

## WHAT ARE "SALES TERMS" ?

If you sell product or services by wholesale or by retail (although not over a shop counter) you need a short contract to clarify the terms of sale.

Very often the buyer will not even read the terms, but the important thing is that you make them aware that you have sales terms that stipulate the basis on which you do business. You also then give the buyer the chance to consider the terms and obtain any advice on the sales contract that they require.

Sales terms are often found, for example, on the back of a company's quotation or confirmation of receipt of order. They are also found on the back of invoices, although if the company is issuing the invoice after the products or services are delivered it is probably a bit late.

Ideally the buyer should acknowledge their agreement with the terms. This is sometimes difficult to arrange and administer when everyone is busy. The next best is that you draw their attention to the terms and the fact that they apply to this transaction with the buyer.

Sales terms should not be hidden or printed so small or so faintly that they could easily be missed. You are likely then to face an argument that a reasonable buyer could not be expected to know they were there and are therefore not bound by them.

Sales terms need to include such things as:

- > the precise identity of the supplier
- > the precise identity of the buyer
- > a precise description of the product or services being provided
- > whether the sale is by sample
- > any time for delivery condition
- > an automatic extension period for delivery
- > whether delivery is at the supplier's site or is physically transported to another site of the buyer's choice
- > reference to any deposit to be paid
- > if product being shipped then whether goods are fob or cif
- > who pays the GST
- > payment terms generally
- > interest on unpaid amounts
- > retention of title clause until payment received
- > variations to specifications after order
- > installation conditions if appropriate
- > a third party guarantee of payment
- > limiting liability for faulty product or services (subject to Trade Practices Act)
- > time of passing of risk
- > how either party can terminate the contract
- > dispute resolution outside the court system