

# Sheet Metal Solution Limited – Terms & Conditions of Trade

1.1	<b>Definitions</b> 1.1 "Definitions" means the terms and conditions contained herein together with any Quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract.	7.2	If any of the Goods are damaged or destroyed following Delivery but not on account of the Client, SMSL is entitled to receive all insurance proceeds payable for the Goods. The production of these terms and conditions by SMSL is sufficient evidence of the SML's rights to receive the insurance proceeds without the need for a separate assignment.	13.3	(d) immediately advise SMSL of any material change in its business practices of selling the Goods which would result in a change in the nature of proceeds derived from such sales.	13.3	SMSL's rights to receive the insurance proceeds under sections 13.1(a), 13.3(1) and 13.4 of the PPSA shall apply to these terms and conditions.
1.2	"SMSL" means Sheet Metal Solution Limited, its successors and assigns or any person acting on behalf of and with the authority of Sheet Metal Solution Limited.	7.3	If the Client requests SMSL to leave Goods outside SMSL's premises for collection or to deliver the Goods to an unattended location then such Goods shall be at the Client's sole risk.	13.3	(e) SMSL's right to receive the insurance proceeds under sections 13.1(a), 13.3(1) and 13.4 of the PPSA shall apply to these terms and conditions.	13.3	The Client warrants that the structure to be installed or erected is sound and safe and that the Goods to be installed or erected is in accordance with and will sustain the installation and work incidental thereto and SMSL shall not be liable for any claims, demands, losses, damages, 13.6 costs and expenses howsoever caused or arising should the premises be unable to accommodate the installation.
1.3	"Client" means the person, entities or any person acting on behalf of and with the authority of the Client requesting SMSL to provide Services or to act on any proposal, quotation, order, invoice or other documentation, and/or	7.4	The Client warrants that the structure to be installed or erected is sound and safe and that the Goods to be installed or erected is in accordance with and will sustain the installation and work incidental thereto and SMSL shall not be liable for any claims, demands, losses, damages, 13.6 costs and expenses howsoever caused or arising should the premises be unable to accommodate the installation.	13.3	(f) SMSL shall not be liable for any defect or damage resulting from incorrect or faulty installation of the Goods by any third party.	13.7	The Client acknowledges that SMSL is only responsible for parts that are replaced/supplied by SMSL. SMSL does not accept any liability in respect of components supplied by any other third party that subsequently fail and are found to be the source of the failure, the Client agrees to indemnify SMSL against any loss or damage to the Goods, or caused thereby, or any part thereof howsoever arising.
1.4	(a) if there is more than one Client, is a reference to each Client jointly and severally, and	7.5	Where the Client has supplied any materials for SMSL to complete the Goods and/or Services under this Contract, the Client acknowledges that the Client is responsible for the suitability of such materials for the purpose, quality and any faults inherent in those materials. SMSL shall not be responsible for any defects in the Goods, any loss or 14.3 damage howsoever arising from the use of materials supplied by the Client.	13.7	(g) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(a) if the Client does not follow SMSL's recommendations;
1.5	(b) if the Client is a partnership, it shall bind each partner jointly and severally and	7.6	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(b) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(b) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
1.6	(c) if the Client is a part of a Trust, shall be bound in their capacity 7.5 as a trustee; and	7.7	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(c) resulting from incorrect use and/or installation of the Goods by the Client or any other third party;	13.7	(c) resulting from incorrect use and/or installation of the Goods by the Client or any other third party;
1.7	(d) includes the Client's executors, administrators, successors and 7.6 permitted assigns.	7.8	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(d) where welding, galvanising (or any other heat related process) causes damage distortion or any other damage.	13.7	(d) where welding, galvanising (or any other heat related process) causes damage distortion or any other damage.
1.8	"Goods" means all Goods or Services supplied by SMSL to the Client at the Client's request from time to time (where the context so permits the terms "Goods" or "Services" shall be interchangeable for the purposes of this Contract).	7.9	Where the Client has supplied any materials for SMSL to complete the Goods and/or Services under this Contract, the Client acknowledges that the Client is responsible for the suitability of such materials for the purpose, quality and any faults inherent in those materials. SMSL shall not be responsible for any defects in the Goods, any loss or 14.3 damage howsoever arising from the use of materials supplied by the Client.	13.7	(e) where the Client does not follow SMSL's recommendations;	13.7	(e) where the Client does not follow SMSL's recommendations;
1.9	"Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to 7.7 this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "Personal Information" such as name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information where applicable), previous credit 8.7 applications, credit history and pricing details.	7.8	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(f) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(f) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.1	"Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including credit card information) specific to that particular client and website, and 4.9 can be accessed either by the web server or the client's computer. If the Client does not wish to allow Cookies to operate in the background when ordering from the website, then the Client shall have the option to enable / disable provided on the website, prior to ordering Goods via the website.	7.9	Where the Client has supplied any materials for SMSL to complete the Goods and/or Services under this Contract, the Client acknowledges that the Client is responsible for the suitability of such materials for the purpose, quality and any faults inherent in those materials. SMSL shall not be responsible for any defects in the Goods, any loss or 14.3 damage howsoever arising from the use of materials supplied by the Client.	13.7	(g) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(g) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.2	"Price" means the Price payable (plus any Goods and Services Tax (GST) where applicable) for the Goods as agreed between SMSL and the Client in accordance with clause 5 below.	8.1	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(h) where the Client does not follow SMSL's recommendations;	13.7	(h) where the Client does not follow SMSL's recommendations;
2.3	<b>Acceptance</b> 2.3 The Client is taken to have exclusively accepted and is immediately bound by the terms and conditions of this Contract when the Client places an order for or accepts Delivery of the Goods.	8.2	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(i) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(i) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.4	In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.	8.3	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(j) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(j) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.5	Any amendment to the terms and conditions of this Contract may only be amended in writing by the consent of both parties.	8.4	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(k) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(k) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.6	The Client acknowledges that the supply of Goods on credit shall be 8.2 subject to the Client having accepted a credit limit established with SMSL and it has been approved with a credit limit established for the account.	8.5	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(l) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(l) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.7	In the event that the supply of Goods request exceeds the Client's 9.1 credit limit and/or the Client does not provide the payment terms, SMSL reserves the right to refuse Delivery.	8.6	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(m) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(m) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
2.8	Electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 22.6 of the Contract and Commercial Law Act 2017 or any other applicable provisions of that Act or any Regulations referred to in that Act.	8.7	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(n) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(n) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
3.1	<b>Errors and Omissions</b> 3.1 The Client acknowledges and accepts that SMSL shall, without 9.2 prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s) resulting from an inadvertent mistake made by SMSL in the formation and/or administration of this Contract, and/or	8.8	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(o) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(o) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
3.2	(a) contained in/omitted from any literature (hard copy and/or 10.1 electronic) supplied by SMSL; or	8.9	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(p) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(p) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
3.3	(b) in the event that an error and/or omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or willful misconduct of SMSL, the Client shall not be entitled to treat this Contract as null and void nor render it invalid.	10.2	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(q) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(q) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
4.1	<b>Change in Control</b> 4.1 The Client shall give SMSL not less than fourteen (14) days prior 10.3 written notice of any proposed change of ownership of the Client and/or any other change in the other parties (including but not limited to, changes in the Client's name, address and contact phone or fax numbers, change of trustee or business practice). The Client shall be liable for any loss incurred by SMSL as a result of the Client's failure to comply with this clause.	10.3	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(r) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(r) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.1	<b>Price and Payment</b> 5.1 At SMSL's sole discretion the Price shall be either: (a) as indicated on any invoice provided by SMSL to the Client; or (b) SMSL's quoted price (subject to clause 5.2) which will be valid for the period indicated in the quotation or otherwise for a period of 11.2 thirty (30) days.	11.1	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(s) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(s) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.2	SMSL reserves the right to change the Price if a variation of SMSL's quotation is requested. Any variation from the plan of scheduled works or specifications and/or not limited to any variation in the scope as a result of additional works required due to hidden or unidentifiable, inaccurate measurements provided by the Client or as a result of increases to SMSL in the cost of materials and labour) will be charged to the Client at the time of the variation (including but not writing, and shown as variations on SMSL's invoice. The Client shall be required to respond to any variation submitted by SMSL within ten (10) working days. Failure to do so will entitle SMSL to add the cost of the variation to the Client's account for all variations must be made in full at the time of their completion.	11.2	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(t) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(t) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.3	At SMSL's sole discretion a non-refundable deposit may be required.	11.3	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(u) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(u) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.4	Time for payment for the Goods being of the essence, the Price will be payable by the Client on the date determined by SMSL, which may be: (a) on Delivery of the Goods; (b) by way of instalments/progress payments in accordance with 12.1 SMSL's payment schedule; or (c) for certain approved Clients, due twenty (20) days following the end of the month in which a statement is posted to the Client's address or address for notices; (d) the date specified on any invoice or other form as being the date for payment; or (e) failing any notice to the contrary, the date which is seven (7) 12.3 days following the date of any invoice given to the Client by SMSL.	12.1	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(v) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(v) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.5	Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card (a surcharge per transaction may apply), or by any other method as agreed to between the Client and SMSL.	12.2	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(w) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(w) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.6	SMSL may in its discretion allocate any payment received from the Client towards any invoice that SMSL determines and may do so at the time of receipt or at any time afterwards. On any default by the Client, SMSL may re-allocate any payments previously received and allocated in the Client's account to any other invoice. Any payment will be deemed to be allocated in such manner as preserves the maximum value of SMSL's Purchase Money Security Interest (as defined in the PPSA) in the Goods.	12.3	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(x) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(x) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.7	The Client shall not be entitled to set-off or deduct from the Price, any sums owed or claimed to be owed to the Client by SMSL nor to withhold payment of any invoice because part of that invoice is in dispute.	12.4	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(y) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(y) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
5.8	Unless otherwise stated the Price does not include GST. In addition to the Price, the Client must pay to SMSL an amount equal to any GST SML must pay for any supply by SMSL under this or any other Contract for the sale of the Goods. The Client must pay GST, without deduction or set-off of any other amount, at the same time and on the same basis as the Client pays the Price. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.	12.5	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(z) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(z) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
6.1	<b>Delivery of Goods</b> 6.1 Delivery ("Delivery") of the Goods is taken to occur at the time that the Client or the Client's nominated carrier takes possession of 13.1 the Goods at SMSL's address; or (b) SMSL (or SMSL's nominated carrier) delivers the Goods to the Client's nominated address even if the Client is not present at the address.	13.1	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(aa) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(aa) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
6.2	At SMSL's sole discretion the cost of Delivery is either included in the Price or in addition to the Price.	13.2	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(ab) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(ab) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
6.3	SMSL may deliver the Goods in separate instalments. Each separate instalment shall be invoiced and paid in accordance with the provisions in these terms and conditions.	13.3	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(ac) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(ac) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
6.4	Any time specified in the Goods is an estimate only and SMSL will not be liable for any loss or damage incurred by the Client as a result of Delivery being late. However both parties agree that they shall make every endeavour to enable the Goods to be delivered at the time specified. Any delay in the delivery of the Goods by SMSL shall be deemed to be a breach of contract by SMSL. In the event that SMSL is unable to supply the Goods as agreed solely due to any action or inaction of the Client, then SMSL shall be entitled to charge a reasonable fee for redelivery and/or storage.	13.4	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(ad) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(ad) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.
7.1	<b>Risk</b> 7.1 Risk of damage to or loss of the Goods passes to the Client on Delivery and the Client must insure the Goods on or before Delivery.	13.5	The Client acknowledges that variations of colour and texture are inherent in Goods and SMSL shall not be liable for any loss, 15.1 damage or costs howsoever arising resulting from any variation of 15.1 the colour or texture between different batches of product.	13.7	(ae) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.	13.7	(ae) where Goods are stored off site for extended periods of time and are not protected from weather, SMSL shall not be liable for any loss or damage to the Goods.