

Terms & Conditions

1. Definitions

- 1.1 "Contract" means any agreement made pursuant to the terms and conditions contained herein.
- 1.2 "Customer" means any the customer, any person acting on behalf of and with the customer's authority, or any person purchasing goods and services from Professional Plumbing.
- 1.3 "Deposit" means 1/3rd of the Quote plus GST.
- 1.4 "Quote" means a Quote for Goods and/or Services made in accordance with clause 5 of this Contract.
- 1.5 "Goods" means any personal property supplied by Professional Plumbing to the Customer and shall include any fee or charge associated with the supply of the Goods by Professional Plumbing.
- 1.6 "GST" means Goods and Services Tax as that term is defined in the Goods and Services Tax Act 1985.
- 1.7 "Price" means the cost of Goods or Services as agreed between Professional Plumbing and the Customer.
- 1.8 "Professional Plumbing" means Professional Plumbing Limited, or any agents or employees thereof.
- 1.9 "Services" means all services provided by Professional Plumbing, or its contractors, to the Customer and includes without limitation the provision of plumbing, gasfitting, drainlaying, roofing and excavation services.

2. Acceptance

- 2.1 Any instructions the Customer gives Professional Plumbing in relation to the supply of Goods and/or Services shall constitute acceptance of the terms and conditions contained herein.

3. Collection and use of Information

- 3.1 The Customer authorises Professional Plumbing to collect, retain and use any information about the Customer or for the purposes of assessing the Customer's credit worthiness, enforcing any rights under any contract entered into subject to the terms and conditions contained herein, or marketing any Goods and/or Services provided by Professional Plumbing to any other party.
- 3.2 The Customer authorises Professional Plumbing to disclose any information obtained to any person for the purposes of clause 3.1 of this Contract.
- 3.3 Where the Customer is a natural person, the authorisations made under clauses 3.1 and 3.2 of these terms and conditions are consent for the purposes of the Privacy Act 1993.

4. Price

- 4.1 If no price is stated in writing or agreed to orally the Goods and/or Services shall be deemed to be sold at the current amount that Professional Plumbing sells such Goods and/or Services at the time of the supply of the Goods and/or Services.
- 4.2 The Price may be increased by the amount of any reasonable increase in the cost of supply of Goods and/or Services that is beyond the control of Professional Plumbing between the date of the Quote or the date of the Contract and the delivery of the Goods and/or the provision of the Services.
- 4.3 GST will be charged in addition to the Price.

5. Quote

- 5.1 Where Professional Plumbing provides a Quote for the supply of Goods and/or Services, the Quote shall be:
- 5.1.1 valid for one month from the date of issue; and
- 5.1.2 exclusive of GST unless specifically stated to include GST.
- 5.2 Any Goods and/or Services required in addition to the Quote will be invoiced to the Customer and must be paid for by the Customer in accordance with clause 6.4 of this Contract.
- 5.3 All Quotes are provided on the basis that any existing pipework and fittings are to New Zealand standard and specifications.
- 5.4 All Quotes for excavation are based on the assumption of standard ground conditions and that there is no rock or backfill.
- 5.5 Professional Plumbing reserves the right to increase the Quote if any extra excavation is required.

6. Payment

- 6.1 The Deposit shall be paid when the Quote is accepted.
- 6.2 The Deposit is not refundable unless Professional Plumbing provides the Customer with written notice that Professional Plumbing has cancelled the Contract.
- 6.3 In the event that the Contract is cancelled, any refund of the Deposit will be made quantum meruit.
- 6.4 Payment for Goods and/or Services shall be made in full on or before the 7th day following the date of the invoice or on receipt of delivery of Goods or on completion of Services, whichever is the earlier ("the Due Date").
- 6.5 Professional Plumbing may, at its sole discretion, require payment or payments in advance, or on a progress payment basis, on account of Goods and/or Services. Such installment payments will be payable in accordance with clause 6.4 of this contract.
- 6.6 Interest may be charged on any amount owing after the Due Date at the rate of 2.5% per month or part thereof.
- 6.7 Any expenses, disbursements and legal costs incurred by Professional Plumbing enforcing any of its rights contained in this contract shall be paid by the Customer, including any fees charged by a solicitor or debt collection agency and all solicitor to client costs.
- 6.8 Receipt of a cheque, bill of exchange, or such other negotiable instrument shall not constitute payment until such negotiable instrument is paid in full.

7. Risk

- 7.1 The Goods remain at Professional Plumbing's risk until delivery to the Customer, but when title passes to the Customer pursuant to clause 9.1 of this Contract, the Goods are at the Customer's risk, whether delivery has been made or not.
- 7.2 Delivery of Goods shall be deemed to be complete when Professional Plumbing gives possession of the Goods for delivery to the Customer, or possession of the Goods is given to a common carrier, or other bailee for the purposes of delivering to the Customer, whichever is earlier.
- 7.3 The time agreed for delivery shall not be an essential term of the contract between Professional Plumbing and the Customer unless the Customer gives written notice to Professional Plumbing making time of the essence.
- 7.4 When Professional Plumbing delivers Goods and/or provides Services to the Customer by installments and Professional Plumbing fails to deliver or supply one or more installments the Customer shall not have the right to repudiate the Contract but shall have the right to claim compensation as a severable breach.

8. Agency

- 8.1 The Customer authorises Professional Plumbing to contract either as principal or agent for the provision of the Goods and/or Services that are the subject of this Contract.
- 8.2 Where Professional Plumbing enters into a contract of the type referred to in Clause 8.1 that contract shall be read with and form part of this Contract and the Customer agrees to pay any amounts due under that contract.

9. Title

- 9.1 If the Goods are ascertainable and in a deliverable state, title in the Goods passes to the Customer when the Customer has made payment in full for the Goods to Professional Plumbing.
- 9.2 Where the Customer has not paid for any Goods in its possession, title in such Goods shall remain with Professional Plumbing and:
- 9.2.1 The Goods shall be held by the Customer as bailee; and
- 9.2.2 If the Goods are attached, fixed, or incorporated into any property of the Customer, title in the Goods shall remain with Professional Plumbing until the Customer has made payment in full for all the Goods, and where these Goods are mixed with other property so as to be part of, or a constituent of any new goods, title to these new goods shall be deemed to be assigned to Professional Plumbing as security for the full satisfaction by the Customer of the full amount owing under the Contract.
- 9.3 The Customer gives irrevocable authority to Professional Plumbing to enter any premises occupied by the Customer, at any reasonable time, to remove any Goods not paid for in full by the Customer. Professional Plumbing shall not be liable for costs, damages or expenses or any other losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or in any way whatsoever.
- 9.4 Professional Plumbing, may at its sole discretion, register a Financing Statement (as that term is defined in section 135 of the Personal Property Securities Act 1999) in respect of any Goods in which it retains title or as security for any monies payable under this Contract.
- 9.5 Professional Plumbing's failure to register a Financing Statement shall not be deemed to be a waiver of any of Professional Plumbing's rights under clause 9 of this Contract.

10. Acceptance of Goods and/or Services

- 10.1 The Customer shall be deemed to have accepted the Goods and/or Services unless the Customer notifies Professional Plumbing otherwise within 5 days of delivery of the Goods or provision of Services to the Customer.
- 10.2 No Goods shall be returned to Professional Plumbing without Professional Plumbing's prior written approval.

11. Liability

- 11.1 Except as otherwise provided by statute, Professional Plumbing shall not be liable for:
- 11.1.1 any deterioration of Goods supplied due to metal fatigue; and
- 11.1.2 any rust or corrosion following the supply of Goods and/or Services.
- 11.2 Except as provided in this Contract, Professional Plumbing shall not be liable in contract, tort or otherwise for any loss, damage, or injury beyond the value of the Goods and/or Services provided by Professional Plumbing to the Customer; and the Customer shall indemnify Professional Plumbing against all claims of any kind whatsoever, however caused or arising without limiting the generality of the foregoing of this clause whether caused or arising as a result of the negligence of Professional Plumbing or otherwise, brought by any person, other than the Customer, in connection with any matter, act, omission, or error by Professional Plumbing, its agents or employees in connection with the Goods and/or the Services.

12. Warranty

- 12.1 Professional Plumbing warrants that the Services:
- 12.1.1 will be carried out with reasonable care and skill; and
- 12.1.2 are of such nature and quality that the Customer can expect the Services to be of any standard communicated to Professional Plumbing by the Customer, except where Professional Plumbing can demonstrate that the:
- 12.1.2.1 Customer did not rely on Professional Plumbing's skill or judgment; or
- 12.1.2.2 Customer's expectations are unreasonable.
- 12.2 Professional Plumbing warrants that the Goods are fit and suitable for any purpose communicated to Professional Plumbing by the Customer.
- 12.3 Goods that are new parts are warranted free from defective workmanship and material for a period of one year from delivery provided that such parts are correctly installed by Professional Plumbing or a suitably qualified person and subject to normal use and service. However, no warranty under this clause 12.3 shall exceed that given by the manufacturer to the Customer at the time of purchase.

13. Cancellation

- 13.1 Professional Plumbing shall without liability, and without any prejudice to any other right it has in law or in equity, have the right by notice to suspend or cancel in whole or in part any Contract for the supply of Goods and/or Services to the Customer if the Customer:
- 13.1.1 fails to pay any money owing after the Due Date; or
- 13.1.2 commits an act of bankruptcy as defined in section 19 of the Insolvency Act 1967; or
- 13.1.3 being a company, goes into liquidation whether voluntarily or compulsorily or does anything or fails to do anything that would allow a receiver or manager to be appointed, or a receiver or manager to take possession of any of the Customer's assets, or which would entitle any person to present an application for winding up or is wound up or dissolved or placed under statutory management or enters into a scheme of arrangement with its creditors or any class thereof.
- 13.2 Any cancellation or suspension under clause 13.1 of this Contract shall not affect Professional Plumbing's claim for money due at the time of cancellation or suspension or for damages for any breach of any terms of this Contract or the customer's obligations to Professional Plumbing under this Contract.

14. Miscellaneous

- 14.1 The Customer shall not assign all or any of its rights or obligations under this Contract without Professional Plumbing's written consent.
- 14.2 Professional Plumbing shall not be liable for delay or failure to perform its obligations if the cause of the delay is beyond its control.
- 14.3 Professional Plumbing's failure to enforce any of the terms and conditions contained herein shall not be deemed to be a waiver of any of Professional Plumbing's rights and obligations under this Contract.
- 14.4 Where the terms of this Contract are at variance with the order or instruction from the Customer, this Contract shall prevail.
- 14.5 Any dispute under this Contract shall be determined in the first instance by mediation with a mediator appointed by the Auckland Master Plumbers and Gasfitters Association.
- 14.6 Any notice or other communication made in respect of this Contract shall be made in writing and posted or delivered by facsimile or personal delivery. Any such notice or communication shall be deemed to be received three days after the day it is posted or on the day it is delivered by facsimile or personal delivery.
- 14.7 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, prejudice or impaired.