailto:logistics@emctech.com.au). The con notes will be printed and affixed and once completed the Customer will be notified that the goods are ready for collection. In the event where it is not possible for the Customer to arrange return of goods EMCT *may* undertake this task at management discretion. Full shipping costs plus an administrative fee (to be advised at the time) will be added to the invoice and reports *may* be held pending payment of these additional charges.
- 5.4 Equipment should ideally be retained by EMCT whilst reports are being written and reviewed by signatories in the event of an oversight that necessitates repeat or additional testing.
- 5.5 EMCT shall not be responsible for any delay in the provision of the Services caused by late arrival, faulty, non-compliant or defective Equipment.

## 6. TEST REPORTS AND TEST DATA

- 6.1 Reports will be supplied by default in electronic (secure PDF) format. If you require paper copies an additional charge of \$250 plus GST applies.
- 6.2 The report or certification statement remains the property of EMC Technologies until full payment is received.
- 6.3 EMCT cannot issue unsecured test reports.
- 6.4 Draft reports can be released however they will not include signatures and must include the "draft" watermark on each page. Drafts can only be issued in secure pdf format.
- 6.5 Product and client details will appear in the test report(s) exactly as recorded on the Customer Information Sheet. Changes requested after report publishing (with the exception of errors made by EMCT) will incur a fee of \$250 plus GST per report.
- 6.6 Formal test data cannot be released outside of a formal test report without inclusion of watermarks indicating the results are "preliminary".
- 6.7 Precompliance test data can only be released with a "precompliance" watermark.

## 7. PROTOCOL PROBLEMS

- 7.1 When protocol problems are encountered, EMCT will attempt to provide the most accurate advice available at the time. The information provided will reflect the best technical judgement of the person consulted. However subject to Clause 11.1, EMCT gives no warranty in respect of any opinion given and accepts no liability whatsoever for errors.

## **8. PROTOCOL**

- 8.1 If the Services involve the provision of a report, the Customer will be invoiced for the report when it is finalised. On payment of the invoiced charges in accordance with Clause 4 and subject to clause 6.3, all property in the report will pass to the Customer.
- 8.2 The Customer acknowledges that EMCT is required under NATA Accreditation and the local EMCT Quality Manual to keep a copy of the report and associated documentation, and to make a copy of the report available to authorities as legally required. Subject to these requirements, EMCT will not copy or cause to be copied or disclose any details of the report to a third party without the Customer's prior written consent.
- 8.3 The Customer agrees that it will not reproduce, refer to or use the report, except in its entirety, for any purpose whatsoever, unless written permission to do so has been obtained from EMCT.
- 8.4 Equipment will be available for collection during EMCT's usual business hours. The Customer will be responsible for the collection of Equipment and will bear all the costs, risks and expenses of such collection. EMCT may agree to deliver the Equipment to the Customer, in which case the Customer will bear all the costs, expenses and risks associated with such delivery. Delivery of Equipment by EMCT to a third party (including a carrier) nominated by the Customer will be deemed to be return of the Equipment to the Customer. The Customer will bear all costs, expenses and risks of such delivery.
- 8.5 All Equipment not collected within 21 days of the Customer being advised that it is available for collection will be held by EMCT at the sole risk of the Customer. EMCT reserves the right to levy a storage charge in respect of such Equipment.

## **9. COMPLIANCE WITH LAW**

- 9.1 The Customer shall indemnify and hold harmless EMCT against all costs and liability incurred if EMCT's possession or processing of the Customer's Equipment constitutes a breach of the governing law or any other relevant law or regulation.
- 9.2 EMCT may deliver such Equipment into the custody of a duly authorised law enforcement officer, government representative officer or agency or provide such persons or instrumentalities with access to such Equipment if EMCT receives a request or demand from such person or instrumentality for such delivery or access.
- 9.3 The Customer shall indemnify and hold harmless EMCT against all costs and liability incurred as a result of EMCT's possession and use of such Equipment or incurred as a result of delivering such Equipment to a third party including, without limitation, any action brought by a third party for breach of that third party's intellectual property rights.

## **10. OWNERSHIP OF EQUIPMENT & CONFIDENTIALITY**

- 10.1 EMCT acknowledges that all Equipment is the property of the Customer.
- 10.2 EMCT acknowledges the confidential nature of, and the Customer's intellectual and industrial property rights in, the Equipment.
- 10.3 Subject to being able to make disclosures to employees and sub-contractors for the purpose of enabling the performance of the Services and subject to Clauses 6.2 and 8 of this agreement, EMCT shall not, without the Customer's prior consent in writing, copy, cause to be copied or disclose any details of the Equipment to a third party.
- 10.4 EMCT's obligations under this clause shall survive the termination of this agreement.

## **11. WARRANTIES AND LIMITATION OF LIABILITY**

11.1 Where an Act of Parliament implies in this agreement any term, condition or warranty, and that Act voids or prohibits provisions in a contract excluding or modifying the application of or exercise of, or liability under such term, condition or warranty shall be limited at the option of EMCT, to any one or more of the following:

11.1.1 The supplying of the Service again, or

11.1.2 The payment of the cost of having the Services supplied again.

11.2 The Customer expressly acknowledges that, to the extent that it is lawful to do so and subject to Clause 11.1, all terms, condition, warranties, undertakings, inducements or presentation whether express, implied, statutory or otherwise relating in any way to the Services, the report or to this agreement, are excluded. Without limiting the generality of the preceding sentence, EMCT shall not be under any liability to the Customer in respect of any loss or damage (including consequential loss or damage) however caused, which may be suffered or incurred or which may arise directly or indirectly in respect of any failure or omission on the part of EMCT, to comply with its obligations under this agreement.

11.3 This agreement contains the entire agreement of the parties with respect to the Services and the Customer warrants that it has not relied on any representation made by EMCT or implied from any descriptions or illustrations or specification contained in any document including any catalogues or publicity material produced by EMC which has not been stated expressly in this agreement.

## **12. INDEMNITY**

12.1 The Customer shall indemnify EMCT, its officers, employees and agents during the term of this agreement and thereafter from and against all losses, expenses, claims, proceedings, costs and damages that may be suffered by all or any of them and which are caused by or arise from the use or otherwise of the equipment.

12.2 The Customer shall also indemnify EMCT, its officers, employees and agents during the term of this agreement and thereafter from and against any such action brought by any third party in relation to all losses, expenses, claims, proceeding, costs and damages that may be suffered by any third party and which are caused by or arise from the use or otherwise of the Equipment or the report, including without limitation, any breach by the Customer of the conditions contained in Clause 6.3.

## **13. FORCE MAJEURE**

13.1 In the event that EMCT shall be wholly or partially unable to carry out its obligations under this agreement by reason of causes beyond its reasonable control ("Force Majeure"), then EMCT will not be liable for any delay or failure to perform its obligations and will be excused from performing its obligations during the continuance of any such disability so caused.

13.2 EMCT shall notify the Customer as soon as practicable of any anticipated delay due to Force Majeure.

13.3 If a delay due to Force Majeure exceeds 90 days, EMCT may terminate this agreement immediately on providing notice to the Customer. If EMCT gives such notice to the customer:

13.3.1 EMCT shall refund monies previously paid by the Customer under this agreement for which no Services have been provided; or

13.3.2 The Customer shall pay EMCT a reasonable sum in relation to Services rendered or costs and expenses incurred prior to termination.

**14. TERMINATION**

14.1 Without limiting the generality of any other clause in this agreement, either Party may terminate this agreement by notice in writing if;

14.1.1 The other party commits a material breach of any of the terms of this agreement and does not rectify this breach within fourteen (14) days of receiving written notification of the said breach; or

14.1.2 It gives fourteen (14) days prior written notice to the other party of its intention to terminate this agreement.

14.2 If notice is given to the Customer pursuant to Clause 14.1, EMCT may, in addition to terminating the agreement, retain any monies paid, charge a reasonable sum for work performed in respect of which work no sum has been previously been charged, be regarded as discharged from any further obligations under this agreement, and pursue any additional or alternative remedies provided by law.

**15. NOTICES**

15.1 All notices, consents or other communications required or permitted to be given under this agreement by any party to another shall be in writing addressed to the address of the intended recipient shown in this clause or to such other address as has been most recently notified by the intended or the party giving notice. In the case of EMCT, Managing Director, EMC Technologies Pty Ltd, 176 Harrick Road, Keilor Park, VIC 3042, Fax: +613 9331 7455. In the case of the Customer, to the address of the person who signed the agreement.

**16. SUB-CONTRACTS**

16.1 The Customer acknowledges that EMCT may sub-contract the performance of this agreement or any part of this agreement.

**17. WAIVER**

17.1 No waiver by EMCT of any of its rights under this agreement will prejudice its rights in respect of any subsequent breach of the agreement by the Customer. Any failure by EMCT to enforce any of the provisions of this agreement, or any forbearance, delay or indulgence granted by EMCT to the Customer, will not be construed as a waiver of its rights pursuant to the agreement.

**18. SEVERABILITY**

18.1 In the event of any provision or provisions of this agreement being invalid, unenforceable or illegal for any reason, the agreement shall remain otherwise in full force apart from the said provision or provisions which will be deemed deleted.

**19. GOVERNING LAW**

19.1 This agreement will be governed by and construed according to the law of Victoria.