

TERMS AND CONDITIONS OF TRADE



DEFINITIONS

"Goods" means any goods and/or services provided by the Company as ordered by the Client.
"Company" means MOMA Products Pty Ltd (ABN 18 616 897 137 13).
"Client" means the person, firm or company placing an order with the Company

2. APPLICATION

These terms and conditions apply to any provision of goods or services by the Company to the Client.

3. FORMATION OF CONTRACT

All Goods sold by the Company are sold subject to the Company's standard terms and conditions (as detailed below) which form part of the Client's contract with the Company. Terms and conditions on the Client's order form or other similar document shall not be binding on the Company.

4. QUOTATIONS

The prices, quantities and delivery time stated in any quotation are not binding on the Company. They are commercial estimates only which the Company will make reasonable efforts to achieve. Unless otherwise agreed in writing, a quote does not include delivery.
Quotations for goods by the Company shall be on a pre-printed form issued by the Company and shall remain open for acceptance for a period of thirty (30) days from the date of the quotation, or if no date is specified then for thirty (30) days from the date it was provided to the Customer unless otherwise withdrawn by the Company in the interim period.

5. WIND REGION & TERRAIN CATEGORY

The wind region and terrain category noted in the quote are based on Client supplied information, quotation and subsequent manufacture of goods and materials is based on this supplied information. The company shall not be liable for any installation unless done by the Company.

6. ORDERS

6.1 Orders will be deemed to have been placed when an email confirmation has been received from a responsible employee of the Client's Company clearly identifying the goods and/or services ordered and the Company's quotation number.
6.2 Placement of an order by the Client signifies acceptance of these terms of trade and the most recent quote.
6.3 The Company may at its absolute discretion refuse to provide Goods where:
a) credit limits cannot be agreed upon or have been exceeded; or
b) payment for Goods previously provided to the Client or any related corporation of the Client or to any other party who is, in the reasonable opinion of the Company, associated with the Client under the same or another supply contract, has not been received by the Company.
6.4 An order cannot be cancelled unless the prior written consent of the Company is obtained. Where an order is cancelled, the Client indemnifies the Company against any losses incurred by the Client as a result of the cancellation, including, but not limited to, liquidated damages, loss of profit from other orders forgone as a result of the scheduling of the order which is subsequently cancelled. A re-stocking fee of 25% of the order will be charged upon cancellation of an order. This does not include "Special Orders" these can not be cancelled.

7. PRODUCTION & PROCESS

7.1 If specified in the Order, the Company will provide the Client drawings to enable the Client to view and approve the relevant construction. Production of the Goods will not proceed until the Client has provided written approval of the drawing.
The Client acknowledges that any delay by the Client in approving the drawing will delay production.

8. DELIVERY OF GOODS

8.1 The Company will use its best endeavours to supply the Goods within the quoted timeframe but time will not be of the essence within the contract.
8.2 The Company shall not be liable for any failure, loss or delay to manufacture, supply or deliver Goods where such failure is wholly or partly due to any cause or circumstance whatsoever outside the reasonable control of the Company including but not limited to war, strikes, lockouts, industrial disputes, government restrictions or intervention, transport delays, fires, pandemic, Acts of nature, breakdown of plant and equipment, shortage of supplies or labour, storm or tempest, theft, vandalism, riots, civil commotion or accidents of any kind.

9. FUNCTIONALITY & PERFORMANCE

9.1 The Client acknowledges that differences in material, equipment and coatings may cause variation in colour and that such variation will be accepted by the Client as being within the terms of the order.
9.2 All information, specifications and samples provided by the Company in relation to the Goods will be based upon ideal installation and climatic conditions. Certain weather conditions or installation resulting in sub-optimal UV levels (sunlight) may result in decrease in performance of goods. Such reduction in performance does not entitle the client to request a return of the goods unless agreed to in writing from the Company.
9.3 All information, specifications and samples provided by the Company in relation to the Goods is based upon the manufacturer's ideal installation and climatic conditions. Small deviations or slight variations from the manufacturer's performance specifications which do not materially affect the Client's use of the Goods will not entitle the Client to either reject the Goods upon delivery, or to make any claim in respect of them.

10. RISK OF LOSS

The risk of loss or damage to the Goods shall pass to the Client upon dispatch of the goods from the Company's premises or associated premises.

11. PAYMENTS

11.1 New Clients or other Clients out of terms may be expected to pay in advance for Goods subject to 30% upfront deposit of the value of the order.
11.2 All invoices issued by the Company shall be paid by the Client within thirty (30) days of the date of invoice unless otherwise agreed in writing by the Company and Client. In the event of late payment, the Company may charge interest on the amount outstanding before and after judgement at the rate of 10 percent per month, calculated daily in force from the due date until the date of payment.
11.3 If any amount of an invoice is disputed then the Client shall inform the Company of the grounds for such dispute within seven days of delivery of the goods and shall pay to the Company the value of the invoice less the disputed amount in accordance with these payment terms. Once settlement of the dispute has been agreed, any sum then outstanding shall also be payable in accordance with these payment terms. Any costs incurred to recover funds shall be the responsibility of the Client and shall be paid by the Client in accordance with these payment terms.
11.4 The Company reserves the right to increase a quoted fee in the event that the Client requests a variation to the work agreed. The increase in price due to the variation in the quotation will be agreed by the Company and the Client.

12. CONFIDENTIALITY & INTELLECTUAL PROPERTY

12.1 Both parties shall maintain strict confidence and shall not disclose to any third party any information or material relating to the other or the other's business which comes into that party's possession and shall not use such information and material without written permission by the other party.
12.2 Where the Company has designed or drawn Goods for the Buyer, then the copyright in those designs and drawings shall remain vested in the Company and shall only be used by the Client at the Company's discretion

13. WARRANTY

13.1 The Company warrants that the Goods will be supplied using reasonable care and skill. The Company does not warrant that the Goods supplied are error-free, accurate or complete.
13.2 Neither party shall be liable for any default due to but not limited to any act of nature, war, terrorism, storm or tempest, theft, vandalism, riots, civil commotion or accidents of any kind.
Any damages due to vandalism and/or theft on purchase, trial or consignment will not be covered by the company. The client will be held responsible to cover any expenses occurred once purchased or on trial and/or consignment.

14. STORAGE

14.1 The Company reserves the right to implement a storage fee if delivery is delayed after agreed upon date. Should project timeline require storage of materials, the Company reserves the right to bill for those materials at the time they have been received at the Company's location.

15. EXCLUSIONS & LIMITATIONS OF LIABILITY

15.1 All express or implied items, conditions, warranties, statements, assurances and representations in relation to the Goods are hereby excluded, except for:
(a) these Terms of Trade;
(b) the conditions and warranties mandatorily implied under state legislation and the provisions of the Trade Practices Act 1974; and
(c) any Terms of Trade additional to this agreement to which the Company agrees in writing.
15.2 Except as provided in these Terms of Trade, to the maximum extent permitted by law, the Company will not be liable for any loss, whether arising in contract, tort or otherwise, sustained by the Client in connection with the provision of the Goods. Such loss may include, but is not limited to, loss or damage caused by the negligence or willful act or default of the Company, its servants or agents, whether consequential or otherwise and whether or not such loss is reasonably foreseeable.
15.3 Any liability of the Company is limited to the extent permitted by law determined by the Company at its absolute discretion. With respect to the supply of Goods, the replacement or repair of the Goods or the supply of equivalent Goods, the payment of the cost of replacing the Goods or acquiring equivalent Goods or the payment of the cost of having the Goods repaired.
15.4 Any advice, recommendation, information, assistance or service given by the Company in relation to Goods 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. The Company does not accept any liability or responsibility for any loss, injury or death suffered as a result of the Client's reliance on such advice, recommendation, information, assistance or service

16. GOVERNING LAW

These terms of Trading shall be subject to and constructed in accordance with the laws of Australia and the parties hereby submit to the exclusive jurisdiction of the Australian courts.

17. RETURNS

In the event of the Goods being defective after the Client has reviewed the troubleshooting guide, the Company shall be notified by email at admin@momasolar.com.au or by telephone on (08) 6141 3204 to arrange a return of the Goods. The client will provide the Company with the following information:

- Order Number
- Name
- Contact number
- Collection Address

The Client shall endeavour to return the Goods in its original condition and packaging to minimise any damage during transportation.

Please note freight cost to RETURN and RESEND the Goods are covered by the Company. Upon inspection of the condition of the product(s), the Company will process the exchange. Please allow at least 2 business days from the receipt of the Goods to process the exchange. Should the Company's report on fault diagnosis determine that the Goods function correctly, freight costs will need to be reimbursed to the Company. A freight estimate will be provided prior to the Client returning the Goods.