
STANDARD TERMS & CONDITIONS OF TRADE
SP SCREENS PTY LTD ABN 67 167 984 438

In this document:

Goods means the goods supplied or to be supplied to you by us, which may include screens, slates and gates.

Installation means the installation of Goods that we supply to you.

Quote means any quote we issue from time to time.

Check Measure refers to an inspection whereby a representative of SP Screens will attend the premises where the Goods are to be installed to take measurements for the Goods.

Terms means the terms and conditions contained in this document, as amended by us from time to time.

We, us or our means SP Screens Pty Ltd ABN 67 167 984 438, SP Screens CCN Pty Ltd ABN 78 606 943 220, SP Screens North Brisbane Pty Ltd ABN 76 609 337 635 and SP Screens Coffs Harbour Pty Ltd 89 619 537 656 and any of our related entities.

1. Quotes

We may issue Quotes for the supply of Goods. All Quotes issued by us to you are subject to these Terms.

Unless otherwise stated, any Quote will remain open for acceptance for the time stated on the Quote and where no time is stated, for 30 days, unless withdrawn by us earlier.

A Quote may be accepted by signing and returning the Quote. If you accept a Quote, you are also accepting all of these Terms without amendment.

Where additional costs are incurred by us as a result of the imposition of a special site allowance, or allowances that apply to a project did not form part of an initial Quote, such as additional costs relating to new or additional Goods, those costs must be paid by you to us as amounts payable in addition to the sum stated in the Quote.

2. Acceptance

We reserve the right to refuse any order placed by acceptance of a Quote within 7 days of receipt of the acceptance.

All variations to an order must be made in writing and agreed by us in writing at our discretion prior to supply and/or installation of the Goods. An amended Quote will be issued upon acceptance by us of a variation request.

We may in our absolute discretion accept a purchase order from you in respect of the supply of Goods. These Terms apply to any such purchase order accepted to the exclusion of any terms stated on the purchase order.

If you are an individual, by signing the acceptance of a Quote, you warrant that you are authorised to accept these Terms. If you sign as a director or trustee of a customer then in addition to that entity you agree to be personally liable to guarantee performance of this Agreement and the obligations of the contracting entity as if you are the contracting entity.

3. Specifications

All drawings, specifications, descriptive matter or advertising issued by us and any descriptions, illustrations or particulars of Goods such as weights, dimensions, performance or other attributes provided by us are approximates only and do not form part of any contract as between us. Any deviation or error in these matters do not vitiate any contract between us or give rise to any claim in relation to those matters.

Where specifications, drawings or other particulars are provided by you, our price is based upon the quantities required. If any adjustment in quantities is required, the price stated in any Quote is adjusted on the unit rate basis as stated in the Quote or if that Quote is older than 30 days at such price as we shall reasonably determine having regard to the usual price at that time.

You must check the accuracy of all specifications for the Goods in the Quote before accepting the Quote, including but not limited to quantities, description, sizes, dimensions, colour and accessories.

All measurements for the Goods are approximate until we have conducted a Check Measure.

4. Your obligations

You must ensure that all information provided to us is true, accurate and not misleading.

You must act reasonably and take reasonable care to protect your own interests, including managing all safety risks associated with the operation of the Goods, properly reading and following any instruction or training manuals, following any reasonable direction we may give and appropriately directing your own employees, servants and agents, or occupants or visitors to the premises where the Goods are installed in relation to these things.

5. Delivery, Installation and storage

Any dates specified by us for delivery or installation of the Goods are approximate only. If no dates are so specified, delivery will be within a reasonable time.

We will contact you to arrange an agreed time to deliver and/or install the Goods.

If you have engaged us to install the Goods, preparation of the aperture for installation of the Goods is your responsibility. You agree that we will not be liable for damage caused to your property during the installation of the Goods. It is your responsibility to remove and replace curtains, blinds and pelmets. We will not be responsible for the removal of existing fittings and materials. We will not be responsible for any loss or damage if any existing fittings or materials that are removed for the installation of the Goods are not capable of re-use.

You must fully inspect the Goods and the installation immediately and inform us if you are dissatisfied with the

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Goods or the installation within 7 days of the date of installation.

Unless specifically provided for in the Quote, you must pay any unexpected installation costs of which we were not made aware of prior to installation, such as "working at heights," scaffolding or urgency. You must also pay for the costs for us to remove any waste material from the site if the removal of such waste is necessary or required for us to deliver or install the Goods.

If we are unable to gain access to your premises or we are unable to deliver or install the Goods at the agreed time due to any circumstance beyond our control, you must pay a call out fee of \$85 or such greater amount that we may incur. These fees represent a genuine pre-estimate of the damages or expenses that we may incur as a result of being unable to deliver or install the Goods at the agreed time.

You have no right of action for damages or otherwise against us and release us from any claim for loss or damage occurring by reason of any failure or delay in delivery.

If you fail to take delivery of the Goods or fail to provide any instructions to enable the Goods to be delivered or installed, without prejudice to any other rights, we may store or arrange for the storage of the Goods pending delivery or installation. Delivery shall be deemed to have taken place at the date we store or arrange storage of the Goods.

Any costs or expenses incurred in relation to storage, including related insurance, of Goods pending delivery or installation are payable by you.

6. Goods and Services Tax

Unless otherwise stated, all amounts and prices provided in a Quote or otherwise are exclusive of GST. Where the service provided is subject to GST, it will be added and charged to you.

7. Price increases

Amounts and prices stated on any Quote are those at the date of the Quote. If you require any changes to the Quote which affect the cost or rates for insurance, freight, cartage or shipping expenses, duties, exchange rates, sorting and stacking costs, costs of materials or any other amounts used to calculate the price or amounts stated on the Quote, or if those inputs increase in cost before acceptance or during the currency of our contract, any increase in those amounts are on your account and will increase the price accordingly.

8. Accounts and interest

You must pay invoices issued by us by cash, direct deposit, bank cheque, money order, or credit card.

Unless otherwise agreed by us in writing, you must pay a deposit equivalent to 50% of the net order value upon

acceptance of a Quote and the balance no later than four (4) days prior to the agreed Installation date.

We may in our absolute discretion agree to accept credit terms whereby payment of our invoice will be due within 30 days of the date of supply or installation of the Goods.

If our account is not paid in full by the due date, we may charge you interest on the unpaid amount at the rate of 1.5% per month.

9. Outstanding accounts

If any account remains outstanding for a period of 45 days or more, without limitation to any other rights and remedies we may have, you hereby charge in our favour any real or personal property in which you have an interest with payment of any outstanding account and you irrevocably authorise us to lodge caveats to notify and protect that charge in relation to any real property in which you have an interest at your cost.

If an account remains outstanding for more than 60 days, you authorise us to provide your particulars and the particulars of the unpaid debt to any credit reporting agency to have the default in payment listed.

All costs and disbursements incurred by us in recovering payment of any overdue account or in enforcing our rights under these Terms including, without limitation, legal costs on a solicitor and client basis are payable by you.

We may retain any documents or Goods held on your behalf pending payment of any outstanding account.

10. Retention of title

We reserve the following rights in relation to all Goods until all amounts owing by you to us in respect of those Goods are paid in full:

- (i) ownership of the Goods,
- (ii) to enter your premises (or the premises where the goods are located) without liability for trespass or any resulting damage to retake possession of the goods; and
- (iii) to keep or resell any of the Goods.

11. Returns

We are not under any obligation to accept the return of any Goods or to provide refunds however, we may do so only on terms satisfactory to us.

12. Cancellation/Termination

We may terminate any order at any time without cause and in our absolute discretion.

You may cancel an order with our consent and on terms which indemnify us from all costs and losses in respect of the order sought to be cancelled and pay such amounts within 14 days of the cancellation.

In the event that we consent to the cancellation of your order, the following cancellation fees will apply:

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- (i) a fee of 10% of the total cost of your order if your order is cancelled after it is accepted by us;
- (ii) a fee of 50% of the total cost of your order if you cancel your order at any time after the Check Measure or after the Goods have been ordered from the manufacture, but before installation of the Goods;
- (iii) a fee of 80% of the total cost of your order if you cancel your order within 24 hours of the agreed Installation Date.

You agree that the above cancellation fees represent a genuine pre-estimate of the costs and expenses that we will incur from the cancellation of your order.

Subject to these Terms, on termination, any part of the price paid (if paid in advance) will be refunded to you within 14 days of the cancellation of the relevant order, less the costs and losses associated with that order.

In the event that you purport to terminate and/or repudiate or cancel any order without our consent, then, without prejudice to our other rights and remedies, we may recover from you all costs and expenses incurred by us in our performance of the order up to the date of termination, and all loss and damages arising from or related to the termination or repudiation.

If you are in default of any of these Terms we may, without prejudice to any other rights we may have, refuse to supply or Install or deliver further Goods, until such time as you have remedied the default.

13. Release and indemnity

You hereby release and indemnify us and agree to forever keep us indemnified from any and all cost, damage, liability, expense or loss, including indirect, consequential and special losses, that we may incur in relation to you or any third party, where the cost, damage, liability, expense or loss is caused by or contributed to by the Goods, any defect of fault in workmanship or design or their use or for any other reason whatsoever.

14. Risk and insurance

If you arrange delivery of the Goods independent of us, risk of damage to or loss of the Goods the subject of an order passes to you immediately upon dispatch from us, that is, whilst on transit for delivery to you or where we are storing the goods for you pursuant to clause 5 at the date we store or arrange storage of the goods for you.

If we arrange delivery of the Goods and you pay us a freight charge for delivering the Goods to you, risk of damage to or loss of the Goods the subject of an order passes to you immediately upon delivery at the nominated site.

Any property of yours (being property other than the Goods we are providing as part of an order) in our possession, custody or control for whatever purpose remain at your risk as regards loss and damage and you

agree to effect appropriate insurances against such loss and damage.

15. Warranties

Any warranty or condition which would otherwise be implied in any agreement between us or in these Terms (including, but not limited to, merchantability, suitability or fitness for purpose, quality, design, assembly, installation, operation or otherwise) is expressly denied and is excluded to the maximum extent permitted by law.

In some cases, the manufacturer of the Goods will provide a written warranty in relation to the Goods, which will be provided to you following the delivery or installation of the Goods. Where a manufacturer's warranty is provided, you must notify us within 7 days of identifying any defect in the Goods. We will correspond with the manufacturer in relation to any claim made by you in relation to the warranty.

16. Contractual limitation of liability

To the extent permitted by law, and notwithstanding Clause 13 entitled "Release and Indemnity", our liability to you in respect of any cost, damage, liability, expense or loss (including those caused or contributed to by our negligence or breach of any condition or warranty) is limited to, at our absolute discretion:

- (i) replacement of the Goods or the supply of equivalent Goods;
- (ii) repair of the Goods supplied;
- (iii) repay the purchase price to the extent payment has been received from you; or
- (i) payment of the cost of replacing, repairing or acquiring equivalent Goods.

17. Intellectual property

In this clause, "intellectual property" means all methodologies, processes, inventions, discoveries and novel designs whether or not registrable including any invention of or developments or improvements to equipment, methods or techniques.

All rights we may hold in any intellectual property associated with Goods sold or delivered remains our property, whether under licence from another or otherwise.

18. Force majeure

Each of us will be released from our respective obligations under these Terms and any accepted Quotes (except as to payment and indemnity) in the event of national emergency, war, prohibitive governmental regulations or where any other cause beyond the reasonable control of either you or us, including strike, riot, lockout or trade disputes for a period of 7 days or more renders provision of the goods the subject of an accepted Quote impossible.

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19. General

(a) Information

To the maximum extent permissible by law you waive all rights under the *Privacy Act 1988* and consent to the collection, storage and provision of information by us to third parties. Such information may be used in respect to our attendances relating to the goods we provide to you and for our own statistical or marketing purposes, among other uses.

Further, you expressly consent to us using any personal information or any other information we hold on you for the purposes of investigating our creditworthiness including but not limited to conducting a credit check on you.

(b) Notices

All notices required or permitted to be given under our Terms must be in writing and given by personal service, pre-paid postage, facsimile transmission or e-mail transmission at the addresses of the parties as stated in communications between us from time to time.

(c) No waiver

No right under our Terms will be waived except as expressly agreed in writing and signed by us. We will not waive a right if we grant an extension or forbearance to you.

A waiver by us of any matter does not prejudice our rights in respect of any subsequent or other matter. Any non-exercise or partial exercise of, or any delay in exercising any right or remedy does not constitute a waiver of that right or remedy.

These Terms may only be amended in writing signed by each of us.

(d) Entire agreement

These Terms and any additional terms specified on any accepted Quote supersede all previous agreements between us and embody the entire agreement in relation to any accepted Quote or any other arrangement between us (except any other arrangement is governed by specific terms identified in a separate signed agreement between us in relation to that other arrangement).

Any previous correspondence, negotiations or representations between us do not bind either us or you and neither we nor you can rely on them.

(e) Delegation

We may delegate or sub-contract the performance of any obligation in our absolute discretion.

(f) No assignment

You may not assign the benefits or obligations under any agreement with us to any entity without our consent, which may be withheld in our absolute discretion.

(g) Severance

If (but for this clause) a provision of these Terms would be illegal, void, unenforceable or contravene any law, these Terms are to be varied so as to give effect to the intention of the Terms or severed without affecting the enforceability of the other provisions and failing that, the offending provision is to be interpreted as if the provision was omitted.

(h) Governing law and jurisdiction

These Terms and the transactions contemplated by them are governed by the law of New South Wales, Australia.

We each irrevocably submit to the jurisdiction of the courts of New South Wales, Australia and all courts called to hear appeals from the courts of New South Wales in respect of the Terms or its subject matter.