

## 1. DEFINITIONS

- 1.1 "NT Joinery" means Native Timber Joinery Limited (trading as NT Joinery), or any subsidiaries, related companies, agents or employees thereof.
- 1.2 "Customer" shall mean the recipient of the Goods and/or Services and any person acting on behalf of and with the authority of the Customer, or any person/entity purchasing products and services from NT Joinery.
- 1.3 "Due Date" means in respect of each invoice issued to the Customer by NT Joinery, the 20<sup>th</sup> of the month following the date of the account or such other date that may be specified or agreed in writing by the director of NT Joinery.
- 1.4 "Event of Default" means an event specified in clause 4.1.
- 1.5 "Goods and Services" mean all goods and services provided by NT Joinery to the Customer and shall include without limitation the provision of all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Goods and Services by NT Joinery to the Customer.
- 1.6 "Quote" means a quotation from NT Joinery to the Customer for the Supply of Goods and/or Services.
- 1.7 "Property" means the land owned by the Customer (either legally or beneficially) where NT Joinery provides Goods and/or Services.
- 1.8 "Services" means service/s provided to the Customer by NT Joinery and includes, without limitation, charges for labour, hire charges, insurance charges or any other fee or charge associated with the supply of Goods or Services by NT Joinery to the Customer.
- 1.9 "Terms and Conditions" means these terms and conditions.

## 2. ACCEPTANCE OF TERMS AND CONDITIONS

- 2.1 Any of the following done by or on behalf of the Customer shall constitute a binding contract and acceptance of these terms and Conditions:
  - (a) acceptance of any quote by the customer either in writing or verbal ;
  - (b) the giving of any instructions to NT Joinery that are acted upon;
  - (c) any express or implied authority given to NT Joinery to provide Goods or Services to the Customer.

## 3. PAYMENT

- 3.1 Payment for Goods and Services supplied by NT Joinery is due on the due date unless otherwise approved in writing by a director of NT Joinery. NT Joinery may in its sole discretion decide that no Goods or Services shall be supplied until payment is received by NT Joinery in advance of supply of Goods and Services. Payments for Goods and Services in any circumstances made by cheque shall not be taken to be effective as payment until the bank clearance of funds for the cheque.
- 3.2 Unless otherwise agreed by the director of NT Joinery a deposit of 40% is required prior to any work being undertaken by NT Joinery.
- 3.3 Where the provision of Goods and/or Services is not completed within 7 days of the commencement of the job, NT Joinery shall be entitled to issue invoices for progress payments at fortnightly intervals.
- 3.4 Payment for Goods and Services shall be made in full without deduction (unless otherwise stated and/or agreed in writing by NT Joinery) on or before the seventh day following the date of the invoice.
- 3.5 Interest may be charged on any amount owing after the due date at the rate of 2% per month compounding.
- 3.6 Any expenses, disbursements and legal costs incurred by NT Joinery 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.
- 3.7 Prices may also include third party commissions.

## 4. DEFAULT

- 4.1 The following events shall constitute an Event of Default by the Customer:
  - (a) The failure of the customer to make payment of any sum by the due date or the intimation by the Customer that it will not pay any sum by the Due Date;
  - (b) The Customer commits a breach of any of the Terms and Conditions and in any event that such breach is capable of remedy, the Customer fails to remedy the breach upon receiving notice from NT Joinery specifying the breach and requiring that it be remedied within 7 days of such notice;
  - (c) Any Products and Services are seized by any other creditor of the Customer or any other Creditor intimates that it intends to seize Products and Services;
  - (d) Any Products and Services in the possession of the Customer are materially damaged while any sum due from the Customer to NT Joinery remains unpaid;
  - (e) The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets;
  - (f) A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
- 4.2 Upon the occurrence of an Event of Default:
  - (a) Any amounts currently outstanding shall become immediately due and the Due Date for all amounts shall be deemed to be the earlier of the actual Due Date or the date that the Event of Default occurs;
  - (b) NT Joinery may in its sole discretion cancel or suspend the provisions of Goods and/or Services to the Customer.

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

- 5.1 The Customer grants a security interest under the Personal Property Securities Act 1999 ("PPSA") over any Goods supplied by NT Joinery to the Customer. The Customer shall at NT Joinery's request, promptly execute or do any document, contract, agreement, deeds or other action as NT Joinery may require to ensure that any security interest created constitutes a perfected security interest over the Goods. This includes providing any information NT Joinery may request to complete a financing statement or a financing change statement for the Personal Properties Security Register.
- 5.2 The Customer waives any right to receive a verification statement in respect of any financing statement or financing charge statement relating to the security interest under PPSA.
- 5.3 Nothing in sections 114(1)(a), 117(1), 133 and 134 of the PPSA shall apply to these Terms and Conditions. The Customer's rights as a debtor in sections 116, 119, 120(2), 121, 125-127, 129 and 132 of the PPSA shall not apply to these Terms and Conditions.
- 5.4 Title of any Products and Services supplied by NT Joinery passes to the Customer only when the Customer has made payment in full for all Products and Services provided by NT Joinery and of all other sums due to NT Joinery by the Customer on any account whatsoever. Until all sums due to NT Joinery Ltd have been paid in full, NT Joinery has a security in all Products and Services.
- 5.5 If the Products and Services supplied 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 of the Products and Services shall remain with NT Joinery Ltd until the Customer has made payment for all Products and Services.
- 5.6 The Customer gives irrevocable authority to NT Joinery, to enter any premises occupied by the Customer or on which Products or Services are situated, at any reasonable time after default by the Customer or before default if NT Joinery believes a default is likely. To remove and repossess any Products and Services and any other property to which Products and Services or in which Products and Services are incorporated.

- 5.7 NT Joinery 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. NT Joinery may either resell any repossessed Products and Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may regain any repossessed Products and Services and credit the Customer's account with the invoice value thereof less such sum as NT Joinery reasonably determines on account of wear and tear, depreciation, obsolescence, loss of profits and costs.

## 6. QUOTES

- 6.1 Where a Quote is provided by NT Joinery to the Customer:
  - (a) the Quote shall be valid for a period of 30 days from the date of the Quote; and
  - (b) any express or implied acceptance of the Quote by or on behalf of the Customer shall constitute acceptance of these Terms and Conditions.

## 7. GOVERNING LAW AND JURISDICTION

- 7.1 Any contracts between NT Joinery and the Customer shall be deemed to have been made in New Zealand and the construction validity and performance thereof shall be governed in all respects by the law for the time being in force in New Zealand.

## 8. LIMITATIONS OF LIABILITY

### Description

- 8.1 Any description of the Goods and/or Services is given by way of identification and shall not constitute the contract a sale by description. The Customer shall take the Goods at the Customer's own risk as to their quality, conditions or suitability for any purpose.

### Liability

- 8.2 NT Joinery's liability for damages arising out of or in connection with any contract for the sale of Goods or the supply of Services to the Customer will be limited and all conditions and warranties expressed or implied by statute, common law, equity, trade custom or usage or otherwise howsoever are hereby expressly excluded to the maximum extent permitted by law.

## 9. MISCELLANEOUS

### Notices

- 9.1 All notices authorised or required to be made under these Terms and Conditions shall be sent by facsimile transmission, delivered personally or sent by prepaid mail and in each case addressed to the party at the address provided herein or at such other address as each party may from time to time notify to the other parties. All notices shall be deemed to have been received the day they are sent except where sent by post that shall be deemed to have been received two (2) days after the date for posting and where sent by facsimile transmission upon receipt of the correct and complete transmission report at the close of transmission.

### Governing Law and Jurisdiction

- 9.2 Any contracts between NT Joinery and the Customer shall be deemed to have been made in New Zealand and the construction validity and performance thereof shall be governed in all respects by the law for the time being in force in New Zealand.

- 9.3 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of New Zealand and Courts entitled to hear appeals from those Courts.

### Entire Agreement and Waiver

- 9.4 Save as specifically and expressly contemplated in these Terms and Conditions no provision hereof shall be changed, waived or modified without the express written agreement of NT Joinery.
- 9.5 These Terms and Conditions embody the entire agreement of the Customer and NT Joinery in respect of the ordering, supply, delivery of and payment for Goods or Services, and any order received by NT Joinery from the Customer shall be deemed to incorporate these Terms and Conditions notwithstanding any purported change to the Terms and Conditions specified by the Customer.
- 9.6 Any waiver or failure to execute any rights by NT Joinery shall not be deemed a waiver of any further or other right of NT Joinery in respect of the Customer.
- 9.7 The Customer shall not be entitled to rely upon any statement of any kind made by a person including a representative or agent of NT Joinery, which include a representation of any kind, which contradicts or is contrary to these Terms and Conditions.

### Severance

- 9.8 NT Joinery and the Customer agree that
  - (a) All the provisions of these Terms and Conditions are reasonable in all the circumstances and each provision is and will be deemed to be severable and independent; and
  - (b) If any provision hereof is found by any Court of competent jurisdiction to be invalid, illegal or unenforceable in any respect the validity, legality and enforceability of the remaining provisions will not be affected and the invalid, illegal or unenforceable provision shall be severed from this document it being the intention of the parties that had they known that any such provision would be invalid, illegal or unenforceable in any respect they would have agreed upon and accepted the remaining Terms and Conditions hereof.

### Interest of NT Joinery

- 9.9 The Customer agrees that NT Joinery shall have a caveatable interest in the Property to protect its rights and interest under these Terms and Conditions, and for this purpose the Customer agrees to grant to NT Joinery a mortgage over each Property, subject to all existing prior interests and charges, to secure NT Joinery's interests under these Terms and Conditions. The mortgage shall be on the all obligations Auckland District Law Society form of mortgage and shall be signed by the Customer on demand by NT Joinery. The Customer shall produce titles and do all other things as required to achieve registration of such mortgages, and irrevocably appoints NT Joinery and each director and secretary of NT Joinery as its attorney to sign such mortgages.

### Power of Attorney

- 9.10 The Customer hereby irrevocably appoints each of the directors of NT Joinery at any time and from time to time jointly and severally as its attorney in the event of default by the Customer in the payment of any monies due and owing by the Customer to NT Joinery and that default continuing for more than 14 days after due date for payment for the purpose of:
  - (a) taking possession of the Goods of NT Joinery held by the Customer or on the Property and disposing of such Goods owned by it;
  - (b) enforcing its rights pursuant to these terms and conditions to the extent necessary to recover any monies owing to NT Joinery by the Customer and any costs incurred by NT Joinery in connection with such recovery.

### Guarantee

- 9.11 Where the customer is a company or other incorporated entity, then the person completing this form and all directors/officers agree to personally guarantee payment to us for any amounts invoiced (and costs and interest in the event of default).

### Headings

- 9.12 Headings in these Terms and Conditions are for convenience only and are not to be taken into account in interpretation of this document.

### Acknowledgement

The Customer hereby acknowledges receipt of these Terms and Conditions, and confirms that they have read and understand the contents herein.

For and on behalf of the customer and in the case of a company or other incorporated society by each of its directors or authorised officers: