

# Terms of trade

## 1. Definitions

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In these conditions unless the context otherwise requires:

- Company means Just In Tech Ltd.
- Buyer means the person or company buying the goods from the Company.
- Products and/or services mean the products and/or services being purchased by the Buyer from the Company.
- Contract means the contract between the Company and the Buyer for the purchase of the goods and services.
- Date of the contract means where the contract arises from a quotation given by the Company, i) the date of acceptance of the order by the Company; or ii) Where the contract arises from a quotation given by the Company, the date upon written notification of acceptance of the quotation is received by the Company.
- Contract price means the price of goods as agreed between the Buyer and the Company.
- Person includes a corporation, association, firm, company, partnership or individual. Quotation shall mean price on offer for a fixed term (usually 7 days). Manager is the companies appointed decision maker.
- PPSA means the Personal Property Securities Act 1999.

## 2. Quotation

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The Buyer may request a Quotation from the Company setting out the price and quantity of the Goods to be supplied. If the Quotation is acceptable to the Buyer, the Buyer may place an order within an acceptable timeframe. All quotes are subject to suppliers available stock and lead time.

## 3. Acceptance

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If any instruction is received by the Company from the Buyer for the supply of products and/or services, it shall constitute acceptance of the terms and conditions contained herein. Upon acceptance of these terms and conditions by the Buyer, the terms and conditions are definitive and binding.

## 4. Terms and Conditions

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These terms and conditions and any subsequent terms and conditions issued by the Company shall apply to all orders for the goods and the services made by the Buyer after the date and time at which these conditions are first delivered or sent by email or facsimile to, or otherwise brought to the notice of, any employee, staff member or representative of the Buyer. It shall be the Buyer's responsibility to ensure that these conditions are promptly brought to the attention of the appropriate staff of the Buyer, and accordingly any order made by the Buyer after the date and time described above in this clause shall be deemed to be an acceptance of these conditions.

## 5. Price

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- 5.1. The Price shall be as indicated on invoices provided by the Company to the Buyer in respect of products and/ or services supplied; or
- 5.2. The Price shall be the Price of the Company's current Price at the date of delivery of any goods.

- 5.3. Time for payment for the products and/or services shall be of the essence and will be stated on the invoice, quotation, tender documents, work authorisation form or any other work commencement forms. If no time is stated then payment shall be due on delivery of any goods.
- 5.4. The Buyer agrees that the cost Price shall be determined by the Company, and shall take into consideration "one-off" costs such as design and production.
- 5.5. The Company reserves the right to implement a surcharge for alterations to specifications of products after the order has been placed.

## **6. Payment, Late Payment, Default of Payment and Consequences of Default of Payment**

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- 6.1. The method of payment will be made by cash, or by cheque, or by direct credit, or by Eftpos, or by Credit Card via PayPal (an extra 2.5% will be added for credit card payments) or any other method as agreed to between the Buyer and the Company.
- 6.2. Subject to any provision to the contrary in the Contract, payment (being cash unless otherwise arranged in advance and confirmed in writing by Justin Prebensen or his appointee) shall be received on or before twenty days of the month following the date of the Company's invoice to the Buyer, which shall be issued promptly on or after delivery of the goods.
- 6.3. Late payment shall incur will incur a monthly fee of \$30 plus GST. This shall be payable on any monies outstanding under the Contract from the date payment was due until the date payment is received by the Company, but without prejudice to the Company's other rights or remedies in respect of the Buyer's default in failing to make payment on the due date.
- 6.4. Without prejudice to any other remedies the Company may have, if at any time the Buyer is in breach of any obligation (including those relating to payment), the Company may suspend or terminate the supply of Goods to the Buyer and any of its other obligations under the terms and conditions. The Company will not be liable to the Buyer for any loss or damage the Buyer suffers because the Company exercised its rights under this clause.
- 6.5. In the event that:
  - a. any money payable to the Company becomes overdue, or in the Company's opinion the Buyer will be unable to meet its payments as they fall due; or
  - b. the Buyer becomes insolvent, convenes a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - c. a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Buyer or any asset of the Buyer; then without prejudice to the Company's other remedies at law
  - d. the Company shall be entitled to cancel all or any part of any order of the Buyer that remains unperformed in addition to, and without prejudice to any other remedies; and all amounts owing to the Company shall, whether or not due for payment, immediately become payable.

## **7. PPSA**

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- 7.1. The Contract constitutes a security interest in the goods supplied by the Company to the Buyer for the purposes of the PPSA as security for payment by the Buyer of all amounts due under the Contract, including any future amounts.
- 7.2. The Buyer agrees to promptly execute and deliver to the Company all assignments, transfers and other agreements and documents and do anything else which the Company may deem appropriate to perfect the Company's security interest over the Buyer, or obtain the priority required by the Company or register (and renew registration) a financing statement for a security interest in favour of the Company.
- 7.3. To the extent that Part 9 of the PPSA applies, the Buyer agrees that the provisions of sections 114(1)(a), 120, 122, 133 and 134 of the PPSA which are for the Buyer's benefit or place any obligations on the Company in the Buyer's favour, will not apply; and where the Company has rights in addition to those in Part 9 of the PPSA, those rights will continue to apply.
- 7.4. To the extent that Part 9 of the PPSA applies, without limiting anything in the previous paragraph, the Buyer hereby waives its rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA, and its rights to receive a copy of a verification statement under section 148 of the PPSA in respect of any financing statement or financing change statement registered by the Company.
- 7.5. The Buyer agrees to treat the security interest in the goods as a continuing and subsisting security with priority over a registered general security interest and any unsecured creditors, regardless of whether the goods have become fixtures at any time before payment has been made for them.

## **8. Governing laws**

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These Terms of Trade will be interpreted in accordance with applicable government legislation, which will have exclusive legal jurisdiction over any dispute in relation to the products and/or services or these Terms of Trade.

## **9. Dispute resolution**

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The Company will endeavour to resolve any dispute between the Buyer and itself without the need for Court proceedings. Any such attempt is without legal prejudice.

## **10. Reservation of title**

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Ownership and title of the goods remains with The Company until the purchased price and all other monies owing by the Buyer, under the contract or any other contract to The Company, have been paid in full.

## **11. Warranty**

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The Company warrants that it will repair or make good any defects in the goods, if written notice of the claim is received by the Company within seven (7) days from the date the goods were delivered. No claim shall be accepted under such warranty if any attempt to repair the defective goods is made by any person not authorised by the Company, or if the defective goods have been modified or incorrectly stored, maintained or used. If the Company elects to repair or replace any defective goods,

such work shall be undertaken at such place as the Company may reasonably specify and the Buyer shall be responsible at its cost and risk for shipment of the defective goods to the place specified.

## 12. Liability

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The Company shall not be liable for any loss of any kind whatsoever suffered by the Buyer as a result of any breach of any of the Company’s obligations under the contract, including any cancellation of the contract or any negligence on the part of the Company, its servants, agents or contractors, nor shall the Company be liable for any loss, damage or injury caused to the Buyer’s servants, agents, contractors, buyers, visitors, tenants, trespassers or other persons. If no managed services contract is in place all work will be done as break / fix as no management contract is in place, the responsibility for maintenance and security best practices on all devices is that of the Buyer. The Buyer shall indemnify the Company against any claim by any such person.

## 13. Signatures and witnesses

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I \_\_\_\_\_ of \_\_\_\_\_ (business name) have read and accept the Terms of Trade as outlined in this document.

Signature:    Date:

Your signature:    Date:

Witnessed by: