

# Frontstage Interiors Limited

## TERMS & CONDITIONS

### 1. DEFINITIONS

- 1.1 "Frontstage" shall mean Frontstage Interiors Limited, or any agents or employees thereof.
- 1.2 "Customer" shall mean the Customer, any person acting on behalf of and with the authority of the Customer, or any person purchasing products and services from Frontstage.
- 1.3 "Products" shall mean:
  - 1.3.1 all Products of the general description specified on the front of this agreement and supplied by Frontstage to the Customer; and
  - 1.3.2 all Products supplied by Frontstage to the Customer; and
  - 1.3.3 all inventory of the Customer that is supplied by Frontstage; and
  - 1.3.4 all Products supplied by Frontstage and further identified in any invoice issued by Frontstage to the Customer, which invoices are deemed to be incorporated into and form part of this agreement; and
  - 1.3.5 all Products that are marked as having been supplied by Frontstage or that are stored by the Customer in a manner that enables them to be identified as having been supplied by Frontstage; and
  - 1.3.6 all of the Customer's present and after-acquired Products that Frontstage has performed work on or to or in which goods or materials supplied or financed by Frontstage have been attached or incorporated.
- 1.3.7 The above descriptions may overlap but each is independent of and does not limit the others.
- 1.4 "Products" shall also mean all products, goods, services and advice provided by Frontstage to the Customer and shall include without limitation the manufacture and supply of all office furniture and cabinetry, all building fit outs and contract work and the hire of screens and associated fittings and all charges for labour, hire charges, insurance charges, or any fee or charge associated with the supply of Products by Frontstage to the Customer.
- 1.5 "Price" shall mean the cost of the Products as agreed between Frontstage and the Customer and includes all disbursements eg charges Frontstage pay to others on the Customer's behalf subject to clause 4 of this contract.

### 2. ACCEPTANCE

- 2.1 Any instructions received by Frontstage from the Customer for the supply of Products shall constitute a binding contract and acceptance of the terms and conditions contained herein.

### 3. COLLECTION AND USE OF INFORMATION

- 3.1 The Customer authorises Frontstage to collect, retain and use any information about the Customer, for the purpose of assessing the Customer's credit worthiness, enforcing any rights under this contract, or marketing any Products provided by Frontstage to any other party.
- 3.2 The Customer authorises Frontstage to disclose any information obtained to any person for the purposes set out in clause 3.1.
- 3.3 Where the Customer is a natural person the authorities under clauses 3.1 and 3.2 are authorities or consents for the purposes of the Privacy Act 1993.

### 4. PRICE

- 4.1 Where no price is stated in writing or agreed to orally the Products shall be deemed to be sold at the current amount as such Products are sold by Frontstage at the time of the contract.
- 4.2 The price may be increased by the amount of any reasonable increase in the cost of supply of the Products that is beyond the control of Frontstage between the date of the contract and delivery of the Products.

### 5. PAYMENT

- 5.1 Payment for Products shall be made in full on completion (or as clause 5.6) unless customer is holding an approved current trading account with Frontstage, therefore payment may be made before the 20<sup>th</sup> day of the month following the date of the invoice ("the due date").
- 5.2 Interest may be charged on any amount owing after the due date at the rate of 2.5% per month or part month.
- 5.3 Any expenses, disbursements and legal costs incurred by Frontstage 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.
- 5.4 Receipt of a cheque, bill of exchange, or other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.
- 5.5 A deposit may be required.
- 5.6 Project contract agreement requires 40% due on commencement with 50% due on completion and 10% of the month following completion.

### 6. DRAFTING AND DESIGN SERVICE

- 6.1 First initial drafting of 2D wireframe plans are an interpretation of Customer brief by Frontstage and are not chargeable.
- 6.2 However should the initial drafting, as clause 6.1 constitute part of the project documents for main contractor, Frontstage shall be the sole provider of interior fitout unless payment for initial drafting has been negotiated with main contractor or independent architect / designer.
- 6.3 3D Rendering / Visual Reality Walkthroughs and further floor plans from initial drafting are chargeable time and will be invoiced at the agreed hourly rate. Should Frontstage be successful as supplier of interior fitout all drafting charges will be credited against project within 12-month period of initial 2D wireframe.
- 6.4 All drafting and documentation is to be used only in conjunction with Frontstage as supplier, it shall in no wise be reproduced, confidential login passwords be forwarded or any other duplication without written approval of Frontstage.
- 6.5 All information included in drafting is strictly confidential. Other than the client you will not use the information for any other purpose, in particular to compete with Frontstage or confer a competitive advantage upon a third party.

### 7. PERFORMANCE BY CUSTOMER/MAIN CONTRACTOR

- 7.1 Frontstage undertake to manufacture and pre-finish all joinery components as specified in the contract so as to be ready for site delivery and installation within the prescribed times as instructed in writing to Frontstage. If for any reason whatsoever the Customer/Contractor delays the receipt on site of the Products in the schedule and they are not able to be delivered until a later date that may run into the next month or months, this shall in no way result in the Customer/Contractor withholding payment for those Products and services held in storage by Frontstage at 14 Patrick Street, Onehunga and open for inspection at any time by the Customer/Contractor or his agent. Invoices will be forwarded for all completed items excluding delivery and installation charges. All standard forms of insurance arranged by Frontstage will apply.

### 8. AGENCY

- 8.1 The Customer authorises Frontstage to contract either as principal or agent for the provision of Products that are the matter of this contract.
- 8.2 Where Frontstage enters into a contract of the type referred to in clause 8.1 it shall be read with and form part of this agreement and the Customer agrees to pay any amounts due under that contract.

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

- 9.1 Title in any Products supplied by Frontstage passes to the Customer only when the Customer has made payment in full for all Products provided by Frontstage and of all other sums due to Frontstage by the Customer on any account whatsoever. Until all sums due to Frontstage by the Customer have been paid in full, Frontstage has a security interest in all Products.
- 9.2 If the Products 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 in the Products shall remain with Frontstage until the Customer has made payment for all Products, and where those Products are mixed with other property so as to be part of or a constituent of any new Products, title to these new Products shall be deemed to be assigned to Frontstage as security for the full satisfaction by the Customer of the full amount owing between Frontstage and Customer.
- 9.3 The Customer gives irrevocable authority to Frontstage to enter any premises occupied by the Customer or on which Products are situated at any reasonable time after default by the Customer or before default if Frontstage believes a default is likely and to remove and repossess any Products and any other property to which Products are attached or in which Products are incorporated. Frontstage 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, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. Frontstage may either resell any repossessed Products and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Products and credit the Customer's account with the invoice value thereof less such sum as Frontstage reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- 9.4 Where Products are retained by Frontstage pursuant to clause 9.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ("PPSA") and to object under s.121 of the PPSA.
- 9.5 The following shall constitute defaults by the Customer:
  - 9.5.1 Non payment of any sum by the due date.
  - 9.5.2 The Customer intimates that it will not pay any sum by the due date.
  - 9.5.3 Any Products are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Products.
  - 9.5.4 Any Products in the possession of the Customer are materially damaged while any sum due from the Customer to Frontstage remains unpaid.
  - 9.5.5 The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord disclaims against any of the Customer's assets.
  - 9.5.6 A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
  - 9.5.7 Any material adverse change in the financial position of the Customer.

- 9.6 If the Credit Repossession Act applies to any transaction between the Customer and Frontstage, the Customer has the rights provided in that Act despite anything contained in these terms and conditions of trade.

### 10. SECURITY INTEREST FOR SERVICE PROVIDERS

- 10.1 The Customer gives Frontstage a security interest in all of the Customer's present and after-acquired Property that Frontstage has performed services on or to or in which goods or materials supplied or financed by Frontstage have been attached or incorporated.

### 11. GENERAL LIEN

- 11.1 The Customer agrees that Frontstage may exercise a general lien against any Products or property belonging to the Customer that is in the possession of Frontstage for all sums outstanding under this contract and any other contract to which the Customer and Frontstage are parties.
- 11.2 If the lien is not satisfied within seven (7) days of the due date Frontstage may, having given notice of the lien at its option either:
  - 11.2.1 Remove such Products and store them in such a place and in such a manner as Frontstage shall think fit and proper and at the risk and expense of the Customer; or
  - 11.2.2 Sell such Products or part thereof upon such terms as it shall think fit and apply the proceeds in or towards discharge of the lien and costs of sale without being liable to any person for damage caused.

### 12. DISPUTES

- 12.1 No claim relating to Products will be considered unless made within seven (7) days of delivery.

### 13. LIABILITY

- 13.1 The Consumer Guarantees Act 1993, the Fair Trading Act 1986 and other statutes may imply warranties or conditions or impose obligations upon Frontstage which cannot by law (or which can only to a limited extent by law) be excluded or modified. In respect of any such implied warranties, conditions or terms imposed on Frontstage, Frontstage liability shall, where it is allowed, be excluded or if not able to be excluded only apply to the minimum extent required by the relevant statute.
- 13.2 Except as otherwise provided by clause 13.1 Frontstage shall not be liable for:
  - 13.2.1 Any loss or damage of any kind whatsoever, arising from the supply of Products by Frontstage to the Customer, including consequential loss whether suffered or incurred by the Customer or another person and whether in contract or tort (including negligence) or otherwise and irrespective of whether such loss or damage arises directly or indirectly from Products provided by Frontstage to the Customer; and
  - 13.2.2 The Customer shall indemnify Frontstage against all claims and loss of any kind whatsoever however caused or arising and without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Frontstage or otherwise, brought by any person in connection with any matter, act, omission, or error by Frontstage its agents or employees in connection with the Products.

### 14. WARRANTY

- 14.1 Manufacturer's warranty applies where applicable.
- 14.2 Mechanical parts such as hardware, electronics, motorised items, lighting, pre-finished surfaces are covered by the individual manufacture / supplier warranty at time of supply and are not covered by Frontstage.
- 14.3 Any written warranty that Frontstage provides to the Customer will also form part of these terms and conditions of trade.

### 15. COPYRIGHT AND INTELLECTUAL PROPERTY

- 15.1 Frontstage, owns and has copyright in all work, designs, software, systems, solutions, specifications, electronic data and documents produced by Frontstage in connection with the Products provided pursuant to this contract and the client may use the Products only if paid for in full and for the purpose for which they were intended and supplied by Frontstage.

### 16. OCCUPATIONAL HEALTH AND SAFETY STANDARDS

- 16.1 The Customer is obliged to ensure:
  - 16.1.1 That all work sites comply with Occupational Health and Safety Statutory Requirements Regulations and Standards;
  - 16.1.2 That there is always proper means of access to the work site;

### 17. CONSUMER GUARANTEES ACT

- 17.1 The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Products from Frontstage for the purposes of a business in terms of section 2 and 43 of that Act.

### 18. HIRE OF EQUIPMENT

- 18.1 Where equipment is hired from Frontstage:
  - 18.1.1 The Customer shall not part with the possession of the equipment and shall not sublet, or sell, or attempt to alienate the equipment in any way, or deal with the equipment in any way that may be prejudicial to Frontstage.
  - 18.1.2 The Customer shall be liable for any damage to or loss of the equipment hired however caused and in the event of any equipment being damaged, lost or stolen the Customer shall pay to Frontstage the cost of making good the repair to the equipment or the cost of replacing the equipment whichever is the lesser.
  - 18.1.3 The Customer shall on request by Frontstage advise of the whereabouts of any hired equipment and gives Frontstage irrevocable licence to enter any premises within its control for the purposes of inspecting, repairing, testing or removing the hired equipment and further if the Customer fails to pay any monies owing after the due date Frontstage may enter any premises and take possession and remove the hired equipment.
  - 18.1.4 Without prejudice to any other remedies available to Frontstage and notwithstanding any period of hire specified, Frontstage may terminate this hire contact at any time.

### 19. DAMAGE BY OTHER PARTIES

- 19.1 Frontstage will undertake to cover and protect all horizontal surfaces of goods supplied when they have been installed. Notices will also be placed warning against removal of protective covers and walking, standing or working on these surfaces. Any damage as a result of disregard of warning notices or careless activities by others, will be a chargeable item to the Customer/Contractors, to repair, replace or reinstate any damaged materials or workmanship.

### 20. CONTRACTORS RETENTIONS

- 20.1 Unless expressly stated and authorised in writing, retentions shall not exceed a period of three (3) months from practical completion of the project. The maximum amount of the retention shall not exceed 10% off the total signed contract with Frontstage. Any additional sums over and above the contract for variations and additional work shall not be included in the retentions.
- 20.2 Payment in full of these retentions shall not be withheld when all obligations upon Frontstage have been met.
- 20.3 Frontstage will not be held responsible for other subcontractors on the same contract who have not completed their responsibilities. This shall not effect full and final settlement of Frontstage account.

### 21. VARIATIONS AND EXTRAS TO SIGNED CONTRACT

- 21.1 Should the Customer, his architect or designer request variations to the work embraced in the contract all such variations whether involving additional costs or not shall be instructed in writing. Failure to do this releases Frontstage from all responsibility if they are not carried out. Where written instructions involve additional labour and materials the work will only be proceeded with upon the written receipt of acceptance of these additional costs from the Customer/Contractor.

### 22. INSTALLATION

- 22.1 Where installation forms part of the quoted price it is included at normal day rates and conditional upon free access at the site with clear pass for all parts to it. If Frontstage are prevented from proceeding with the work or our men have to be withdrawn and sent back to complete or where interference by production work nearby causes delay to the installation process, a charge will be made to cover the additional expense incurred.

### 23. RETURN OF GOODS

- 23.1 Where goods have been expressly imported or manufactured by Frontstage or their sub-contractors to fulfil a particular specification, those goods cannot be returned.

### 24. NON-ACCEPTANCE OF CONTRACT

- 24.1 Frontstage reserves the right to refuse acceptance of a tendered job if the conditions imposed by the head contract in respect of the completion date is such that it would not be physically possible to meet those obligations. Such refusal shall relate only to time and delivery and in no way be prejudiced by the price tendered.

### 25. MISCELLANEOUS

- 25.1 Frontstage shall not be liable for delay or failure to perform its obligations if the cause of the delay or failure is beyond its control.
- 25.2 Failure by Frontstage to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights or obligations Frontstage has under this contract.
- 25.3 If any provision of this contract shall be invalid, void or unenforceable the validity existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.

Please indicate your acceptance of the above by marking the approval box online in.

Thank you and we look forward to working with you for our mutual success.