

TERMS & CONDITIONS OF SALE

Issued July 2022



- 1 **General**
 - 1.1 References to CSM include CSM Office Furniture Solutions Pty Ltd and Sheet Metal Manufacturers Pty Ltd and associated companies and businesses.
 - 1.2 A Customer includes any recipient of any documentation from CSM in the course of business whether an order is placed or not. The Customer agrees that the terms and conditions are binding on any agent, advisor and consultant, including architects and builders, acting on behalf of the Customer.
 - 1.3 All conditions, warranties, representations and statements whether expressed or implied which are not contained herein and would otherwise be binding on CSM, are, to the permitted by law, hereby expressly excluded.
 - 1.4 The only terms in connection to the supply of Goods by CSM to the Customer which are binding upon CSM are:
 - a) those set out in these terms and conditions or otherwise agreed to in writing by CSM; and
 - b) those, if any, which are imposed by law and which cannot be excluded.
 - 1.5 No other representation in any document including quotations emails, marketing literature will override those set out in these terms and conditions.
 - 1.6 The price list of CSM and any quotation or tender is not an offer to sell but an invitation to treat only and CSM reserves the right to accept or reject in its absolute discretion any offer or orders which it may receive.
 - 1.7 The prices and any scheduled rates, products and specifications shown in the quotation, on CSM's website, marketing material and in any correspondence are subject to alteration without notice.
 - 1.8 All dimensions supplied on any specification are nominal and should be verified by CSM in writing prior to being used in any calculation, drawing or plan. CSM recommends that allowances and tolerances should be made for fitting on site. CSM will confirm tolerances in writing upon request.
 - 1.9 If CSM accepts an order, it will supply the Goods at the price shown in the Quotation and/or price list current when CSM accepts the order, or in accordance with its written quotation (whichever is appropriate) subject to clause 4, unless otherwise agreed in writing.
 - 1.10 All offers or quotations of CSM shall be valid for no longer than 30 days unless otherwise specified in writing and shall become binding only upon receipt by CSM of an unconditional written acceptance from the Customer as CSM may require. Further the Customer agrees that the price may be determined or adjusted in accordance with the rise and fall formula set out in clause 4.2.
 - 1.11 Any additional contract document proposed by the Customer must be returned with the order. CSM will not guarantee acceptance of any document which imposes additional conditions or costs upon CSM. Please note that lead times will be affected should CSM be required to assess additional documentation/contracts.
 - 1.12 All quotations, proposals, shop drawings, line drawings, designs, specifications, advice, intellectual property and materials remain the ownership of CSM and are supplied to the customer in good faith on a commercial in-confidence basis and are subject to copyright. They are not to be re-produced, copied or supplied to any third party under any circumstance without the prior written approval of a Director of CSM. Should any documentation be supplied to competitors, published or made public, CSM reserves all legal rights and will prosecute.
- 2 **Order Confirmation, Amendments & Cancellations**
 - 2.1 Order confirmation must be in writing. Email transmission is acceptable.
 - 2.2 If a Customer wishes to modify or cancel an order then it may only do so in the manner specified from time to time by CSM. All requests to cancel or modify existing orders must be made in writing. The Customer acknowledges that the extent to which an order can be modified or cancelled, if at all, will depend on the type and the stage that the order has reached in CSM.
 - 2.3 As the order may include made or painted to order or specially engineered and designed product and as manufacture process may commence immediately an order is placed, CSM is unable to accept cancellation or reduction of quantities.
- 2.4 Any modifications to quantity or design are subject to the progress of manufacture and will incur additional engineering and manufacturing costs.
- 2.5 Any costs and or charges incurred due to any changes or alterations of the original order will be to the customer's account.
- 2.6 Where CSM issues an order acknowledgement the Customer must advise CSM of any discrepancies within 48 hours from its receipt.
- 3 **Delivery Dates / Lead Times**
 - 3.1 Delivery Dates and Lead Times provided verbally or in the quotation are indicative only and are estimated upon current workload. A final lead time / delivery date shall only be in writing by CSM and the customer's written order must be received no later than 24 hours after such confirmation. Lead time is measured from the later of receipt of official order or upon approval of account application.
 - 3.2 General ex-factory lead times for standard product from placement of the initial order is approximately 4-6 working weeks subject to final quantities, receipt of signed off shop drawings (as appropriate), the proposed fit-out program and scheduled closures (including Public Holidays and Christmas Holidays). A longer lead time may be applicable for non-standard products and projects.

CSM will confirm anticipated delivery dates upon placement of order, receipt of signed off Shop Drawings and/or Line Drawings and receipt of all project documentation (please note: as factory loads vary and certain components may contain imported content which require additional lead time, we recommend that all lead times quoted are confirmed prior to placement of order).
 - 3.3 **Variations**

All works will be carried out as set out in the quotation. Any additional works required will be priced and acceptance of these (in writing) will be necessary before the variation to works can be carried out.
 - 3.4 **Expediting Projects**

CSM schedules production up to 3-6 months in advance and certain components may be imported and/or subject to extended lead times. Should the client request for a job/project to be expedited/"brought forward" of its original date, CSM will use best endeavours but cannot guarantee that it is possible or feasible. Any additional costs that are incurred in expediting production will be treated as a variation.
- 4 **Price, Product and Condition Changes**
 - 4.1 All products, prices and conditions of sales are subject to change without notice. All prices exclude GST unless explicitly noted.
 - 4.2 **Price Validity – Rise and Fall**

All pricing up to the point of order and during the manufacture and delivery program is based on current prices for raw materials, freight and imported components. Due to the volatility in global markets and steel supply in particular, **CSM can only hold prices for a maximum period of one month from the date of quotation.** Delivery beyond 3 months of order will be subject to a rise and fall clause to establish price variation. All products with or without imported components and content will be subject to Rise and Fall. During the life all projects from the point of order to deliver and installation pricing for each stage will be subject to Rise and Fall.
For the removal of doubt any changes in the product specifications and design or delivery beyond 3 months of the date of quotation regardless of the date of order will be subject to rise and fall.
 - 4.3 **Project Pricing**

Pricing contained in a quotation is based upon receiving a single order for all products detailed and a single delivery (unless otherwise specified). Should the order be for part supply only, CSM reserves the right to re-price based upon lesser volumes or revised product mix.
CSM will provide product on a low volume basis for chum or additions on the basis of project pricing for a period of no greater than 3 months after project delivery and completion (minimum quantities may apply). Where the product contains imported component or is special design, repricing will be required. Delivery and Installation will be quoted separately.
 - 4.4 **Allowances**

No allowance has been made for site conditions, site allowances or inductions.
Site Inductions will be charged per person per hour plus parking costs. If the hourly rate is not specified in the quotation a rate of \$75.00 per hour, or part thereof, (minimum 2 hours if not on the day of installation) will apply.

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Should Shop Drawings or Site Attendance/Inspection be required prior to production, a variation invoice will be provided for hours worked plus parking and transport. If the hourly rate is not specified in the quotation a rate of \$75.00 per hour, or part thereof, will apply. A variation invoice will be provided.

5 Payment Terms and Retention

- 5.1 All payment claims are made under the Building & Construction Industry Security Payment Act 1999 NSW.
- 5.2 Notwithstanding Clause 5.7, CSM may consider a payment schedule for projects with a value greater than \$50,000. For the removal of doubt the customer agrees that the payment schedule shall be 30% Mobilisation with order (clause 5.6), 50% prior to delivery upon being notified that the goods are available and 20% upon completion on site.
- 5.3 An account will only be opened when a completed credit application form has been approved. A credit application form may be provided upon request. The minimum account transaction is \$5,000 for the first order.
- 5.4 Unless otherwise indicated on the invoice, the terms for an approved credit account shall be full payment no later than 14 days from the date the Invoice is raised. Failure to comply may result in withdrawal of credit.
- 5.5 All other transactions will be on the basis of direct deposit prior to delivery. COD may be allowed in special circumstances.

5.6 Mobilisation

For all orders, CSM requires payment of our mobilisation fee which represents 30% of the contract value. This commercial commitment from the purchaser allows CSM to mobilise our staff, raw materials, components and manufacturing resources and provide design and project management resources. Payment of the mobilisation fee is required 7 Days from Date of Order (CSM shall provide an invoice upon processing of order).

- 5.7 Projects will be invoiced progressively upon completion of milestones and in the absence or an agreed payment schedule, projects will be invoiced as per clause 5.2.
- 5.8 Payments by cash or credit card may be subject to a maximum value of \$10,000.00.
- 5.9 Payment by Credit Card will attract a fee of 2% of the total of the invoice value.
- 5.10 If for any reason the customer is unable to take delivery within 7 days of the specified delivery and installation date, payment is due within the normal trading terms after CSM notifies the customer of the availability of the goods for delivery.
- 5.11 If payment is not made in accordance with CSM's terms then administration charges of 2% per month will apply.
- 5.12 CSM does not allow for defects liability periods, retentions, liquidated damages nor performance guarantees, consequential losses or any site-specific allowances or Union Conditions unless specifically agreed in writing.
- 5.13 All prices and rates quoted are exclusive of GST unless otherwise specified.
- 5.14 CSM may assign or insure either part or the entire debtor balances outstanding including payments for work-in-progress contingent / arising from a client's order. Failure to maintain credit terms detailed herein or cancellation of order may result in action for recovery by CSM or third parties without notice and reporting of default to credit agencies.
- 5.15 **Bank Guarantees and Security**
- i) The full costs of any bank guarantee & security to support deposits & payments (clause 5.3) and retentions & Defects liability (clause 5.12) are to the account of the customer.
- iii) Bank Guarantees shall have a sunset clause of 12 months from the date of issue and no greater than the earlier of 6 months after CSM completion on site or 6 months from practical completion.

6 Property

6.1 Risk

Risk in the goods passes to the customer upon delivery to the customer's nominated carrier or premises. Risk in goods held for storage will pass upon CSM notifying the customer of the availability of goods for delivery.

6.2 Property

Property in the goods shall remain with CSM and CSM reserves the right to dispose of the goods until such time as:

- i) Full payment is made for all amounts owing by the customer to CSM under these conditions, or

- ii) The customer sells the goods (whether in their original form or altered or as part of other products) to its customers in the ordinary course of business.

If the customer fails to pay all or any part of the customer's total indebtedness to CSM under the conditions, or becomes bankrupt, or enters into an agreement with creditors or appoints an administrator, receiver or liquidator, CSM may without notice and without prejudice to any of its other rights and remedies recover and/or sell the good and may enter upon the customer's premises by its "servants or agents" for that purpose.

Until payment is full for all amounts owing by the customer to CSM under these conditions:

- i) The customer shall store the goods in a way that clearly manifests CSM Groups title;
- ii) The customer shall hold the goods as Bailee and as a fiduciary for CSM Group;
- iii) In the event of sale of the goods (whether in their original form, or as part of other products), the customer is in a position as a fiduciary shall:
- a) Assign to CSM the benefit of any claim against a customer; and
- b) Account fully to CSM for the proceeds of sale.

7 Freight and Installation

- 7.1 All deliveries and installation works to be done during normal working hours, Monday-Friday and based on clear and uninterrupted access. Delivery and/or installation outside of normal working hours will incur additional costs and CSM must be notified at the time of order placement. Work program may result in delays and increased installation time which shall be to the customer's account.
- 7.2 Unless otherwise agreed, goods are ALWAYS sold ex-works. Packing, freight and insurance is to the customer's account. CSM is not responsible for any damage caused by carriers during the delivery process. CSM recommends that the customer arranges adequate marine and shipping insurance.
- 7.3 Delivery will be to the customer's ground floor site with reasonable heavy vehicle access or to the customer's specified carrier during normal working hours. Delivery areas are to be clear of any obstructions and a working area provided prior to the arrival of CSM crew. Due to WorkCover and OH&S requirements, delivery is based on Ground Floor access or the free use of lifts to upper levels (no stairs). Should a lift not be available (or access via stairs), this will result in increased costs and possible delays. If not advised at time of order any additional costs or redelivery charges arising shall be to the customer's account.
- 7.4 In the event that CSM (or its contractor) incurs additional delivery and installation charges and/or waiting time of trucks(s), delivery and installation personnel, such additional costs and waiting time shall be for the customer's account. The costs and delays shall include, inter alia, the following:
- i) inability to gain access or parking;
- ii) the site being in an unfit state due to incomplete work of other trades or if debris is not cleared;
- iii) the customer's representative not attending where that attendance was pre-arranged and necessary for the orderly completion of work.
- iv) any other reason outside CSM's control where the goods were unable to be installed within the allotted time frame due to difficulties or restrictions or due to non-performance by the customer, and
- v) CSM is not liable for any delay or failure to perform due to strikes, lockout or other labour difficulties, failure due to delay of raw materials or other goods, specified material and finishes, transportation difficulties, accident, fire, act of God or any other cause beyond CSM Group's control. Waiting time in Sydney Metropolitan area shall be charged as a minimum of 3 hours including travel to and from site. The waiting time rates may be varied by CSM without notice. The current rates are available upon request.

8 Claims and Returns

- 8.1 All claims and returns must be made within two days of receipt of goods. The customer will be responsible for immediate examination of the goods upon arrival of the goods at the place of delivery nominated by the customer.
- 8.2 Shortages, damage and discrepancies must be noted on delivery dockets.

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- 8.3 All Cabinets, Shelving, Carts, Storage & accessories products are manufactured and/or painted to customer's order, and accordingly will not be accepted for credit. Return freight must be paid by the customer whilst damages will be assessed and charged accordingly. Notwithstanding the above, written approval must be obtained from CSM prior to returning goods, for any reason.
- 8.4 At CSM's discretion, small quantities only of standard products not otherwise covered in 8.3, ordered in error, maybe returned for Credit but will accrue a restocking fee of 25% plus GST.
- 9 **Delays, Storage & Transport Costs**
- Storage and additional transport charges will apply if delivery is delayed by client or its representative beyond the agreed delivery date, or should goods need to be redelivered where a site is not ready. Should the commencement date be delayed, it will be the responsibility of the client to provide storage facilities for the manufactured product. CSM can organise the storage facilities however full charges will apply for off-site storage and contractor fees. A storage fee of 2.5% per month or part thereof (in addition to any charges here in) will be charged on the full value of any goods not accepted on the originally agreed delivery date.
- 9.1 Should the agreed project delivery date be delayed by the client or its representatives, CSM will use its best endeavours to meet the revised date. As CSM schedules production, delivery and installation in advance for efficiency, a delay may cause conflict with other pre-arranged jobs. Accordingly, the project may be delayed and scheduled for the next available manufacturing and delivery/installation opportunity.
- Storage and additional transport charges will apply if delivery is delayed by the client or its representative beyond the agreed delivery date, or should goods need to be redelivered where a site is not ready. Should the commencement date be delayed, it will be the responsibility of the client to provide storage facilities for the manufactured product. CSM can organise the storage facilities however full charges will apply for off-site storage and contractor fees. Any delays outside 7 Days will result in the client being invoiced for all manufactured material.
- 10 **Standard Warranty**
- 10.1 Standard warranty unless otherwise agreed by CSM in writing covers workmanship for a maximum period of 5 years (subject to fair wear and tear and the product being used, loaded and maintained within design constraints and according to operating instructions). Extended warranty periods of 10 years and lifetime can be obtained – additional conditions and cost may be applicable.
- The warranty on runner slides, locking mechanism, powder coat, plating and plastic products cannot exceed that of the original manufacturer. The warranty on such components is limited to no more than 12 months.
- 10.2 Notwithstanding clauses 7) & 8) all goods are sold ex-factory – accordingly it is the purchaser's responsibility for goods to be returned for any warranty claim howsoever arising. Return freight, packaging and freight insurance costs for warranty claims are to the purchaser's account. Standard warranty on CSM manufactured products, unless otherwise agreed by CSM in writing, covers workmanship for a period of 5 years from the date of delivery to the customer for; cabinets, shelving and mobile shelving carcass subject to fair wear and tear and the product being used, loaded and maintained within design constraints and according to operating instructions. Warranty does not cover fabrics or timber / Laminates specified by the client or its representative. Warranty is not transferable, is void if a (non-mobile) product is relocated partly or fully loaded. Mobile shelving and shelving must be relocated by CSM to maintain warranty. Components may be subject to design changes in which case an equivalent substitute will be available.
- Notwithstanding, the above the only conditions and warranties which are binding on CSM in respect of the state, quality or conditions of the goods supplied by it to the Customer are those imposed and required to be binding by the statute (including the *Competition and Consumer Act 2010*) and to the extent permitted thereby, the liability, if any, of CSM arising from the breach of such conditions or warranties shall at CSM's option be limited to and completely discharged by:
- In the case of goods supplied by CSM to the customer who is a "consumer" as defined by the *Competition and Consumer Act 2010* by
 - Any remedy Provided by the statute; or
 - The replacement or re-supply of goods by CSM; or
 - The repair of the goods at CSM 's factory 42 Cawarra Road Caringbah NSW 2229; or
 - The payment of the cost of repair of the goods.
- b. Otherwise, by the replacement of those goods or the payment of the cost of replacing the goods, and in this event, there will be no responsibility by CSM for any special, consequential, direct or indirect loss, damage, harm or injury suffered or incurred by the Customer. And otherwise, all other conditions and warranties whether expressed or implied by law in respect of the state, quality or conditions of the said goods which may apart from this clause be binding upon the customer are hereby expressly excluded.
- 11 **Minimum Order Value**
- If at the time of receipt of the original order, the value of the order, exclusive of GST, is not greater than the minimum order value, CSM reserves the right to charge a handling fee. If not specified on the quotation these amounts are \$200.00 and \$35.00 respectively. The current minimum order value is and handling fee will vary without notice. Certain products are subject to purchase in a minimum quantity, as indicated in CSM's quotation.
- 12 **Patents, Designs and Copyright**
- 12.1 The Customer undertakes that no patent, copyright, trade mark, design or any other right in the goods or accompanying literature supplied to the Customer shall be infringed by the Customer's use or application of the goods for any purpose whatsoever.
- 12.2 The Customer acknowledges that all technical information, advice, drawings, designs in any of the accompanying literature and samples submitted to the Customer by CSM are confidential and proprietary information of CSM.
- 12.3 The Customer will keep the information secret and confidential and will not disclose any part of it to any party without the express written authority of CSM. This obligation does not apply to any part of the information which forms part of the public domain or enters the public domain other than by reason of default on the part of the Customer.
- 12.4 The Customer will not reproduce any part of the information in any form without the express authority of CSM.
- 13 **Site Details, Engineering Considerations, Building Code of Australia, Government Approvals**
- 13.1 Carpet – as the mobile unit tracks may be grouted to the floor, carpet cutting maybe required in some instances. CSM's quotation does not allow for carpet cutting or relaying and is the responsibility of the client. CSM will liaise installation based around the carpet cutting and relaying.
- 13.2 Drilling – due to noise restrictions on some sites we may require drilling to be done before 8am or after 5pm. This may result in an additional charge.
- 13.3 Quotations are basis on "sight unseen" site conditions (including Clause 13.4), that floors are reasonably level (+/-5mm over floor size), walls and ceilings are parallel and perpendicular and on the dimensions provided by the customer or its representative, Architect, Designer or Builder. Any site inspection prior to production will be charged. Any changes as a result of the site inspection may result in a variation. The customer's consideration concerning site conditions should include (but not be limited to) location of obstacles and services such as air conditioning ducts and outlets, lighting, power points, communications, cabling access points, skirting, bulk heads, rebates, columns, windows and fire services.
- 13.4 Delivery areas are to be clear of any obstructions and a working area provided prior to the arrival of CSM crew. Delivery is based on delivery vehicles/trucks being able to drive immediately adjacent to the building access point (i.e. goods do not need to be manually transported from a parking bay to the building); ground floor access or the free use of lifts to upper levels (no stairs). Please advise if a lift is not available (or access is via stairs) as this will necessitate a revision to our submission. All works have been priced to be carried out in normal business hours Monday to Friday. CSM will require all relevant details in relation to loading docks, lift sizes and on-site workable hours prior to acceptance of order. Whilst all works are quoted in normal business hours, some out of hours work is often preferred for both CSM and its client (i.e. noisy works). This needs to be confirmed at time of pricing request.
- 13.5 We have assumed that the floor is capable of carrying maximum anticipated loads and recommend that structural adequacy be confirmed by a qualified engineer prior to placement of order. It is the customer's responsibility to ensure the engineering integrity of the building and site and in particular that the floor is capable of carrying maximum anticipated loads. CSM recommends that structural adequacy be confirmed by a qualified engineer prior to placement of order.

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13.6 Whilst CSM take all care in preparing the quotation CSM accepts no responsibility for compliance with any Building Code of Australia, Local Council Ordinates, Fire regulations, the Disability Discrimination Act (DDA) or other regulatory requirements concerning the location of storage units (this may include Egress and minimum/maximum distances from Fire Services & Sprinklers). CSM recommends that this should be confirmed with a suitably qualified Engineer, Architect, and/or Consultant prior to placement of order as any variations will require a review and revision of pricing.

14 **Shop Drawings and/or Line Drawings**

Shop Drawings and Line Drawings may be required to be signed off depending upon site conditions, the nature of architectural drawings supplied by the client, product type, space allocated for product, whether the product is special manufacture/made to order or if requested by the client. Should specific Shop Drawings be requested by the client, costs may be incurred (see allowances below). Design and manufacture will not commence until signed drawings have been returned. Any delays in returning drawings may extend the delivery date.

Any amendments to drawings by the client including notes, annotations, changes to dimensions must be accompanied by a request for change by the client or its representative and is not accepted by CSM unless acknowledged and agreed to in writing. CSM does not agree that "hand changes" will be accepted. Drawings may be re-issued for approval (additional costs will be charged for more than one set of revisions – if not specifically referred to in the quotation this amount shall be \$150 per hour charged per ½ hour).

15 **Finishes**

Unless otherwise noted, all pricing has been based on exposed panels/carcass being finished in a standard colour from the CSM "A" Class Colour Range. CSM "A" Class colours available are: Black Satin, Charcoal Satin, Notre Dame, Oyster, Pearl White, Surfist Satin.

Where applicable to the door type, slat colours available are: White, Charcoal, Light Grey and Silver. Internals finishes unless stated otherwise will be Off White. CSM does not recommend the use of high gloss finishes as these may be prone to showing inconsistencies in the paint work.

16 **Take Back**

At the end of its effective life CSM will take back the following products manufactured by CSM; metal storage cabinets, mobile shelving units, systems shelving, mobile pedestals and sistema wall. The product taken by CSM will either be dismantled and the components recycled or the product will be resold at auction without the usual CSM warranty. Take back is subject to charge and it is the purchaser responsibility for goods to be returned. Take back charges will include the cost of handling, freight, disposal and/or recycling.

17 **Applicable Law**

The Agreement shall in all respects be construed to operate as an Australian contract and in conformity with the laws of the State of New South Wales and the Commonwealth of Australia and all matters and disputes regarding this Agreement shall be justifiable in the courts of this jurisdiction.

18 **Validity**

If any clause or condition is found not to be applicable for any reason the remaining clauses will and conditions will continue to apply.