

Terms and Conditions of Trade

This agreement is entered into by **PROJECT STATION PTY LTD (ACN 160 741 533)** trading as Project Station (**Project Station**) and the customer being the person, body corporate or legal entity named on the first page of this document (the **Customer**).

1. DEFINITIONS

"Contract" means these terms and conditions of trade.

"Project" means all the Works under these terms and conditions including variations and the design and construction of the Works;

"Works" means the provision of materials and design for all joinery and cabinetry, shelving, feature panels, built-ins, installation, logistics and other related items or works detailed in the items of the Quotation Proposal, any agreed supplementary plans and specifications and as varied from time to time in accordance with these terms and conditions;

"Components" means all the associated hardware of the Works;

"Quotation Proposal Schedule" means the items (Works, fees and charges) in the quotation proposal contained in the Quotation Proposal Schedule herein which forms part of these terms and conditions (the "quote");

"Variation" is any change in the **Customer's** requirements making necessary the alteration or modification of the design, quality or quantity of the initially quoted Project including but not limited to increases, decreases or omissions from it, changes in the levels, lines, positions, dimensions of any part of the Works, execution of additional work, alteration of access to the Site, limitations on work space or hours, or completion of the Works in any specific order; and

"Site" means the address where **Project Station's** Works is to be delivered and/or installed.

2. QUOTATION

2.1 Project Station will give the **Customer** a quotation proposal contained in a schedule annexed herein (**Quotation Proposal Schedule**), specifying:

- a) the Works to be done to fulfil the **Customer's** instructions; and
- b) an estimate of **Project Station's** fees and charges for the performance of such Works

2.2 Acceptance

- a) Where **Project Station** has given the **Customer** a quote, **Project Station** does not need to commence Works until the quote has been accepted by the **Customer**;
- b) the **Customer** must accept the quote by signing and returning by email a true copy of the quote accompanied by a purchase order number if applicable;
- c) acceptance by the **Customer** of the quote is deemed acceptance by the **Customer** of these terms and conditions;
- d) once accepted, these terms and conditions are binding and can only be amended with the consent of **Project Station**;
- e) all prices quoted are valid for 30 (thirty) days unless otherwise stated in writing by **Project Station**; and
- f) the **Customer** warrants that it has not relied on any representation by **Project Station** other than these terms and conditions.

2.3 Quote May Be Revised

Project Station may amend the quote if not accepted within 30 (thirty) days from the date of its issue in order to reflect any rise or fall in the cost of performing the Works as quoted. **Project Station** will notify the **Customer** of such amendment as soon as practicable thereafter. **Project Station** is not obliged to commence Works until such time as the **Customer** agrees to the amendment of the quote.

2.4 Prime Cost Items or Provisional Sums

Each prime cost item or provisional sum item will be listed in a separate schedule and have an allowance stated next to it for the price of the supply of the Works. The **Customer** must pay the actual price of any Works and where the price is more than the allowance, the margin specified in the schedule applied to that difference.

2.5 3D Drawings

3D drawings are available on request for a fee. Should the **Customer** accept **Project Station's** quote and/or Contract then that fee will be included in the quote and/or Contract price subject to the original drawing and 1 (one) subsequent change. Any further changes will be charged as extra cost to the **Customer**.

2.6 Storage and Disposal

Storage and disposal services are available for a fee and the **Customer** must notify **Project Station** of its requirements beforehand otherwise such services will not form part of this quotation and separate charges will apply.

2.7 Unforeseen Circumstances

Project Station is not responsible for any problems with the Site which are only disclosed or revealed when installing the Works. **Project Station** may carry out any work needed to fix any such problem if it is considered necessary for satisfactory installation of the Works. Any additional Works necessary due to an unforeseen circumstance is deemed a Variation and subject to clause 2.8. If a price is not pre agreed, the **Customer** will be charged the actual cost plus another 20% twenty per cent for the Works.

2.8 Variations

Where there are Variations (as defined under these terms and conditions) to an accepted quote:

- a) the **Customer** indemnifies **Project Station** from any additional cost incurred by **Project Station**, should the **Customer** increase the scope of the Works and/or Cabinetry to be provided by **Project Station**; and
- b) within a period subject to a progress payment, then those Variations are payable at that time and no later.

3. DELIVERY

3.1 Delivery occurs when the **Customer** takes possession of the Works.

3.2 Delivery of the Works will be made to the Site and the **Customer** must make all arrangements necessary to take delivery.

3.3 Delivery to the Site, to a third party or another site nominated by the **Customer** is deemed to be delivery to the **Customer** for the purpose of this terms and conditions.

4. SITE ACCESS

4.1 The **Customer** must ensure that **Project Station** has clear and uninterrupted access to the Site until **Project Station's** Works has been completed and **Project Station** has been paid in full.

4.2 The **Customer** indemnifies **Project Station** from additional costs or penalties if the completion of **Project Station's** Works is delayed due to interrupted or limited Site access.

5. RISK

The risk in the Works passes to the **Customer** upon delivery of the Works to the **Customer** or its agent or to a third party nominated by the **Customer**.

6. PAYMENT

6.1 Time for Payment

The **Customer** must, within the time specified in this quote and/or Contract, upon the **Customer** receiving **Project Station's** invoice or payment claim, pay **Project Station** the total amount set out in the invoice or payment claim. Time for payment is of the essence unless otherwise specified by **Project Station**.

6.2 Interest

Project Station may charge interest at a rate of 5% (two percent) above the commercial lending rate of the Australia & New Zealand Banking Group Limited (ANZ) calculated on a daily basis on amounts not paid within the time specified in **Project Station's** tax invoice or payment claim.

6.3 Deposit

- a) **Project Station** requires a 50% (fifty percent) deposit from the **Customer** unless otherwise stated in writing by **Project Station**. **Project Station** is under no obligation to start any Works until the deposit is received by **Project Station** in full and when all details pertaining to the instructions are finalised.
- b) In the event of default as to any payment owing to **Project Station** on the part of the **Customer**, **Project Station** is entitled to forfeit the deposit and claim any profit or margin contemplated by or allowed for in these terms and conditions, in addition to any remedy available to **Project Station** at law or in equity.

6.4 Progress Payments

Project Station reserves the right to halt any further Works until such time as any agreed outstanding progress payment is fully paid.

6.5 Remedial Works

The **Customer** hereby agrees that in the event remedial Works is required for Works completed to date, the **Customer** or the **Customer's** Project Manager can only hold back the value/amount (agreed by both parties) of having the Works replaced and not the entire due payment. The balance must be paid on receipt of **Project Station's** invoice or payment claim.

6.6 Damages

The **Customer** must pay to **Project Station** any costs, expenses or losses incurred by **Project Station** as a result of the **Customer's** failure to pay to **Project Station** all sums outstanding as owed by the **Customer** to **Project Station** including without limiting the generality of the forgoing, any debt collection and legal costs incurred in enforcing payment on a solicitor and own client basis.

6.7 Cancellation

The **Customer** must reimburse **Project Station** for any costs, expenses or losses incurred by **Project Station** should the **Customer** cancel the accepted quote and/or Contract (and where applicable, following the cooling off period, in the case of a consumer). The time for payment for such cancellation is 7 (seven) days from **Project Station's** invoice.

7. CLIENT FINANCE

7.1 If **Project Station's** requests, the **Customer** must provide, no later than 5 (five) days after the request has been made, reasonable evidence that sufficient funds are available to meet all payments due to **Project Station**. The accuracy of the information provided by the **Customer** is of the essence of this Contract and in the event that it is found that the information provided is inaccurate or untrue, **Project Station** may at its sole discretion, and without prejudice to its right otherwise to recover damages, decide to grant finance by giving 7 (seven) days' notice in writing of an intention to do so.

7.2 Should the **Customer** arrange leasing or other finance, the **Customer** must provide to **Project Station**, within 14 (fourteen) days of accepting the quote and/or Contract, appropriate evidence of the leasing or other finance arrangements. A supplementary contract will then be entered into between the finance company and **Project Station** subject to **Project Station's** terms and conditions of services.

8. RETENTION OF TITLE

8.1 Title

- a) Notwithstanding the delivery or installation of the Works, title in the Works remains with **Project Station** until the **Customer** has paid and discharged any and all monies owing pursuant to any invoice or payment claim issued by **Project Station** for the Works including all applicable GST and other taxes, levies and duties; and
- b) Where the Works has been on sold by the **Customer**, the **Customer** will be taken to hold the proceeds of sale of such Works upon trust for **Project Station** and to account to **Project Station** for these proceeds; and
- c) Any payment made by or on behalf of the **Customer** which is later avoided by the application of any statutory provisions is deemed not to discharge **Project Station's** title in the Works nor the **Customer's** indebtedness to **Project Station** and, in such an event, the parties are to be restored to the rights which each respectively would have had if the payment had not been made.

8.2 Bailment

The **Customer** acknowledges that it is in possession of the Works solely as Bailee until payment of all invoices and progress payments for the Works are made pursuant to clause 8.1 and until that time:

- a) the **Customer** is not entitled to sell the Works but only in the ordinary course of business;
- b) the **Customer** must not encumber or otherwise charge the Works; and
- c) the **Customer** is fully responsible for any loss or damage to the Works whatsoever and howsoever caused following delivery or installation of the Cabinetry to the **Customer**.

8.3 Repossession

- a) The **Customer** hereby irrevocably grants to **Project Station** the right, at its sole discretion, to remove or repossess any Works (including Works considered to be a fixture and already installed) and sell or dispose of it, and **Project Station** will not be liable to the **Customer** or any person claiming through the **Customer**, and **Project Station** is entitled to retain the proceeds of any Works sold and apply same towards the **Customer's** indebtedness to **Project Station**.
- b) If the **Customer** commits an act of bankruptcy or enters into any form of administration or liquidation, makes any composition or arrangement with its creditors, ceases to carry on business or breaches any fundamental clause of this agreement, then **Project Station** may, without prejudice to any other remedies it may have, repossess any Works delivered to the **Customer** on any account which has not been paid in accordance with the terms and conditions herein and commence proceedings to recover the balance of any monies owing **Project Station** by the **Customer**.

9. SECURITY INTEREST AND CHARGE

- a) The Customer (Grantor) hereby grants a security interest in all property, both equitable and legal, present or future of the Customer in respect of any monies that may be owing by the Customer to Project Station (Secured Party) under these terms and conditions (Security Interest). This Security Interest is a charge. If for any reason it is necessary to determine the nature of this charge, it is a floating charge over revolving assets (including but not limited to inventory, a negotiable instrument, machinery, plant or equipment which is not inventory and has a value of less than \$1,000 or its equivalent, money including money withdrawn or transferred to a third party from an account of the Grantor with a bank or other financial institution) and a fixed charge over all other secured property of the Grantor.
- b) Further, the **Grantor** hereby authorises **Project Station** or its solicitors to execute any consent form as its attorney for the purpose of registering a caveat over any real property owned by the **Customer** at any time.
- c) The **Grantor** herein acknowledges that **Project Station** (Secured Party) is entitled to protect its Security Interest by registering a general security agreement or a financing statement (for example, a Personal Money Security Interest - PMSI) under the Personal Property and Security Act.

10. WARRANTIES

10.1 To the extent required by the Home Building Act 1989, **Project Station** warrants that:

- a) the Works will be carried out in accordance with all relevant laws, including the Building Code of Australia, statutory regulations such as Australian Standards AS/NZS 2208 and AS/NZS 4386 and legal requirements whenever applicable, in an appropriate and skilful way, in accordance with the plans and specifications (where relevant) using materials that are good and suitable for the purpose for which they are intended to be used and that, unless otherwise stated in this Contract, those materials will be new; and
- b) each provisional sum item allowance, if calculated by **Project Station**, has been calculated with reasonable skill and care, having regard to all the information reasonably available when this Contract is entered into (including information about the nature and location of the Site).

10.2 **Project Station** warrants that the Works, materials and Components supplied are free of defects at the time of completion of installation.

10.3 **Project Station** warrants all materials and workmanship for a period of 1 (one) year from the date of project practical completion against any defects in accordance with these terms and conditions.

10.3 Subject to law, **Project Station** does not have to fix:

- a) any problem caused by misuse, abuse, neglect, wear and tear or normal shrinkage or movement; or
- b) appliances made by others; or
- c) any defects in, or problems caused by, Works materials or appliances supplied by the **Customer**.

11. INTELLECTUAL PROPERTY

The copyright in all design documents, plans, 3D drawings, sketches, design ideas and custom-made solutions which appear in **Project Station's** quote or Contract remain property of **Project Station**. **Project Station** grants a licence to the **Customer** to use the design documents aforementioned for the execution of the Project and the maintenance, subsequent alteration and repair of the Works. Such licence may be revoked at any time by notice in writing if the **Customer** defaults in any material and/or essential aspect of these terms and conditions.

12. DEFECTS

The **Customer** must inspect the Works on installation and notify **Project Station** in writing (or in the case of a minor problem by phone) of any alleged shortage in quantity, damage or failure to comply with the description, plans and specifications, within 7 (seven) days (Defect Notice). Upon the service of a Defect Notice, **Project Station** must be given an opportunity to inspect the Works within a reasonable time. If the **Customer** fails to comply with these provisions, the Works are conclusively deemed to be in accordance with these terms and conditions and free from any damage.

13. LIABILITY

13.1 Non-excludable Rights

The parties acknowledge that, under the Australian Consumer Law, certain conditions and warranties may be implied in these terms and conditions and there are rights and remedies conferred on the **Customer** in relation to the provision of the Works which cannot be excluded, restricted or modified by the agreement ("Non-excludable Rights").

13.2 Disclaimer of Liability

Project Station disclaims all conditions and warranties expressed or implied, and all rights and remedies conferred on the **Customer**, by statute, the common law, equity, supply, custom or usage or otherwise and all those conditions and warranties and all those rights and remedies are excluded other than any Non-excludable Rights. To the extent permitted by law, the liability of **Project Station** for a breach of a Non-Excludable Right is limited, at **Project Station's** option, to the supplying of the Works again or payment of the cost of having the Works supplied again.

13.3 Indirect Losses

Notwithstanding any other provision in these terms and conditions, **Project Station** is not liable in contract, tort, including without limitation, negligence or breach of statutory duty or otherwise to compensate the **Customer** for:

- a) any increased costs or expenses;
- b) any loss of profit, revenue, business, contracts or anticipated savings;
- c) any loss or expense resulting from a claim by a third party; or
- d) any special, indirect or consequential loss or damage of any nature whatsoever caused by the failure of **Project Station** to complete or delay in completing the Works or to deliver the Works.

13.4 Force Majeure

Project Station has no liability whatsoever to the **Customer** in relation to any loss, damage or expense caused by **Project Station's** failure to complete or deliver the Works or fulfil any other obligation under these terms and conditions as a result of industrial disputes, subsidence, winds or severe weather, accidents, fire, flood, tempest, earthquake, any acts of God, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, acts of terrorism, the inability of **Project Station's** normal suppliers to supply necessary material or any other matter beyond **Project Station's** control.

13.5 Contractor's Indemnity

- a) If the **Customer** agrees to provide plumbing and electrical services or to supply appliances, then the **Customer** must have the Site ready and appliances available when requested by **Project Station**.
- b) The **Customer** must indemnify **Project Station** from damage to **Project Station's** Works and Components caused by other trades.

14. PRIVACY

14.1 The **Customer** hereby authorises **Project Station** to collect, retain, record, use and disclose commercial and/or consumer information about the **Customer's** credit worthiness, credit standing, credit history or credit capacity, in accordance with the Privacy Act 1988, to persons and/or legal entities who are a solicitor or any other professional consultant engaged by **Project Station**, a debt collector, credit reporting agency and/or any other individual or organisation which maintains credit references and/or default listings.

14.2 **Project Station** may give information about the **Customer** to a credit reporting agency for the purposes of obtaining consumer and commercial credit reports and/or lodging consumer and commercial defaults on the **Customer's** credit file. This information may be given before, during or after the provision of credit to the **Customer** and will be in accordance with the Privacy Act 1988 and subsequent amendments.

15. PAYMENT CLAIM

On completion of the Works (and where applicable) **Project Station** may make a payment claim in accordance with the *Building and Construction Industry Security of Payment Act 1999*. The **Customer** must respond appropriately and within the time specified in the Act.

16. GENERAL

16.1 Right to Photograph

The **Customer** herein grants **Project Station** the right to photograph the completed Works. These photographs may be used in **Project Station's** promotional and/or advertising material.

16.2 Entire Agreement

Unless otherwise agreed in writing by **Project Station**, to the extent permitted by law, in relation to the Works, these terms and conditions embody the entire understanding of the parties, and constitutes the entire terms agreed by the parties and supersedes any prior written or other agreement of the parties.

16.3 Severability

Any provision in these terms and conditions which is invalid or unenforceable in any jurisdiction must be read down for the purposes of that jurisdiction, if possible, so as to be valid and enforceable. If that provision cannot be read down then it is capable of being severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of these terms and conditions or affecting the validity or enforceability of that provision in any other jurisdiction.

16.4 Disputes

The **Customer** and **Project Station** agree that any disputes arising from the supply of services and any Works under these terms and conditions by **Project Station** (excepting in regard to payments) must be negotiated with a view to settlement prior to any litigation is commenced and, if required, referred to a centre for mediation as agreed by the parties to the dispute, or, failing agreement, as nominated by the President of the Law Society of New South Wales or his/her nominee.

16.5 Governing Law and Jurisdiction

These terms and conditions are governed by and must be construed according to the law applying in New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and the courts competent to hear appeals from those courts.

17. SIGNING SECTION

Project Station and the **Customer** will carry out their respective obligations for the Works in accordance with these terms and conditions.

Signed under section 127 of the Corporations Act
2001:

[CUSTOMER] [ACN]

by

Director's Name

Signature of Director

Director/Secretary's Name

Signatory of Director/Secretary

Signed under section 127 of the Corporations Act
2001:

PROJECT STATION PTY LTD (ACN 160 741 533) by

Director's Name

Signature of Director

Director/Secretary's Name

Signatory of Director/Secretary

CREDIT CARD PAYMENT AUTHORITY

If you wish to pay by credit card (1.5% surcharge applies), complete this form and attach to the signed quotation. This authority provides **Project Station** with the approval to charge the credit card account.

Section 1 - Your details	
Full Name	
Address	
Email	
Contact n.	
Section 2 - Fee	
Deposit	50% of \$ (total of quotation) plus surcharge
Balance due on completion	\$
Surcharge	1.5%
Section 3 – Credit card details	
Card Type	() Visa () MasterCard
Card n.	
Expiry date	/ / 20
CVV/ CVN	
Cardholder's Name	
Cardholder' Signature	
Date	/ / 20