

## TERMS AND CONDITIONS OF TRADE

### 1. Definitions

In this agreement unless the context indicates otherwise:

- 1.1 The Company' means Jonsa Australia Pty Ltd (ABN 15 097 501 105).
- 1.2 The Contract' means the terms and conditions of trade as amended from time to time read together with any other document provided by the Company
- 1.3 The Customer' means the person to whom The Contract is addressed
- 1.4 Delivery' shall be deemed to take place on the date of dispatch by the Company of the goods or any part of the goods to the Customer
- 1.5 Dispatch' in relation to delivery means:
  - i. The date on which the goods are forwarded by the Company to the address stipulated for delivery in the order confirmation form, or;
  - ii. The date on which the goods are moved by the Customer from the premises of the Company.
- 1.6 Each carrier used by the Company for the delivery of the goods shall be the agent of the Customer.
- 1.7 The Goods' means any item of equipment sold by the Company.
- 1.8 The Purchase Price' means the amount stipulated as such in the Contract.
- 1.9 All words importing: (i) The singular, shall include the plural and vice versa. (ii) Any one gender shall include each of the other genders, if applicable.
- 1.10 Each reference to a person shall include a reference to a body corporate, firm or partnership.

### 2. Purchase Price Variation

- 2.1 The price of goods supplied by the Company shall be the price effective at the time of delivery as indicated on the invoice.
- 2.2 Unless stated otherwise, prices are F.O.B. Sydney and all prices are exclusive of the costs of delivery which shall be paid by the Customer unless otherwise agreed.

### 3. Offer and Acceptance

- 3.1 These conditions apply to all goods supplied by the Company to the Customer unless expressly varied in writing by the Company, and are deemed to be accepted by the Customer on acceptance of the Company's quotation, or on the placing of an order with the Company.

#### 4. Terms of Payment

- 4.1 Anything to the contrary contained or implied in the Contract notwithstanding, the purchase price is to be paid in Australian dollars, free of exchange and without deduction of any kind.
- 4.2 The Customer shall pay to the Company the amount of each invoice within the mutually agreed period (as stated in the Customer's terms) from delivery of the goods to the Customer, or as otherwise agreed in writing from time to time.
- 4.3 Interest at 18% per annum shall be charged on all overdue payments until the date of payment.
- 4.4 The Customer shall not be entitled to withhold payment of any amount due on any account of any claim against the Company whether admitted or disputed.
- 4.5 In the event that the Customer shall:
  - 4.5.1 Fail to pay for the goods or any instalment or instalments thereof at the time provided for herein:
  - 4.5.2 Cause its account to exceed any credit limit allotted to it by the Company:
  - 4.5.3 Become bankrupt, or make any composition or enter into any scheme of arrangement or deed of assignment with or for the benefit of its creditors (whether pursuant to the provisions of the Bankruptcy Act or otherwise):
  - 4.5.4 Being a Company enter into liquidation being voluntary, or otherwise, or have a receiver and manager appointed; or have an administrator appointed.
  - 4.5.5 Cause the Company at any time to have a justifiable doubt as to the ability of the Customer to make payment of its obligations pursuant to the Contract then the Company may in addition to any other rights or remedies which it may have hereunder be entitled in its absolute discretion to:
    - a. Withhold delivery of any further goods or any instalment or instalments thereof:
    - b. Cancel this Contract and any other Contracts:
    - c. Treat this and any other Contracts as having been repudiated by the Customer:
    - d. Enter upon the Customer's (or any third parties') premises and remove the goods which by virtue of clause 7 are still the property of the Company.
    - e. Withhold delivery or further deliveries as the case may be:
    - f. Act pursuant to the provisions of clause 10.1 PROVIDED THAT nothing herein before contained shall release the Customer from its obligation to take delivery of and to pay for the goods or any instalment or instalments thereof as provided herein.

## 5. Delivery

- 5.1 Notwithstanding that an approximate date is stipulated in the order for delivery, the time for delivery of the goods shall not be regarded as being of the essence.
- 5.2 The Company will make all reasonable and commercial efforts to have the goods delivered to the Customer on the date agreed between the parties, but the Company, its servants or agents shall be under no liability whatsoever nor shall the purchaser be entitled to treat this Contract as repudiated should delivery not be made at that time.
- 5.3 Under no circumstances may the Customer deny a signature evidencing receipt of goods by it, of any employee, agent or carrier, utilised or employed by the Customer as the case may be.

## 6. Statutory Requirements

- 6.1 The Company hereby expressly acknowledges the rights and remedies which a Customer (being a Consumer within the meaning of section 4(B) of the Competition and Consumer Act, 2010) has under the aforesaid Act and similar state and territory laws. The rights of the Customer hereunder are in addition to all such rights and remedies and nothing herein shall be deemed to attempt to exclude rights, remedies and conditions which cannot be excluded by agreement.

## 7. Property and Risk

- 7.1 Risk of loss, damage or deterioration to the goods shall pass to the Customer upon dispatch from the Company's premises to a carrier commissioned by the Customer or the Customer's servant and/or agent.
- 7.2 Goods supplied to the Customer by the Company shall remain the sole and absolute property of the Company as legal and equitable owner until the full purchase price of those goods has been paid to the Company, as well as any other payments due to the Company whether hereunder or in respect of any other goods supplied to the Customer by the Company provided that should the Purchaser make a new object or objects from the goods whether finished or not and whether as a result of the provision of services by the Company or not, or the goods become part of other goods then the ownership of (and/or any right to use) the new object or other goods shall immediately pass to the Company.
- 7.3 Until the goods supplied hereunder and any other goods supplied by the Company to the Customer are paid in full: (i) The Customer acknowledges that it is in possession of the goods solely as bailee for the Company. (ii) The Customer shall store the goods separately from its own goods or those of any other person, in a manner, which renders them clearly identifiable as the goods of the Company. (iii) Where the goods are disposed of, the monies resulting from the disposal and all other proceeds received in respect of the goods, including insurance proceeds shall be kept separately in trust for the Company and, (iv) Where the goods are disposed of, the Customer may only dispose of the goods in the ordinary course of its business on commercially reasonable terms (v) The Company (without prejudice to any of its other rights) without previous notice may retake and resume possession of goods which remain the property of the Company and by its servants and agents may enter upon the Customer's premises or any other place where the goods may be for that purpose upon the occurrence of one of the following events:

- a. (Where the Customer is a corporation) the Customer enters into liquidation, voluntary or otherwise, or has a receiver and manager appointed; or an administrator is appointed.
  - b. (Where the Customer is a natural person) the Customer makes any composition or enters any scheme of management or deed of assignment with or for the benefit of its creditors (whether pursuant to the provisions of the Bankruptcy Act or otherwise).
  - c. The Customer fails to pay the whole or any part of the purchase price or delivery or other charges for the goods supplied hereunder or any other goods or services supplied to the Customer by the Company when due: or
  - d. The Customer parts with possession of the goods other than by way of sale to a Customer in the ordinary course of the Customer's business: or
  - e. Any other, terms or conditions of the Contract between the Company and the Customer are breached by the Customer:
- 7.4 The Customer shall on request provide details of all parties to whom goods had been delivered.

## 8. Limitation of Liability

- 8.1 Notwithstanding anything herein contained where the goods are other than goods of a kind ordinarily required for personal, domestic or household use or consumption as that expression is used for the purposes for the Competition and Consumer Act, 2010 at a price not exceeding the prescribed amount, the liability of the Company for a breach of a term or condition implied by the aforesaid Act (other than a breach of Section 96 of the aforesaid Act) shall be limited at the Company's option to the replacement of the goods or the supply of equivalent goods, or to the repair or replacement, or cost of repair or replacement of the goods whichever is the lesser.
- 8.2 Where the Company provides services other than services of a kind ordinarily required for personal, domestic or household use or consumption as the expression is used for the purposes of the aforesaid Act at a price not exceeding the prescribed amount, the liability of the Company for breach of a term or a condition implied by the aforesaid Act shall be limited at the Company's option to the supply of or the payment of the costs of having the services supplied again (if any).
- 8.3 The Customer shall not have any claim of any nature whatsoever against the Company for any failure by the Company to carry out any of its obligations under any Contract as a result of a force majeure including but without being limited to strike, lock out, shortage of labour or material, delay in transport, stoppage or breakdown of the machinery, accident of any kind, any default or delay by any of the Company's suppliers or sub-contractors, riot, political or civil disturbances, the elements, act of god, any act of any state or government or any authority or any other cause of any nature whatsoever directly or indirectly beyond the Company's control.

## 9. Costs

9.1 The Company may claim and recover from the Customer, on demand, in addition to any other sum payable hereunder:

- i. All losses, costs and expenses incurred by the Company in consequence, directly or indirectly, of any breach of the Contract on the part of the Customer and including the legal costs, if any, as between solicitor and own client, and any costs in relation to retaking possession of the goods.
- ii. All costs, charges and fees (including all commercial agents' fees and legal costs) incurred by the Company in recovering from the Customer monies owed to the Company.
- iii. In the event of the Company remaining in possession of the goods after delivery takes place as a result of the Customer's unwillingness or inability to collect or accept the goods (a) interest shall be levied as in clause 4.3 against the Customer: (b) the Company shall have the right to resell the goods and claim any losses whatsoever, that it may have sustained as a result thereof.

## 10. Default by the Customer

10.1 Should the Customer be in breach of any of the provisions of the Contract or should a judgement be granted against the Customer and remain unsatisfied for seven (7) days thereafter or should the estate of the Customer be surrendered or provisionally or finally sequestrated, or should the Customer be wound up, or should the Customer effect a general compromise with its creditors, or should the Customer do or suffer to be done any act or thing which may prejudice the Company's rights under this Contract, the Company shall be entitled notwithstanding any prior waiver and without prejudice to its other rights, at its option:

- i. Without terminating the Contract to claim and recover the full balance of the purchase price and all other amounts owing to the Company by the Customer, or which shall be deemed to be due owing and payable.
- ii. To terminate the Contract with immediate effect and to repossess the goods in which event the Company shall be entitled at its option to: (a) retain all monies paid by way of a penalty and a genuine pre-estimate of liquidated damages: (b) to claim such damages as it may sustain and to retain all payments made by the Customer pending determination of such damages on the basis that such payment will be applied against the damages when established.
- iii. Withhold delivery of any further goods or any instalment or instalments thereof
- iv. Enter upon the Customer's premises and remove the goods which by virtue of clause 7 are still its property.

## 11. Subsequent Damage to Goods

11.1 Notwithstanding anything to the contrary herein contained, the Company shall not be liable for any loss suffered by the Customer resulting from damage to the goods subsequent to delivery.

## 12. Acceptance

12.1 Notwithstanding anything to the contrary contained in any order submitted by the Customer to the Company, in placing any order with the Company or in accepting the Company's quotation, the Customer shall be deemed to have accepted the Company's Terms and Conditions of Trade.

## 13. Warranties

a. Company

13.1 The Company warrants and undertakes that all equipment supplied by the Company shall carry the warranty contained in the Company's warranty policy. This warranty does not include manufacturer's warranty.

13.2 The warranty referred to in clause 13.1 shall be personal to the Customer and not capable of assignment.

a. Customer

13.3 The Customer warrants that the information it has given is true and correct and acknowledges that any discrepancy shall be deemed to constitute a breach of these terms and conditions and shall entitle the Company to terminate this agreement forthwith and to take any action which may be necessary in order to protect the Company's interest.

## 14. Insurance

14.1 The Customer agrees:

- a. To insure and keep the goods insured against fire, accident, loss, damage and theft for an amount equal to full insurable value of the goods and to insure and keep the Company insured against all liability howsoever arising in respect thereof with a reputable insurer in the name of the Company as unpaid vendor, and the name of the Customer as purchaser for their respective interests until such time as the goods are paid for and title has passed to the Customer: and
- b. To hand to the Company all policies of insurance and to pay promptly all premiums and stamp duty in respect of such policies and to permit the Company to receive all insurance monies and production hereof shall be proof of authority of the Company to receive the same. The Customer also agrees to comply with all relevant Acts, regulations and by-laws relating to the use, registration or licensing of the equipment and pay all requisite fees and charges, and
- c. Not to do or permit or suffer to be done anything which might prejudice any insurance as aforesaid, and
- d. To indemnify the Company against any claims and costs whatsoever arising out of the use operation or keeping of the goods.

## 15. Non Variation

15.1 No Variation, alteration or addition to the Contract shall be of any force or effect unless reduced to writing and signed by a duly authorised representative of the Company and the Customer.

## 16. Notices

16.1 All notices that may be given pursuant to the Contract shall be deemed to have been received:-

- i. If posted by prepaid post two (2) days after the date of posting;
- ii. If delivered by hand, on the date of delivery.
- iii. If sent by facsimile transmission, on receipt by the sender of the Activity Report as to the successful transmission, and if by email by way of delivery receipt notice.

## 17. Severability

17.1 Each clause in this Contract is severable the one from the other and if any clause is found to be defective or unenforceable for any reason by any competent court, the remaining clauses shall be of full force and effect.

## 18. General

- 18.1 In the event of the goods consisting of more than one item, then the Company may at its option treat all items forming the subject matter of the goods as a single unit.
- 18.2 In the event of any inconsistency between the Terms and Conditions of Trade and any other document, the Terms and Conditions of Trade shall prevail.
- 18.3 Unless previously withdrawn, a tender, quotation or offer shall remain open for acceptance for the period stated therein, or when no period is stated, for thirty (30) days from the date hereof.
- 18.4 The validity interpretation and performance of this Contract shall be governed by the laws of the State of New South Wales.
- 18.5 These conditions apply to all goods supplied by the Company to the Customer unless expressly varied in writing by the Company prior to any agreement being entered into for supply of goods and/or services.