

# TERMS & CONDITIONS OF TRADE

## 1. DEFINITIONS

- 1.1. Jackson Van Interiors shall mean Jackson Enterprises Limited, or any agents or employees thereof.
- 1.2. "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Jackson Van Interiors.
- 1.3. "Goods" shall mean:
  - 1.3.1.all Goods of the general description specified on the front of this agreement and supplied by Jackson Van Interiors to the Customer; and
  - 1.3.2.all Goods supplied by Jackson Van Interiors to the Customer; and
  - 1.3.3.all inventory of the Customer that is supplied by Jackson Van Interiors ; and
  - 1.3.4.all Goods supplied by Jackson Van Interiors and further identified in any invoice issued by Jackson Van Interiors to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
  - 1.3.5.all Goods that are marked as having been supplied by Jackson Van Interiors or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Jackson Van Interiors; and
  - 1.3.6.all of the Customer's present and after-acquired Goods that Jackson Van Interiors has performed work on or to or in which goods or materials supplied or financed by Jackson Van Interiors have been attached or incorporated.
  - 1.3.7.The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4. "Goods" shall also mean all goods, products, services and advice provided by Jackson Van Interiors to the Customer and shall include without limitation the manufacture and supply of associated products and services and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Goods by Jackson Van Interiors to the Customer.
- 1.5. "Price" shall mean the cost of the Goods as agreed between Jackson Van Interiors and the Customer and includes all disbursements eg charges Jackson Van Interiors pay to others on the Customer's behalf subject to clause 4 of this contract.

## 2. ACCEPTANCE

- 2.1. Any instructions received by Jackson Van Interiors from the Customer for the supply of Goods shall constitute a binding contract and acceptance of the terms and conditions contained herein. This includes verbal communication which we prefer the customer then confirms in writing (email).

## 3. COLLECTION AND USE OF INFORMATION

- 3.1. The Customer authorises Jackson Van Interiors to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Goods provided by Jackson Van Interiors to any other party.
- 3.2. The Customer authorises Jackson Van Interiors to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3. Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

## 4. PRICE

- 4.1. Where no price is stated in writing or agreed to orally the Goods shall be deemed to be sold at the current amount as such Goods are sold by Jackson Van Interiors at the time of the contract.
- 4.2. The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods that is beyond the control of Jackson Van Interiors between the date of the contract and delivery of the Goods.

## 5. PAYMENT

- 5.1. Payment for Goods will be made in full on or before the 20<sup>th</sup> day of the month following the date of the invoice ("the due date") unless otherwise agreed to by Jackson Van Interiors with a set payment date.
- 5.2. Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3. Any expenses, disbursements and legal costs incurred by Jackson Van Interiors in the enforcement of any rights contained in this contract shall be paid by the Customer, including any reasonable solicitor's fees or debt collection agency fees.
- 5.4. Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

## 6. QUOTATION

- 6.1. Where a quotation is given by Jackson Van Interiors for Goods:
  - 6.1.1.Unless otherwise agreed the quotation shall be valid for ninety (90) days from the date of issue; and
  - 6.1.2.The quotation shall be exclusive of goods and services tax unless specifically stated to the contrary;
  - 6.1.3.Jackson Van Interiors reserve the right to alter the quotation because of circumstances beyond its control.
- 6.2. Where Goods are required in addition to the quotation the Customer agrees to pay for the additional cost of such Goods.

## 7. TITLE AND SECURITY (PERSONAL PROPERTY SECURITIES ACT 1999)

- 7.1. Title in any Goods supplied by Jackson Van Interiors passes to the Customer only when the Customer has made payment in full for all Goods provided by Jackson Van Interiors and of all other sums due to Jackson Van Interiors by the Customer on any account whatsoever. Until all sums due to Jackson Van Interiors by the Customer have been paid in full, Jackson Van Interiors has a security interest in all Goods.
- 7.2. If the Goods are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the Goods shall remain with Jackson Van Interiors until the Customer has made payment for all Goods, and where those Goods are mixed with other property so as to be part of or a constituent of any new Goods, title to these new Goods shall be assigned to Jackson Van Interiors as security for the full satisfaction by the Customer of the full amount owing between Jackson Van Interiors and Customer.
- 7.3. The Customer gives irrevocable authority to Jackson Van Interiors to enter any premises occupied by the Customer or on which Goods are situated at any reasonable time after default by the Customer or before default if Jackson Van Interiors believes a default is likely and to remove and repossess any Goods and any other property to which Goods are attached or in which Goods are incorporated. Jackson Van Interiors shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Jackson Van Interiors may either resell any repossessed Goods and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and credit the Customer's account with the invoice value thereof less such sum as Jackson Van Interiors reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 7.4. Where Goods are retained by Jackson Van Interiors pursuant to clause 7.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 7.5. The following shall constitute defaults by the Customer:
  - 7.5.1.Non payment of any sum by the due date.
  - 7.5.2.The Customer intimates that it will not pay any sum by the due date.
  - 7.5.3.Any Goods are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods.
  - 7.5.4.Any Goods in the possession of the Customer are materially damaged while any sum due from the Customer to Jackson Van Interiors remains unpaid.
  - 7.5.5.The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
  - 7.5.6.A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
  - 7.5.7.Any material adverse change in the financial position of the Customer.
- 7.6. If the Credit Repossession Act applies to any transaction between the Customer and Jackson Van Interiors, the Customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.

## 8. SECURITY INTEREST FOR SERVICE PROVIDERS

- 8.1. The Customer gives Jackson Van Interiors a security interest in all of the Customer's present and after-acquired Goods that Jackson Van Interiors has performed services on or to or in which goods or materials supplied or financed by Jackson Van Interiors.

## 9. PAYMENT ALLOCATION

- 9.1. Jackson Van Interiors may in its discretion allocate any payment received from the Customer towards any invoice that Jackson Van Interiors determines and may do so at the time of receipt or at any time afterwards and on default by the Customer may reallocate any payments previously received and allocated. In the absence of any payment allocation by Jackson Van Interiors, payment shall be deemed to be allocated in such manner as preserves the maximum value of Jackson Van Interiors purchase money security interest in the Goods.

## 10. DISPUTES AND RETURN OF GOODS

- 10.1. No claim relating to the Goods will be considered unless made within seven (7) days of delivery. Any claim cannot exceed the original quotation.
- 10.2. No Goods will be accepted for return without prior approval of Jackson Enterprises Limited.
- 10.3. Any goods returned must be undamaged, and in resaleable condition, in their original packaging and delivered back to Jackson Van Interiors at the cost of the customer.
- 10.4. A restocking fee may be incurred for return of goods at the rate of up to 15% at Jackson Van Interiors discretion.
- 10.5. If a dispute arises between both parties then those parties will be referred to mediation not litigation unless Jackson Van Interiors requires litigation to enforce payment due.

## 11. LIABILITY

- 11.1. The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Jackson Van Interiors which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Jackson Van Interiors, Jackson Van Interiors's liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 11.2. Except as otherwise provided by clause 11.1 Jackson Van Interiors shall not be liable for:
  - 11.2.1.Any loss or damage of any kind whatsoever including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Goods provided by Jackson Van Interiors to the Customer; and
  - 11.2.2.The Customer shall indemnify Jackson Van Interiors against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Jackson Van Interiors or otherwise, brought by any person in connection with any matter, act, omission, or error by Jackson Van Interiors its agents or employees in connection with the Goods.

## 12. WARRANTY

- 12.1. Manufacturer's warranty applies where applicable.
- 12.2. Any written warranty that Jackson Van Interiors provide to the Customer will also form part of these terms and conditions of trade.
- 12.3. No representation, condition, warranty or premise expressed or implied by law or otherwise applies to the Goods except where goods are supplied or services provided pursuant to the Consumer Guarantees Act 1993 or except where expressly stated in this contract.
- 12.4. Jackson Van Interiors does not provide any warranty that the Goods are fit and suitable for the purpose for which they are required by the Customer and shall not be liable if they are not.

## 13. CONSUMER GUARANTEES ACT

- 13.1. The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods from Jackson Van Interiors for the purposes of a business in terms of section 2 and 43 of that Act.

## 14. PERSONAL GUARANTEE OF COMPANY DIRECTORS OR TRUSTEES

- 14.1. If the Customer is a company or trust, the director(s) or trustee(s) signing this contract, in consideration for Jackson Van Interiors agreeing to supply Goods and grant credit to the Customer at their request, also sign this contract in their personal capacity and jointly and severally personally undertake as principal debtors to Jackson Van Interiors the payment of any and all monies now or hereafter owed by the Customer to Jackson Van Interiors and indemnify Jackson Van Interiors against non-payment by the Customer. Any personal liability of a signatory hereto shall not exclude the Customer in any way whatsoever from the liabilities and obligations contained in this contract. The signatories and Customer shall be jointly and severally liable under the terms and conditions of this contract and for payment of all sums due hereunder.

## 15. Force Majeure

- 15.1. Neither party shall be liable for any default due to any act of God or civil disturbance, malicious damage, fire, flood, drought, extreme weather conditions, pandemic or any other circumstance beyond the reasonable control of either party.

## 16. MISCELLANEOUS

- 16.1. Jackson Van Interiors shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 16.2. Failure by Jackson Van Interiors to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Jackson Van Interiors has under this contract.
- 16.3. If any provision of this contract shall be invalid, void or illegal or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

## 17. INSURANCE

- 17.1. Any loss or damage to the customers vehicle is to be referred to the owners insurance company and any vehicles stored at Jackson Van Interiors are left at the owners risk.