



## Credit Application Form

Registered Company Name: \_\_\_\_\_

Trading Name: \_\_\_\_\_

Postal Address: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Email Address for invoices and statements: \_\_\_\_\_

Accounts contact Name: \_\_\_\_\_

Accounts contact Direct Dial Number: \_\_\_\_\_

### Directors/Proprietors/Partners

Name and Mobile Ph: \_\_\_\_\_

Address: \_\_\_\_\_

Name and Mobile Ph: \_\_\_\_\_

Address: \_\_\_\_\_

Company Accountant Name and Ph: \_\_\_\_\_

Company Solicitor Name and Ph: \_\_\_\_\_

Trade Credit References (who Jackson Holmes Contracting can contact) **X 3**

Name/s: \_\_\_\_\_

Address: \_\_\_\_\_

Mobile Phone: \_\_\_\_\_

I/we hereby apply to open a credit trading account with Jackson Holmes Contracting Ltd. I/we fully understand and accept the Terms and Conditions on the reverse of this form.

Name of person signing this credit application form: \_\_\_\_\_

Position held: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## 1. DEFINITIONS

- 1.1 "Jackson Holmes Contracting" shall mean Jackson Holmes Contracting Limited, or any agents or employees thereof.
- 1.2 "Purchaser" shall mean any person purchasing products and services from Jackson Holmes Contracting on these Terms, or any person or party completing an application for credit from or with Jackson Holmes Contracting, and includes any person acting on behalf of and with the authority of the Purchaser.
- 1.3 "Goods and Services" shall mean:
- 1.3.1 all goods, products, services and advice supplied by Jackson Holmes Contracting to the Purchaser, and further identified in any invoice issued by Jackson Holmes Contracting to the Purchaser, which invoices are deemed to be incorporated into and form part of this agreement; and
  - 1.3.2 all goods, products, services and advice provided by Jackson Holmes Contracting to the Purchaser and shall include all charges for labour, or any fee or charge associated with the supply of goods by Jackson Holmes Contracting to the Purchaser.
- 1.4 "GST" shall mean goods and services tax pursuant to the Goods and Services Tax Act 1985.
- 1.5 "Delivery" shall mean delivery of the Goods in the manner contemplated by clause 4.
- 1.6 "Price" shall mean the cost of the Goods and Services as specified by Jackson Holmes Contract the Purchaser, whether in a quote or fee estimate given to the Purchaser or otherwise, and includes all charges for labour, disbursements (being costs Jackson Holmes Contracting pays to others on the Purchaser's behalf), and any other fee or charge associated with the supply of Goods and Services.
- 1.7 "Terms" shall mean these terms and conditions, and any other terms and conditions specified by Jackson Holmes Contracting that apply to the Goods and Services.

## 2. ACCEPTANCE AND QUOTATION

- 2.1 Any instructions received for the supply of Goods and Service by Jackson Holmes Contracting from the Purchaser shall constitute a binding contract for the Goods and Services on, and acceptance by the Purchaser of, the Terms.
- 2.2 Jackson Holmes Contracting reserves the right to make minor adjustments to order quantities for any Goods and Services.
- 2.3 Where a quotation is given by Jackson Holmes Contracting for Goods and Service:
- 2.3.1 Unless otherwise agreed the quotation shall be valid for thirty (30) days from the date of issue; and
  - 2.3.2 The quotation shall be on a plus GST basis unless specifically stated to the contrary.

## 3. PRICE AND PAYMENT

- 3.1 Where no price is stated in writing the Goods and Services shall be deemed to be sold at the current amount as such Goods and Services are sold by Jackson Holmes Contracting at the time of the contract.
- 3.2 The Price may be increased due to any increase in the cost of supply of the Goods and Services, or as a result of any other circumstance encountered by Jackson Holmes Contracting in delivering and carrying out the Goods and Services, between the date of the contract and delivery of the Goods and Service, and which is unexpected by and beyond the control of Jackson Holmes Contracting.
- 3.3 Payment for Goods and Services is due within 20 days of the invoice being issued (the *Due Date*) unless provided for otherwise in the contract.
- 3.4 Accounts that are not paid by the Due Date will incur a default interest of 2.5% per month. Any expenses, disbursements and legal costs incurred by Jackson Holmes Contracting in the enforcement of any rights contained in this contract shall be paid by the Purchaser, including any actual solicitor's fees or debt collection agency fees.
- 3.5 The Purchaser acknowledges that Jackson Holmes Contracting may suspend Goods and/or Services to the Purchaser until the overdue payment (and any other enforcement costs) has been made in full.
- 3.6 Jackson Holmes Contracting may in its discretion allocate any payment received from the Purchaser towards any invoice that Jackson Holmes Contracting determines and may do so at the time of receipt or at any time afterwards and on default by the Purchaser may reallocate any payments previously received and allocated.

## 4. RISK AND DELIVERY

- 4.1 The Goods remain the property of Jackson Holmes Contracting until they are paid in full by the Purchaser. If any money remains unpaid or the Purchaser is in breach of the obligations owed to Jackson Holmes Contracting, the Purchaser authorises Jackson Holmes Contracting to enter the Purchaser's premises to recover and resell any or all of those Goods.

4.2 Risk of damage to or loss of the Goods passes to the Purchaser on Delivery and Jackson Holmes Contracting will not be liable for any loss or damage to the Goods arising following Delivery.

4.2 Delivery of Goods will be completed upon delivery of Goods to the address specified in the Purchaser's information at the front page of these Terms (which must be a physical address in New Zealand) or on collection by the Purchaser of the Goods from Jackson Holmes Contracting depot or other location of storage for the Goods.

4.3 Jackson Holmes Contracting will make every reasonable effort to meet estimated timeframes for Delivery, but will not be liable to the Purchaser for any loss arising from its failure to do so.

## **5. LIABILITY**

5.1. Jackson Holmes Contracting excludes all warranties, conditions or obligations implied in the Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes to the extent permitted by the law and excludes any warranty, condition or obligation imposed under common law, equity or otherwise.

5.2 Except as otherwise provided at law, Jackson Holmes Contracting shall not be liable for any consequential loss, damage or expense of any kind, including without limitation any financial loss, suffered by the Purchaser arising from any breach of this contract by Jackson Holmes Contracting.

5.3 The Purchaser indemnifies Jackson Holmes Contracting against all claims, cost, damages or loss of any kind suffered or incurred by Jackson Holmes Contracting in carrying out the Goods and Services as a result of any breach of the contract or the Terms by, or any act or omission of, the Purchaser, but excluding where such claims, cost, damages or loss were as a result of any error of or negligent act or omission by Jackson Holmes Contracting in carrying out the Goods and Services.

5.4 To the extent that Jackson Holmes Contracting is liable for any reason for any loss suffered or liability incurred by the Purchaser arising from any breach of this contract or for any other reason, such liability is limited in all circumstances to the amount of the price of the Goods and Services.

5.5 Where the Purchaser acquires Goods from Jackson Holmes Contracting for business purposes, the Purchaser acknowledges and agrees that those Goods are being supplied and acquired "in trade" and therefore the Consumer Guarantees Act 1993 does not apply.

5.6 The Purchaser also agrees that sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 do not apply to this Agreement. The Purchaser acknowledges and agrees that the Purchaser has not relied on any representations made by Jackson Holmes Contracting in entering into these Terms.

## **6. CANCELLATIONS**

6.1. Cancellation of an order by the Purchaser prior to Delivery may occur only at Jackson Holmes Contracting discretion. In such case a cancellation fee of 10% shall be charged to the Purchaser.

## **7. SECURITY**

7.1 The Purchaser acknowledges and agrees that these Terms constitute a security agreement in terms of the Personal Property Securities Act 1999 (PPSA) and that the Purchaser grants to Jackson Holmes Contracting a security interest in the goods and their proceeds, which shall secure the obligations owed by the Purchaser to Jackson Holmes Contracting to pay the purchase price of the Goods and any other obligations owed by the Purchaser to Jackson Holmes Contracting under this contract (together, the *Indebtedness*) and, where the goods and/or proceeds are not readily identifiable and/or traceable or their recoverable value is insufficient to pay the Indebtedness, the security interest shall also extend to all the Purchaser's present and after acquired property, to the extent required to secure the Indebtedness.

7.2 As and when required by Jackson Holmes Contracting the Purchaser shall, at its own expense, provide all reasonable assistance and relevant information to enable Jackson Holmes Contracting to register a financing statement or financing change statement and generally to obtain, maintain, register and enforce its security interest in respect of the goods supplied, in accordance with the PPSA.

7.3 The Purchaser shall not change its name without first notifying Jackson Holmes Contracting of the new name not less than 7 days before the change takes effect.

7.4 Nothing in sections 114(1)(a), 133 and 134 of the PPSA will apply to this contract.

7.5 The Purchaser further waives their rights to under sections 116, 120(2), 121, 125, 126, 127, 129, 131 and 132 of the PPSA.

## **8. HEALTH AND SAFETY**

8.1 The Purchaser shall ensure the health and safety of all of Jackson Holmes Contracting employees, agents and invitees carrying out the Goods and Services by taking all actions necessary to eliminate and minimise risks as far as reasonably practicable at the workplace. Both parties will cooperate with and coordinate activities with each other to ensure the safety of both the Purchaser's and Jackson Holmes Contracting employees, agents and invitees while carrying out the Good and Services at the workplace.

## **9. NOTICES**

9.1 A notice required to be given under this contract must be in writing:

- 9.1.1 Delivered personally;
- 9.1.2 by prepaid mail or document exchange; or
- 9.1.3 sent by email transmission.

9.2 Any notice is deemed to be given when:

- 9.2.1 Personally delivered, upon delivery;
- 9.2.2 mailed or delivered by document exchange, 5 working days after posting; or
- 9.2.3 sent by email communication, 24 hours after the email is sent.

9.3 Unless otherwise notified, the address of each party, for the purposes of giving notice, is the address set out at the front of this contract or such other address as is notified in writing to each other party from time to time.

#### **10. DISPUTE RESOLUTION**

10.1 If any party considers any matter in relation to the contract to be in dispute, that party must serve notice on the other party advising of the nature of the dispute.

10.2 Both parties must use their best efforts to resolve any dispute through negotiation. If the dispute cannot be so resolved within 5 working days of the notice of dispute having been given, the parties will refer the dispute to mediation.

10.3 The parties will agree a mediator within 2 working days of the matter being referred to mediation, failing which the mediator will be appointed by the President of the Arbitrators and Mediators Institute of New Zealand.

10.4 Each party must pay its own costs associated with the mediation. Except in the event of non-payment, each party must continue to perform their obligations under the contract despite the dispute so far as practicable given the nature of the dispute.

#### **11. GENERAL**

11.1 The Purchaser shall not assign all or any of its rights or obligations under this contract without Jackson Holmes Contracting's written consent (which may be withheld for any reason at the discretion of Jackson Holmes Contracting).

11.2 Jackson Holmes Contracting shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond Jackson Holmes Contracting's control.

11.3 Jackson Holmes Contracting's delay or failure to enforce any of the Terms shall not be deemed to be a waiver of any of its rights or obligations under this contract.

11.4 The law of New Zealand shall apply to this contract except to the extent expressly negative or varied by this contract.

11.5 Where these Terms are at variance with the order or instruction from the Purchaser, these Terms prevail.

11.6 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.