

## **TERMS AND CONDITIONS**

### **1. DEFINITIONS**

- 1.1 "Contractor" shall mean Plumbing Water Specialists Pty Ltd ("PWS") and its successors and assigns.
- 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 PWS.
- 1.3 "Goods" shall mean goods supplied by the contractor to the customer
- 1.4 "Services" shall mean all services supplied by the Contractor to the Customer and includes any advice or recommendations (and where the context so permits shall include any supply of Goods as defined above).

### **2. ACCEPTANCE**

- 2.1 Any instructions received by the Contractor from the Customer for the supply of Goods and/or the Customer's acceptance of Goods supplied by the Contractor shall constitute acceptance of the terms and conditions contained herein
- 2.2 The Customer shall accept these terms and conditions by:
  - a) Any written acceptance, including SMS or email; or
  - b) Acceptance of any quote given by the Contractor, verbally or in writing; or
  - c) By instructing the Contractor to commence the work verbally or in writing (including via SMS or email).
- 2.3 Where more than one Customer has entered into this agreement, all Customers shall be jointly and severally liable for all payments of the price
- 2.4 Any and all works carried out by the Contractor will be subject to these terms and conditions
- 2.5 Where the Contractor has given the Customer a Quote, the Contractor need not commence work until the Quote has been accepted by the Customer.
- 2.6 A customer shall accept a quote in writing (including via SMS and email) or verbally.
- 2.7 Quotes are valid for thirty (30) days only, unless an extension has been authorised by the Contractor.
- 2.8 In acceptance of the Quote, the Customer warrants that it has not relied on any representation by the Contractor other than as supplied in writing in the Quote.

### **3. QUOTES**

- 3.1 The Contractor shall give the Customer a quotation specifying the work required, based on the customer's instructions (Quote) and an estimate of the charge for the specified work.
- 3.2 The Quote is given by the Contractor on the basis of acceptance by the Customer within 30 days of the date of the Quote and is subject to the right of withdrawal or revision before acceptance. If any changes occur to the work, or charges applicable to the work, the subject of the Quote, then the Quote shall be subject to revision accordingly.
- 3.3 The Contractor or Customer may add to, delete or otherwise change the Works by giving written notice to the other party. Such variations to the Works take effect upon the giving of such a notice.
- 3.4 Where the Works are varied, the Contractor may, at his sole discretion, vary or withdraw the Quote or issue a new Quote for the varied Works.

### **4. PAYMENT**

- 4.1 The Customer agrees to pay the full invoice amount on the completion of works.
- 4.2 The Customer agrees to make progress payments as requested. Failure to do so will cancel all further works until such time, progress payments are paid.
- 4.3 A credit card transaction fee of 2% may apply to some card payments
- 4.4 All quoted works are subject to variations as required and are at the discretion of the Contractor in order to carry out works to Australian Safety Standards. Variations may incur further fees and charges in addition to the original quoted amount.
- 4.5 All goods shall remain the property of the Contractor until payment is received in full.
- 4.6 Payment will be made by cash on delivery, or by cheque, or by bank cheque, or by credit card (subject to a processing fee of 3% of the transaction value), or by direct credit, or by any other method as agreed to between the Customer and the Contractor.
- 4.7 The Price shall be increased by the amount of any GST and other taxes and duties which may be applicable, except to the extent that such taxes are expressly included in any quotation given by the Contractor.

### **5. NON-PAYMENT**

- 5.1 In the event that payment is not made by the specified date, the Contractor shall be entitled to cancel any or all of the order to the customer which remains unperformed, in addition to and without prejudice to any other remedies.
- 5.2 Interest on overdue invoices shall accrue from the date when payment becomes due daily until the date of payment at a rate of 2.5% compounding per calendar month and shall accrue at such a rate after as well as before any judgement.
- 5.3 If the Customer defaults in payment of any invoice when due, the Customer shall indemnify the Contractor from and against all the Contractor's costs and disbursements and all of the Contractor's nominees costs of collection.

## **6. TITLE**

It is the intention of the Contractor and agreed by the Customer that property in the Goods shall not pass until:

- a) The Customer has paid all amounts owing for the particular Goods; and
- b) The Customer has met all other obligations due by the Customer to the Contractor in respect of all contracts between the Contractor and the Customer and that where practicable the Goods shall be kept separate until the Contractor has received payments and all other obligations of the Customer are met.

## **7. CUSTOMER'S DISCLAIMER**

The Customer hereby disclaims any right to rescind, or cancel the contract or to sue for damages or to claim restitution arising out of any misrepresentation made to him by any agent of the Contractor and the Customer acknowledges that they buy the Goods relying solely upon his own skill and judgement.

## **8. WARRANTY**

- 8.1 Warranty shall be valid on works carried out by the Contractor for 12 months unless expressly stated otherwise, from invoice date. Customer must provide invoice as proof of works completed.
- 8.2 The Customer shall inspect the goods and works upon completion and any defects to parts or the works must be reported within 48 hours in writing to the Contractor. The customer shall then allow 14 business days for the works to be inspected and make good to reasonable standards.
- 8.3 Any serviceable parts need to be serviced by Contractor annually. Failure to do so will void all warranty. It is the sole responsibility of the customer to engage the Contractor to do so.
- 8.4 Warranty is not provided on blocked drainage, stormwater or sewer as set out in clause 11
- 8.5 Warranty is void if customer or other tradesperson carries out work under, over or around the contractor's work which alters or impacts the quality of the contractor's workmanship.

## **9. UNDERGROUND SERVICES**

- 9.1 The Customer will indemnify the Contractor against any liability, loss, claim or proceedings of any kind (whether under statute or common law) arising from services which are buried or unseen being disturbed or damaged.
- 9.2 The Contractor will not be liable for any repair work or associated costs. Such liability, loss, claims or proceedings includes but is not limited to:
  - a) Damage to the property, real or personal;
  - b) Death or personal injury; and
  - c) Consequential or economic loss of any kind.

## **10. ROCK AND FILLED GROUND**

- 10.1 Unless expressly stated otherwise, supportive work for filled or made up ground, rock excavation works, dewatering or other such works will be charged out as a variation to the original price. Quotation is based on excavation of clean soils only, unless otherwise stated.
- 10.2 Existing soils will be returned to excavated areas where possible, however landscape or concreting work is not included in quotation price unless expressly stated in writing.

## **11. DRAINS AND SEWER**

- 11.1 The Customer understands that the presence of blockages or obstructions including but not limited to: plant and tree root growth; wipes; excess paper; and tampons or other sanitary items; will generally indicate damage that cannot be guaranteed following repair.
- 11.2 No warranty is provided in relation to future damages or blockages regardless of timeframe.

11.3 Should any Plumber's equipment become lodged or damaged in the customer's drain it will be removed and/or repaired at the Customer's expense or monetary compensation to the value of the equipment and labour will become payable to the Contractor immediately.

## **12. COMPLIANCE WITH LAWS**

12.1 Both parties shall comply with the provisions set out in all relevant statutes and regulations.

12.2 The Customer shall obtain all licenses and approvals that may be required for the works prior to commencement.

12.3 Both Parties agree that the site will comply with any occupational health and safety laws relating to building/construction sites and any other relevant safety standards or legislation.

## **13. TERMINATION**

13.1 In the event that the Contractor is in serious breach of their obligations under this agreement, the Customer may give a written request to remedy the breach within fourteen (14) days. If the breach is not remedied within that time, the Customer may then terminate this contract by giving the Contractor written notice.

13.2 Without prejudice to any other remedies the Contractor may have, if at any time the Customer is in breach of any obligation, including payment, or the Customer becomes unable to pay its debts as and when they fall due, the Contractor may suspend or terminate the supply of the Work to the Customer. The Contractor will not be liable to the Customer for any loss or damage. If the agreement is terminated under this clause, the Contractor is entitled to a reasonable price for the Work carried out under the agreement to the date the agreement is ended

## **14. LIABILITY**

The Customer must not withhold any payment due to the Contractor under this Contract, or set off or deduct all or any part of a payment due to the Contractor against any amount claimed by the Customer (including but not limited to for the rectification of defective works) for any reason.

## **15. FORCE MAJEURE**

The Contractor will have no liability to the Customer in relation to any loss, damage or expense caused by the Contractor's failure to deliver the goods or complete the Work as a result of fire, flood, tempest, earthquake, riot, civil disturbance, theft, crime, strike, lockout, breakdown, war, the inability of the Contractor's normal suppliers to supply necessary material or any other matter beyond the Contractor's control.

## **16. PRIVACY**

The Customer hereby authorises the Contractor to collect, retain, record, use and disclose consumer and/or commercial information about the Customer, in accordance with the Privacy and Data Protection Act 2014, to persons and/or legal entities who are a solicitor or any other professional consultant engaged by the Contractor, a debt collector, credit reporting agency and/or any other individual or organisation which maintains credit references and/or default listings.

## **17. DISPUTE RESOLUTION**

Without prejudice to either party's statutory rights either party may refer any dispute under, or arising out of, this contract to the Institute of Arbitrators and Mediators Australia, for resolution.

## **18. SEVERABILITY**

Any provision in this agreement 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 this agreement or affecting the validity or enforceability of that provision in any other jurisdiction.

## **19. RIGHT OF VARIATION**

This agreement shall not be varied unless otherwise agreed by the parties in writing.

## **20. CANCELLATION**

The Contractor may cancel these terms and conditions or cancel delivery of Goods at any time before the Goods are delivered by giving written notice. The Contractor shall not be liable for any loss or damage whatever arising from such cancellation.