

**Definitions**

"**Account**" means the Customer's account with JMK.

"**Australian Consumer Law**" means the *Competition and Consumer Act 2010* (Cth) and the Fair Trading Acts within the states and territories of Australia.

"**Customer**" means the person or entity requesting a Quote from JMK for the supply of Goods and Services and any person acting with ostensible authority on behalf of the Customer.

"**Goods and Services**" means goods and services supplied by JMK to the Customer as specified in the Quote.

"**Guarantor**" or "**Guarantor/s**" means any party executing a guarantee of the Customer's account with JMK.

"**JMK**" means JMK Joinery Pty Ltd

"**Quote**", "**Quotes**" or "**Quotes**" means the document given by JMK to the Customer specifying the Goods and Services that will be supplied and the price for the Goods and Services.

"**PPSA**" means the *Personal Properties Securities Act 2009*.

"**PPSR**" means Personal Property Security Register.

"**QBCC**" means the Queensland Building and Construction Commission.

"**Security Agreement**", "**Security Interest**", "**Purchase Money Security Interest**" have the meanings given to them in the PPSA,

"**Term**" or "**Terms**" means any one or more of the Terms and Conditions of Trade contained in this document.

**General**

The Customer's acceptance of any Goods and Services from JMK indicates the Customer's continuing acceptance of these Terms.

These Terms apply even if credit is not extended to a Customer or is later varied or withdrawn.

**Prices**

Pursuant to the terms of any quotation, prices are subject to change without notice and all Quotes will be charged at prices prevailing at the date of delivery of the Goods and Services. Unless otherwise provided, delivery is not included in the price of the Goods and Services.

**Delivery**

Delivery dates are given by JMK in good faith but are not guaranteed. Every endeavour will be made to complete delivery at the place and time agreed in the Quote but JMK will not be liable to the Customer for any loss or damage arising from any delay in delivery whatsoever.

**Payment**

The Customer will pay for the Goods and Services provided by JMK in accordance with the details on the Quote overleaf. The Customer must make payment of the full purchase price to JMK for the Goods and Services plus GST shown on the Tax Invoice given by JMK to the Customer.

JMK at its sole discretion may charge interest in the amount of 2% per calendar month on outstanding balances.

The Customer is liable to pay JMK its costs in relation to the recovery of any Tax Invoices not paid by the required time and in relation to the dishonour of any payments, including collection services costs and legal fees and disbursements (on an indemnity basis).

The granting of credit to a Customer is at the sole discretion of JMK and JMK reserves the right to vary the terms of payment at any time and to require payment in cash in full prior to delivery.

**Risk**

From the time of delivery of the Goods and Services to the Customer, risk in the Goods and Services passes to the Customer. The Customer acknowledges that JMK will not be liable for any loss, damage or deterioration of the Goods

and Services while the Goods and Services are in the custody and control of the Customer and the Customer shall notwithstanding any loss, damage or deterioration to the Goods and Services remain liable to pay JMK for the Goods and Services. JMK will not be liable under any circumstances for any loss or damage to the Customer's equipment or chattels left in JMK's possession or in transit to or from JMK's premises.

**QLD Home Warranty Insurance**

If any Quote is valued at more than \$3,300.00 it will be covered by the Queensland Home Warranty Scheme. The premium payable by the Customer to be covered by this insurance will be included in the invoice from JMK to the Customer. JMK will pay the insurance premium to QBCC and the Customer will receive a Certificate of Insurance within two weeks.

**Warranties & Liability**

Unless otherwise specified, JMK gives no warranty express or implied as to the quality, description or fitness for any particular purpose of the Goods and Services.

Where applicable the manufacturer's warranties will attach to the Goods and Services.

Where the Goods and Services supplied are defective in terms of any condition, warranty or guarantee or otherwise do not conform to the Quote, JMK will at its discretion replace or repair any faulty Goods and Services or pay the cost of replacing them.

Australian Consumer Law may imply warranties, conditions or terms on JMK which cannot by law be excluded, limited or modified. JMK's liability to the Customer shall be limited to the value of the Goods and Services supplied and shall, where it is allowed, be excluded or if not able to be excluded, only apply to the minimum extent required.

**Retention of Title, Security Interests and the PPSA**

JMK shall retain ownership of all Goods and Services supplied to the Customer until JMK receives payment in full for those Goods and Services.

If any of the Goods and Services are incorporated into or used as material for other Goods and Services before payment is made, ownership of the whole of the Goods and Services shall be and remain with JMK until payment is made. JMK's security interest in the Goods and Services shall continue in accordance with Part 3.4 of the PPSA.

The Customer acknowledges that these Terms constitute a Security Agreement which creates a Security Interest in favour of JMK to secure payment of the Goods and Services supplied to the Customer.

The Customer agrees to grant JMK a Purchase Money Security Interest.

The Customer agrees that JMK can without notice to the Customer seek registration of its Security Interest as a Purchase Money Security Interest on the PPSR and the Customer agrees, on request by JMK, to do all acts necessary and provide JMK with all information required to ensure JMK has a perfected Security Interest.

The Customer waives any right to receive a verification statement under the PPSA.

**Security and Charge**

Where the Customer and/or Guarantor/s (if any) is the owner of land, realty or any other asset capable of being charged, both the Customer and/or Guarantor agree to mortgage and/or charge all their joint and/or several interest in the said land, realty, or other assets to JMK to secure all monies owing and payable under the Customer's Account and these Terms. The Customer and/or Guarantor/s acknowledge and agree that JMK shall be entitled to lodge a caveat, which caveat shall be withdrawn once all monies owing and payable have been met.

### Privacy / Personal Information

In relation to a Customer's credit application or credit provided to a Customer by JMK and as allowed by the *Privacy Act 1988* as amended, the Customer and/or the Guarantor/s agree for JMK to: (1) disclose personal information about a Customer's credit application; (2) obtain from a credit reporting agency a credit report containing personal credit information about the Customer; (3) search the PPSR for any information about the Customer, Guarantor or parent or associated companies; (4) contact any spouse/partner, employer or referee given on the Quote to verify the information provided by the Customer; (5) disclose personal information of the Customer for the purpose of debt collection.

### Australian Consumer Law

Nothing in these Terms is intended to have the effect of contracting out of any applicable provisions of Australian Consumer Law, except to the extent permitted by that law where applicable.

### Validity / Severability

If any provision of these Terms shall be unenforceable, such unenforceability shall not affect the enforceability of the remaining provisions of these Terms.

### Variations

Any change to the Quote or materials required to complete the Quote must be communicated and agreed by the parties in writing. This includes any extension of time and a change of the completion date.

### Waiver

Failure of JMK to enforce any of these Terms shall not be deemed to be a waiver of any of the rights and obligations JMK has under these Terms.

### Force Majeure

Neither JMK nor the Customer will be liable to the other for any breach of these Terms by any extraordinary occurrence which is beyond the reasonable control of the party in question.

### Other Agreements

If there is an inconsistency between these Terms and any Quote submitted by the Customer or any other arrangement between JMK and the Customer, these Terms prevail unless otherwise agreed in writing between the parties.

### Termination

In the event of any breach by the Customer of any provision of these Terms or the Customer's death, bankruptcy, administration, receivership, liquidation or any other external administration, JMK may call up any money owed by the Customer, retain all money paid on account, or cease further deliveries or provision of services and recover from the Customer all loss of profits arising as a result, and/or take immediate possession of any Goods and Services not paid for, without prejudice to any other rights JMK may have.

Any breach of these Terms will give JMK the right to terminate and remove the Goods and Services at its discretion. The Customer is liable for the entire Quote in the event of any breach by the Customer of these Terms.

### Disputes

If a dispute arises the Customer agrees to comply with JMK's dispute resolution process. To this end a party with a complaint against the other is first required to notify the other of the dispute by giving written notice specifying the nature of the dispute, the outcome required, and the action believed necessary under the circumstances that will assist both in settling the dispute.

Each party will then in good faith attempt to resolve the dispute by negotiation.

If the dispute has not been resolved within 14 days of the first notice of the dispute, either party may refer the dispute to the QBCC. If the QBCC is unable

to hear the dispute the matter is to be referred to arbitration to an arbitrator approved by the Queensland Law Society.

### Electronic acceptance and communications

The parties agree that these terms can be accepted, and information and variations can be given in writing via electronic communications for the purposes of section 11 and 12 of the *Electronic Transactions (Queensland) Act 2001 (Qld)*.

The parties agree that section 14 of the *Electronic Transactions (Queensland) Act 2001 (Qld)* will apply and a communication accepting these Terms will be deemed sufficient to bind both parties without a signature.

### Governing Law

These Terms are governed by and shall be construed in accordance with the laws of Queensland and the Customer submits to the jurisdiction of the courts that State.

**\*\*\*Additional clauses which apply only if conducting domestic building work with a total contract price of \$20,000.00 or more\*\*\***

### Additional Definition

**"Consumer Building Guide"** means the document of the same name produced by the QBCC from time to time.

### Cooling-off

The Customer may terminate these Terms within five business days of receiving copies of the signed Terms and the Consumer Building Guide. If the Customer terminates under this clause, they are liable to pay to JMK \$100.00 plus any outlays and reasonable expenses incurred by JMK.

### Commencement Notice

JMK will give the Customer a signed commencement notice within 10 business days of work commencing. This notice will include the date work commenced and the date for completion