



## TERMS AND CONDITIONS

Tilt Design Collective (Pty) Ltd offers bespoke laser-cut panels and screens (as defined below) to our Clients, both personally and through the services of third parties. These terms and conditions set out the manner in which we will provide these services to you. Please ensure you have read these terms and conditions and have raised any questions you may have before agreeing to them. **The terms marked in bold have particular legal consequence, so please do make sure that you have read and understood them**

POPI ACT. The Parties agree that they may obtain personal information during the duration of the Agreement for the fulfilment of the rights and obligations contained herein and may further only process such information for the specific purposes of complying with their obligations in terms of this Agreement.

### 1. DEFINITIONS AND INTERPRETATION

**In this agreement, the following words will have the meanings referred to below, unless the context clearly indicates otherwise: -**

- 1.1     **"the/this Agreement"** means these Terms and Conditions read with the terms set out on the Quotation and Invoice (as defined);
- 1.2     **"Day/Days"** means a calendar working day;
- 1.3     **"Deposit"** means the monies payable by you to us to secure the Product, more fully described under clause 2.3 below;
- 1.4     **"in Writing"** means written communication sent to us by email or as a physical printed document, specifically excluding social media;
- 1.5     **"Guarantee for Advance Payment"**: means a JBCC form which details the security obtained by a contractor from an institution approved by the employer;
- 1.6     **"JBCC"** means the Joint Building Contracts Committee NPC;
- 1.7     **"the NCA"** means the National Credit Act 34 of 2005;
- 1.8     **"Parties"** means both you and us;
- 1.9     **"Fee"** means the full and final amount invoiced to you by us;
- 1.10    **"Products"** means the laser cut decorative panels and screens produced by Tilt;
- 1.11    **"the Project"** means the design, production and installation of bespoke laser-cut screens and panels as required by the Customer from time to time;
- 1.12    **"Quotation"** means an examination of the project site by a representative of Tilt and a cost estimation of the total value of the Project;
- 1.13    **"VAT"** means value added tax as defined by the Value Added Tax Act 89 of 1991;
- 1.14    **"We/Us/Tilt"** means Tilt Design Collective (Pty) Ltd, a private company, registration number: 2012/148619/07 duly registered in terms of the laws of the Republic of South Africa;
- 1.15    **"You/Your/ the Client"** means the Client described on the Quotation.
- 1.16    **"Certificate of Practical Completion"** the Works are sufficiently complete to be safely used by the Client for the purpose he intended. Tilt may still complete minor items and fix defects after Practical Completion.



## 2. **QUOTATION**

- 2.1 Once Tilt has received a request for a Quotation, Tilt will conduct an assessment of the site and produce a written Quotation for the Client within 14 Days.
- 2.2 All Quotations are valid for 14 Days only and are subject to the confirmation of the on-site measurements.
- 2.3 Should a client accept the terms of the Quotation, a 70% (seventy percent) non-refundable Deposit is due by the Client prior to commencement of any design or fabrication.
- 2.4 Notwithstanding clause 2.3 above, any project under the value of R30,000.00 excl. VAT (Thirty Thousand Rands) will require full payment prior to commencement of design or fabrication.
- 2.5 Notwithstanding Clause 2 above, in the case of supply-only orders for Tilt products, a deposit of 70% (seventy percent) of the total quotation amount shall be due and payable prior to the commencement of design and fabrication. The remaining 30% (thirty percent) balance shall be invoiced and must be paid in full prior to any shipping, dispatch, collection, or release of the goods
- 2.6 The pricing indicated in a Quotation is subject to change, based on the fluctuations of the Rand to Dollar exchange rate from time to time.
- 2.7 It is Tilt's policy that it will not engage in any JBCC appointment & contract under the value of R750,000 (Seven Hundred and Fifty Thousand Rands) exclusive of VAT.
- 2.8 In a Quotation for a JBCC appointment, should the value exceed R750,000 (Seven Hundred and Fifty Thousand Rands) exclusive of VAT then a Guarantee for Advance Payment will need to be obtained on the main contractor's account.
- 2.9 Tilt Screens products are designed to be water-resistant; therefore, we do not provide waterproofing services and will not be held liable for water ingress or damages thereof.

## 3. **PRICES AND PAYMENT**

- 3.1 A 20% progress (twenty percent) payment shall become due and payable prior to installation, and Tilt reserves the right to withhold commencement of installation until such payment has been received in full.
- 3.2 Once an installation has been completed by Tilt, the balance of the Quotation price of 10% will be invoiced and payable by the Client within 7 (seven) Days.
- 3.3 Interest on overdue payments shall be charged by Tilt at 5% (five percent) over and above the prime lending rate charged by First National Bank of South Africa Limited at the date on which the payment becomes due and payable without further notice to the Client.
- 3.4 In the event the Client defaults on a payment of any amount due to Tilt, then the full balance of any other amounts owed to Tilt by the Client shall immediately become due and payable without further notice to the Client.
- 3.5 In the event of default of any payment due by the Client, Tilt will have the option to cancel the Project and recover possession of any goods already delivered to the Client.
- 3.6 If any goods are repossessed as described in clause 3.5 above, the Client will be liable to pay the difference between the value on the Quotation and the value of the goods at the date of repossession, together with any other related costs permitted by the NCA.
- 3.7 If the Client does not object in Writing to an item appearing on Tilt's invoice within 7 (seven) Days of delivery, the invoice will be deemed to be correct and in order



- 3.8 All payments must be made by electronic funds transfer or telegraphic transfer (SWIFT). Payments are normally cleared within five business Days.
- 3.9 Any additional Products or services requested by the Client will only be processed subsequent to the receipt of the full Quotation price of the initial Project.

#### **4. CHANGES TO ASSIGNMENT**

- 4.1 Should the Client wish to change the specifications of a Project, Tilt will use its best endeavours to accommodate the Client. However, Tilt reserves the right to charge an additional administration fee and design fee together with the difference between the previous and revised specifications.
- 4.2 Cancellation, in the event that the Client, cancels the Project, in full or partially, a 50% handling/cancellation fee will be levied from the deposit amount paid.
- 4.3 Should Tilt be required to change the manner in which a Project is completed, this will be discussed with and agreed to by the Client.

#### **5. INSTALLATION**

- 5.1 Tilt and with the Client will schedule a mutually convenient date and time for the installation of the Product.
- 5.2 The Client is responsible for arranging the readiness of the installation site and should the site be unfit on the date arranged between the parties, Tilt reserves the right to reschedule the installation until such time when the site is fit for installation and a full installation Day rate will be charged to the Client of R3,500.00 ex VAT.
- 5.3 Should the Project site be unsuitable on a particular Day due to factors such as weather or time constraints, the client must sign off on the installation technician's work on the Day, and the installation will be deemed to have been completed on the date agreed between parties despite it taking place over multiple Days.
- 5.4 Tilt recommends that the installation of the Product is scheduled towards the end of the building project or delayed until the bulk of the construction work around the installation site is complete to avoid damage to the Product and ensure a smooth installation.
- 5.5 If the Products are damaged by other contractors and/or other third parties with access to the installation site, and should such damage require repairs either on or offsite Tilt will provide a separate Quotation for such repairs and upon the full payment of such Quotation, will attend to such repairs.

#### **6. FORCE MAJEURE**

- 6.1 For purposes hereof, the term "**Force Majeure**" shall mean any event or circumstance, other than a lack of funds required for payment, which is not within the reasonable control of Tilt, including, but not limited to, theft, war or civil war (whether declared or undeclared, including the serious threat of same) or armed conflict, invasion and acts of foreign enemies, riots, sabotage, blockades and embargos, civil unrest, commotion or rebellion, any act or credible threat of terrorism, any act of God, earthquake, flood, extraordinary storm, nuclear, chemical or biological contamination or explosion, plague, epidemic, pandemic, any act of any authority (including delaying or refusing of licences, and/or restrictions on construction work), explosion, fire, industrial unrest, loadshedding and failure of any power or utility supplies.
- 6.2 If Tilt is rendered unable, in whole or in part, by an event of Force Majeure to perform or comply with any obligation or condition herein contained, including but not limited to the production



and/or installation of a Product, such obligation or condition shall be suspended to the extent and for the duration of the continuance of the inability so caused and Tilt shall be relieved of any liability during such period, provided that the event of Force Majeure will not operate to suspend the obligation to make payment if such payment becomes due and payable in terms hereof.

- 6.3 Tilt shall notify You in Writing, as soon as reasonably possible, specifying the effect of the Force Majeure event on the performance of its obligations hereunder, and furthermore advise what steps the Tilt will take to rectify the situation and resume the performance of such obligations.
- 6.4 Upon the termination of the event of the Force Majeure, Tilt shall immediately notify You of such termination and resume performance of its obligations, factoring in the applicable suspension.
- 6.5 Tilt shall have the sole right, in its sole discretion, to cancel any order that is delayed as a result of a Force Majeure event.
- 6.6 The new date for the production and/or installation of a Product, as a result of any Force Majeure event, shall be agreed between You and Tilt, factoring in the duration of the delay caused by the Force Majeure event.

## **7. PRODUCT USE AND MAINTENANCE**

- 7.1 All Tilt products are deemed non-trafficable and non-load bearing unless otherwise expressly disclosed, engineered, and confirmed in writing at the initial briefing and quotation stage.
- 7.2 Tilt products are not designed, manufactured, or supplied as waterproof systems and no warranty is provided in respect of water ingress or weatherproofing.
- 7.3 Clean Screens with a damp cloth dipped in soapy water.
- 7.4 Do not use any chemicals, acid or alkaline solutions to clean the screen. Damage as a result of using such liquids will void the warranty. Please refer to section 10.
- 7.5 No lubrication spray is needed on the sliders if the Screens are sliding Screens.
- 7.6 With sliding Screens, keep the bottom tracks clean from stones, leaves and debris to ensure the Screens slide smoothly along the tracks.
- 7.7 No sliding screen should be slammed as they are not security gates.

## **8. WAIVER, INDEMNITY AND LIABILITY**

- 8.1 **THE CLIENT'S INSTRUCTION TO COMMENCE A PROJECT IS UNDERTAKEN AT ITS OWN RISK. THE CLIENT INDEMNIFIES TILT AND ITS DIRECTORS, EMPLOYEES, ASSIGNEES AND/OR AGENTS AGAINST ANY CLAIM ARISING FOR ANY DAMAGES OR LOSS WHICH MIGHT BE INSTITUTED AGAINST IT ARISING FROM OR CONNECTION WITH THE PROJECT OR PRODUCT.**
- 8.2 **THE CLIENT, ITS HEIRS, DEPENDANTS, AGENTS, EXECUTORS OR THEIR ASSIGNEES HEREBY IRREVOCABLY WAIVE ANY CLAIMS WHICH THEY MAY HAVE AGAINST TILT FOR ANY FORM OF COMPENSATION FOR DAMAGES WHICH THEY MAY SUFFER DUE TO INJURY AND/OR LOSS OF ANY NATURE WHATSOEVER.**
- 8.3 **THE MAXIMUM LIABILITY OF TILT IF ANY, WILL BE LIMITED IN ALL EVENTS TO THE AMOUNT INITIALLY PROVIDED TO THE CLIENT ON THE FIRST QUOTATION.**
- 8.4 **IN THE CIRCUMSTANCES, WHERE TILT ACTS IN THE CAPACITY AS YOUR AGENT OR ON BEHALF OF THIRD PARTIES, TILT HOLDS ITSELF FREE OF RESPONSIBILITY OR LIABILITY FOR ANY DELAYS, LOSS OR DAMAGES FROM ANY CAUSE WHATSOEVER INCLUDING LOSS/ DELAY/ DAMAGES/ DISSATISFACTION CAUSED BY THIRD PARTY PRODUCTS AND SERVICES.**



8.5 **TILT WILL BE EXEMPT FROM ALL LIABILITY IN RESPECT OF ANY CLAIM WHATSOEVER AS AFORESAID. THE CLIENT ACKNOWLEDGES THAT, IN THE CASE OF INJURY OR DEATH TO THE CLIENT'S EMPLOYEES, IT IS UNREASONABLE TO EXPECT TILT TO HAVE DISCOVERED A CONDITION OR DEFECT IN THE PRODUCT HAVING REGARD TO TILT'S ROLE IN INSTALLING THE PRODUCT ON YOUR BEHALF.**

## **9. CANCELLATION AND REFUND POLICY**

- 9.1 In the event that the client cancels the Project, in full or partially, for any reason whatsoever, we will levy cancellation charges. The handling / cancellation fee levied is 50% of the deposit amount paid.
- 9.2 Cancellation of a Project must be done in Writing. Where cancellations are sent by e-mail, you must obtain an e-mail proof of receipt and written acknowledgement of receipt from us.
- 9.3 We will make every effort to provide an accurate quotation for a Project. However, we reserve the right to cancel a Project or amend the costs quoted without liability or penalty if an error or omission on the part of the Client requires us to do so.
- 9.4 No refunds will be given by Tilt for Projects cancelled on terms other than those listed.

## **10. COMPLAINTS AND DISPUTE RESOLUTION**

- 10.1 Any complaints should be telephonically reported to Tilt Screens at the time of the incident and should be followed up in Writing to us, marked for the attention of the director, no later than 30 Days after the incident has occurred. Refer to <https://arbitration.co.za/>
- 10.2 Complaints should be forwarded to [info@tiltscreens.co.za](mailto:info@tiltscreens.co.za).
- 10.3 Tilt will acknowledge client complaints and endeavour to investigate them within a 30-Day period after which it will provide the client with written feedback.
- 10.4 Although Tilt will make every effort to assist in the resolution of the complaint, it cannot guarantee the satisfactory resolution of complaints for services and products outside of our control and for which it is not responsible.

## **11. WARRANTY**

- 11.1 The warranty obligations of Tilt and the rights and remedies of the Client are wholly and exclusively contained in this clause. No other warranty whether express or implied is extended to the Client.
- 11.2 Tilt warrants that the Products provided in connection with the Project will be free from defects in material and workmanship for the period of one (1) year from the date of installation, subject to the exclusions, limitations, disclaimers, limitations of remedy, and limitations of liability contained in this warranty and in law.
- 11.3 The Client must retain its original proof of purchase in order to establish any claim in terms of this warranty clause.
- 11.4 Movable products such as sliding screens and hinged screens will be serviced, should they require, within the 1-year warranty period. After this, a call out fee will be incurred. If fixture components fail to work and servicing is a continued issue, the defective parts will fall within the warranty of the supplier.
- 11.5 If a Client wishes to produce a claim in terms of this warranty clause, the claim must be in Writing, briefly describe the defect, and be accompanied by a Certificate of Practical Completion (as defined in the relevant JBCC contract).



- 11.6 Tilt accepts no liability for incorrect information or evidence provided by the Client in its formulation of a warranty claim.
- 11.7 Tilt expressly does not warrant that the products provided for the Project are fit for purpose or will work in combination with any other product provided by a third party.
- 11.8 Products provided in the fulfilment of the Project are not and do not purport to be security barriers and ought not to be used as such.
- 11.9 This warranty is extended exclusively to the Client named on the Quotation and will not extend any right to a third party.

11.10 **THE WARRANTY WILL NOT EXTEND TO THE PROJECT IN THE FOLLOWING CIRCUMSTANCES:**

- 11.10.1 Where damage occurs as a result of installation by a third party or the Client itself contrary to written installation instructions issued by Tilt.
- 11.10.2 Where damage occurs as a result of any testing, adjustments, or modification contrary to any written instructions issued by Tilt.
- 11.10.3 Where damages occurred / caused by other contractors / third parties.
- 11.10.4 Where modification is caused or made by any component not issued by Tilt.
- 11.10.5 Where defects are caused by neglect, accident, misuse, abuse or use in a manner that is not normal or customary.
- 11.10.6 Where any discolouration, peeling, scratches, cracks or similar defect in a product finish, after a fair assessment by Tilt, to have been caused by external environmental factors including but not limited to fire, water, acid, alkaline solutions or bird droppings.
- 11.10.7 Where attempted repairs are made to products provided during the Project by individuals not qualified to conduct such repairs.
- 11.10.8 Powder coated panels within a 60km radius of coast.
- 11.10.9 Where Tilt products are exposed to extreme heat temperatures i.e braai rooms, fireplaces and firepits.

11.11 Remedies available to the Client in terms of this warranty include the following:

- 11.11.1 If, after a fair assessment by Tilt, products provided to the Client prove to indeed be defective or damaged, Tilt will determine, in its sole discretion, if such products are eligible for either repair or replacement.
- 11.11.2 In fulfilling the aforementioned warranty, Tilt will be entitled to make use of reconditioned, refurbished, pre-owned or new Tilt products or parts to bring the Project up to specification.
- 11.11.3 Upon completion of such a repair or replacement, the balance of the original remaining warranty period will continue in effect and be applicable to the repaired or replacement product.
- 11.11.4 Unless expressly provided in these Terms, Tilt accepts no liability for labour, installation, repair or replacement costs for any of its products which are sold or provided by a third party.
- 11.11.5 Tilt expressly prohibits the issuing of full or partial refunds to its clients in terms of this warranty.



## **12. INSURANCE**

- 12.1 The Client agrees that it holds a comprehensive insurance policy at the time of the commencement of the Project and such insurance policy must remain active for the duration of the Project.
- 12.2 The Client acknowledges that without such insurance, the Client will be responsible for all costs arising from any damage, loss, harm or injury to the Client, its employees, its property or any other third party may suffer for full duration of the Project.

## **13. ADDRESSES FOR NOTICES AND LEGAL PROCESS**

- 13.1 The Parties choose the following physical addresses at which documents in legal proceedings in connection with this Agreement may be served (i.e. their domicilium citandi et executandi) and at which any written notice in connection with this Agreement may be addressed:
  - 13.1.1 Tilt: c/o Robyn Hey Attorneys, 19 Andrag Road, Vierlanden, Durbanville, Cape Town
  - 13.1.2 Client: The address provided by the Client on the Quotation.
- 13.2 Either of the parties may change this address to another address, by way of a notice to the other party to this Agreement, provided that such a notice is received at least 7 (seven) Days prior to such a change taking effect.

## **14. CONFIDENTIALITY & COMMUNICATION**

- 14.1 Tilt undertakes to take all reasonable and necessary steps to protect your personal information.
- 14.2 The Client authorises Tilt to electronically record and store the following information for the purposes of communicating information or furtherance of the Project, as requested by the Client:
  - 14.2.1 The full name and surnames of directors of the Client;
  - 14.2.2 Contact telephone numbers;
  - 14.2.3 Email address;
  - 14.2.4 Identity Numbers of directors;
  - 14.2.5 All other personal information contained on the Quotation or in email correspondence relating to the Project.

## **15. GENERAL**

- 15.1 No amendment, addition or consensual cancellation of this Agreement will be binding unless it is recorded in Writing.
- 15.2 This Agreement together with the terms of the Quotation and Invoices contain all the terms and conditions of the Agreement between the Client and Tilt.
- 15.3 If any provision of this Agreement is found by a court of law to be invalid or void, such provision will be severed from the remaining provisions, without affecting the remainder of the agreement.
- 15.4 Neither Party shall lose any of our rights under this Agreement if it does not immediately and in every instance insist on them.
- 15.5 This Agreement shall be governed by the laws of the Republic of South Africa and shall be enforced by the courts within the Republic of South Africa.



- 15.6 If Tilt elects bring legal proceedings against the Client to enforce payments of amounts owed to it, the Client agrees to pay all costs Tilt incurs in collecting the payment on the Attorney and Own Client scale.
- 15.7 Notwithstanding the amount which may at any time be owing by the Client to Tilt, the parties consent, in terms of Section 45 of the Magistrates Court Act (No 32 of 1944 as amended), to the jurisdiction of the Magistrates' Court having jurisdiction for the determination of any action or proceeding, which may be brought by Tilt against the Client arising out of any transaction between the parties in terms of this Agreement.
- 15.8 The Client is prohibited from ceding or assigning any its rights or obligations under this Agreement.
- 15.9 If Tilt is prevented from carrying out all or any of its obligations under this Agreement due to an event beyond its control, it will be relieved of its obligations under the Agreement during the period that such event and our consequences continue.
- 15.10 **UPDATED VERSIONS OF THIS AGREEMENT MAY BE UPLOADED TO THE TILT WEBSITE FROM TIME TO TIME AS AND WHEN ITS POLICIES AND PROCEDURES CHANGE AND WHEN EXTERNAL FACTORS SUCH AS LEGISLATIVE UPDATES REQUIRE. BY TRANSACTING WITH TILT OR MAKING USE OF ITS WEBSITE, YOU ARE DEEMED TO HAVE READ, UNDERSTOOD AND AGREED TO EACH AND EVERY PROVISION AS SET OUT IN THIS AGREEMENT AND ANY UPDATED VERSION THEREOF.**

## **16. WEBSITE TERMS**

- 16.1 These terms apply to your use of our website, which can be found here [www.tiltscreens.co.za](http://www.tiltscreens.co.za). By using our website, you acknowledge that you have read and understood these Terms and agree to be bound by them. They represent our entire agreement with you and replace all prior terms, conditions, warranties and/or representations to the extent permitted by law.
- 16.2 You are welcome to browse or use our website for your own non-commercial and information purposes only. No other use is permitted without our prior written consent. If you wish to use content from this site for commercial purposes, you may only do so with the prior written permission obtained from Tilt Screens Marketing Department relevant contact who may be contacted at **info@tiltscreens.co.za or 021 556 9229**.
- 16.3 The unauthorised use of the content of this website, the uploading of any unlawful or damaging information or viral software, or the creation of any links to our website from any other site whatsoever, is strictly prohibited. You agree to indemnify us against any loss, damage, harm, claim or any other cost whatsoever that we may sustain as a result of your use of our website and/or its contents contrary to these Terms.
- 16.4 We shall not lose any of our rights under these Terms if we do not immediately and in every instance insist on them.
- 16.5 All reasonable steps are taken to ensure that the information on our website is accurate and up to date. We do not, however, warrant that the content or information displayed is always accurate, complete and/or current.
- 16.6 All rights, including copyright, trademark and other intellectual property rights embodied in any logos, text, images, video, audio or other material on this website are owned by or licensed to us. All data and information communicated to or from the website including its database also belongs solely to us or our licensors.
- 16.7 You are not permitted to use the content of our website, our logos or any product or other images that appear on our website without our prior written consent. Unauthorised use, reproduction,



modification and/or distribution is strictly prohibited.

16.8 External hyperlinks may appear on our website. The hyperlinks may not be construed to constitute any relationship between us and any linked third party or any endorsement by us of such third party, and use of or reliance on any external links provided is at your own risk.

16.9 **USE OF OUR WEBSITE IS ENTIRELY AT YOUR OWN RISK. WE DO NOT WARRANT THAT THE FUNCTIONS PROVIDED BY THE WEBSITE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT THE WEBSITE OR THE SERVER THAT MAKES IT AVAILABLE ARE FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. WE ACCEPT NO LIABILITY, TO THE EXTENT PERMITTED BY LAW, FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE OF ANY KIND WHATSOEVER OR HOWSOEVER CAUSED ARISING FROM THE ACCESS OR USE OF OUR WEBSITE OR THE PURCHASE OF ANY OF OUR PRODUCTS OR SERVICES OR THE RELIANCE ON OTHER ADVICE CONTAINED ON OUR WEBSITE. YOU AGREE, TO THE EXTENT PERMITTED BY LAW, TO INDEMNIFY US AGAINST ANY LOSS OR DAMAGE SUFFERED OR LIABILITY INCURRED BY REASON OF ANY ACT OR OMISSION ON YOUR PART OR THAT OF ANY THIRD PARTY ACTING ON YOUR BEHALF IN CONNECTION WITH YOUR USE OF OUR WEBSITE.**