

## 1. Definitions

'Company' means Scandinavian Profiles Pty Ltd.

'Customer' means the Customer (or any person acting on behalf of and with authority of the Customer) as described on any quotation, work authorisation or other form as provided by the Company to the Customer.

'Goods' means all goods supplied by the Company to the Customer (and where the context so permits shall include any supply of Services as hereinafter defined) and are as described on the invoices, quotation or any other forms as provided by the Company to the Customer.

'Services' means all services supplied by the Company to the Customer (and where the context so permits shall include any supply of Goods as defined above) and includes any advice or recommendations.

'Price' means the price payable for the goods as agreed between the Company and the Customer in accordance with Clause 4.

## 2. Acceptance

The Customer is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Customer places an order for or accepts delivery of the Goods.

These terms and conditions may only be amended with the Company's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Customer and Company.

## 3. Change of control

The Customer shall give the Company no less than fourteen (14) days prior written notice of any proposed change of ownership of the Customer and/or any other change in the Customer's details (including but not limited to, changes in the Customer's name, address, contact phone or fax number/s, or business practice). The Customer shall be liable for any loss incurred by the Company as a result of the Customer's failure to comply with this clause.

## 4. Price & Payment

At the Company's sole discretion, the price shall be either:

(a) As indicated on any invoice provided by the Company to the Customer; or

(b) The company's quoted price which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.

The supplier reserves the right to change the price if a variation to the Company's quotation is requested.

At the Company's discretion a non-refundable deposit may be required.

At the Company's sole discretion:

(a) Payment shall be due on delivery of the Goods; or

(b) Payment shall be due before delivery of the Goods; or

(c) Payment for approved Customers shall be made by instalments in accordance with the Company's payment schedule; or

(d) Payment for approved Customers shall be due thirty (30) days following the end of the month in which the a statement is provided to the Customer's address or address for notices; or

(e) Failing any notice to the contrary, the date which is seven (7) days following the date of the invoice given to the Customer by the Company.

Payment may be made by cheque, bank cheque, electronic/online banking, credit card (a surcharge may apply per transaction), or by any other method agreed to between the Customer and the Company.

GST and other taxes and duties that may be applicable shall be added to the Price except when they are expressly included in the Price.

## 5. Credit Limit

Each customer will have a credit limit of ten thousand dollars (\$10,000) per month (30 days) for a maximum of two months (60 days), not exceeding \$20,000 over that sixty (60) days.

At which point the balance of the first month must be paid in full before entering a third month of credit.

Where there is a disputed invoice, our company would prefer that the residue of the account be paid, rather than holding back the total amount due. This ensures continuity of supply while the disputed invoice or claim is investigated.

Continual disregard of our trading terms will result in credit facilities being withdrawn or adjusted at the discretion of the Company.

Should accounts remain unpaid thirty (30) days after the due date, a stop delivery action will be imposed from that date until prior months' account has been amended.

## 6. Delivery

At the Company's sole discretion delivery of the goods must take place when:

(a) the Customer takes possession of the Goods at the Company's address

(b) the Customer takes possession of the Goods at the Customer's nominated address (in the event that the Goods are delivered by the Company or the Company's nominated carrier).

Delivery of the goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purposes of this agreement.

At the Company's sole discretion, the cost of the delivery is either included in the price or is in addition to the price.

The Company 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.

The Customer shall make all arrangements necessary to take delivery of the goods whenever they are tendered for delivery. In the event the Customer is unable to take delivery of the Goods as arranged by the Company, the Company shall be entitled to charge a reasonable fee for redelivery and/or storage.

Any time or date given by the Company is an estimate only. The Customer must still accept delivery of the goods even if late and the Company will not be liable for any loss or damage incurred by the Customer as a result of delayed delivery.

## 7. Site access

Where goods are being delivered to a working project site, the Company will deliver and the Customer will receive the goods at the kerb alignment in a timely manner. The Customer will be responsible for providing adequate, and timely access to the site for the Company's material.

Sufficient access must be provided for the time of delivery.

## 8. Risk

If the Customer requests the Company to leave Goods outside the Company's premises for collection or to deliver the Goods to an unattended location then such Goods shall be left at Customer's own risk.

The Customer acknowledges that Goods supplied may:

(a) exhibit variations in shade, colour, texture, surface, finish, markings and may contain natural fissures, occlusions, lines,

indentations and may fade or change colour over time  
(b) expand, contract or distort as a result of exposure to heat, cold, weather; and  
(c) mark or stain if exposed to certain substances  
(d) be damaged or disfigured by impact or scratching.

#### **9. Title**

The Company and Customer agree that ownership of the Goods shall not pass until:

(a) the Customer has paid the Company all amounts owing to the Company  
(b) the Customer has met all of its other obligations.

#### **10. Defects**

The Customer must inspect the Goods on delivery and must within seven (7) days of delivery notify the Company in writing of any evident defect/damage, shortage in quantity, or failure to comply with the description or quote. The Customer must notify any other alleged defect in the goods as soon as reasonably possible after any such defect becomes evident. Upon which notification the Customer must allow the Company to inspect the goods.

#### **11. Returns**

Returns will only be accepted provided that:

(a) the Customer has complied with the provisions of clause 10; and  
(b) the Company has agreed in writing to accept the return of the Goods; and  
(c) the Goods are returned at the Customers cost within seven (7) days of the delivery date; and  
(d) the Company will not be liable for Goods which have not been stored or used in a proper manner; and  
(e) the Goods are returned in the condition in which they were delivered in as new condition as is reasonably possible in the circumstances.

#### **12. Pallets & Crating**

Pallets, packing cases and other containers except cardboard cartons remain our property. Ownership of these items is not included in the sale unless otherwise advised.

#### **12. Intellectual Property**

Where the Company has designed, drawn, developed, fabricated Goods for the Customer, then the copyright in any designs, drawings, documents and photos shall remain in the property of the Company.

The Customer warrants that all designs, specifications or instructions given to the Company will not cause the Company to infringe on any patent, registered design or trademark in the execution of the Customer's order and the Customer agrees to indemnify the Company against any action taken by a third party against the Company in respect of any such infringement.

The Customer agrees the Company (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings, photos or Goods which the Company has created for the Customer.

#### **13. Cancellation**

Where an order is cancelled by the Customer, the Company reserves the right to invoice all or part of the full price in accordance with the amount of work carried out on the order

and the costs incurred up to the time such cancellation is accepted by the Company in writing.

#### **14. Excess materials**

Any excess materials not collected within three (3) months of completion of the service, those materials will be sold or disposed of by the Company pursuant to the provisions of the *Uncollected Goods Act 1995*.

#### **15. General**

The failure by the Company to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Company's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

These terms and conditions and any contract to which they apply shall be governed by the laws of New South Wales in which the Company has its principal place of business and are subject to the jurisdiction of the courts in New South Wales.

The Company may license or sub-contract all or any part of its right and obligations without the Customers consent.

The Customer agrees the Company may amend these terms and conditions at any time. These changes will take effect from the date on which the Company notifies the Customer of such change. The Customer will be taken to have accepted these changes if the Customer makes a further request of Goods and Services from the Company.

Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

Both parties warrant they have the power to enter into this agreement and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this agreement creates binding and valid legal obligations on them.