



FIND LEAK DETECTION TERMS & CONDITIONS OF TRADE

1 APPLICATION OF THESE TERMS AND CONDITIONS

The Customer agrees that prior to placing an order with the Contractor, the Customer has read and agreed to the terms and conditions set out and presented here.

1.1 Definitions

For the purposes of this Agreement, the following words are defined below:

"Australian Consumer Law" means the Australian Consumer Law set out in schedule 2 of the Competition & Consumer Act 2010 as amended from time to time;

"Goods" means plumbing products and associated components as more particularly described on the Contractor's quotes, Invoices and other paperwork supplied to the Customer;

"Invoice" means an invoice issued by the Contractor to the Customer;

"Parties" means the Contractor and the Customer;

"Party" means either the Contractor or the Customer;

"Price" means the price payable for the Goods agreed between the Contractor and the Customer, in accordance with clause 11 of this Agreement;

"QBCC" means the Queensland Building and Construction Commission;

"QBCC Act" means the Queensland Building and Construction Commission Act 1999 (Qld);

"Quote" means the document provided by the Contractor to the Customer as specified in clause 2 of this Agreement;

"Services" means all Services supplied by the Contractor to the Customer (and where the context permits it will include any supply of labour and Goods as defined above);

"Site" means the place where the Contractor's Services will be carried out; "

"the Contractor" is Pasfield Plumbing Pty Ltd ACN 626 527 642, along with its successors or employees and assigns and any person acting on behalf of it; and

"the Customer" shall mean any person or entity that is provided with an invoice by the Contractor.

2 QUOTES

2.1 Contractor Supply Quote

The Contractor may give the Customer a quote specifying the work required to be done in order to fulfil the Customer's instructions and an estimate of the Contractor's charge for the performance of such work.

2.1.1 The Quote may not cover any additional works or materials not specified therein and may not cover unforeseen works or alterations required in addition to works quoted.

2.1.2 The Quote may not cover works or materials required to repair, replace or service any existing plumbing or building services or structures that's integrity is not in fair condition prior to quoted works commencing.

2.2 Acceptance by the Customer

2.2.1 Where the Contractor has given the Customer a Quote, the Contractor need not commence work until the Quote has been accepted by the Customer.

2.2.2 Quotes are valid for thirty (30) days only, unless specified otherwise or an extension has been authorised

by the Contractor in writing.

3 VARIATIONS

3.1 The Contractor reserves the right to vary the Quote once the supply of Goods and/or Services has commenced. The Customer will be notified at their earliest convenience of any variation and where practical and possible, approval sought to carry out the additional Services or provide additional Goods, as the case may be. Where it is not practical and possible to obtain approval of a variation, the Customer

agrees that the Contractor shall be entitled to proceed to vary the Quote and the Contractor will act in goodwill for the Customer's best interest.

3.2 For the removal of doubt, Customer approval is not a precondition to the Contractor's right granted by clause 3.1.

4 QBCC ACT

When Schedule 1B of the QBCC Act applies to this agreement, this clause 4 is operative.

4.1 Home Warranty Scheme, Under the QBCC Act, the Contractor is required to collect the premium from the Customer and pay it to the QBCC within 10 business days after the date this agreement was entered into or before the Goods and Services are provided (whichever is earlier).

4.2 Statutory Warranties

The Contractor warrants that all materials will be good and, having regard to the relevant criteria, suitable for the purpose for which they are used and that, unless otherwise stated in this agreement, those materials will be new;

a) The Services will be carried out in accordance with all relevant laws and legal requirements, including, for example, the Building Act 1975 (Qld);

b) The Services will be carried out in an appropriate and skilful way, with reasonable skill and care and with reasonable diligence; and

c) The Services will be carried out in accordance with the plans and the specifications which form part of this agreement.

For the avoidance of doubt, a warranty mention in a section of division 3 of part 3 of Schedule 1B of the QBCC Act forms part of this agreement if this agreement is of the type to which the section applies.

5 AUSTRALIAN CONSUMER LAW

5.1 Service Standard

In relation to the Services, the Contractor will:

a) provide them with due care and skill;

b) ensure they are fit for the purpose, as advertised; and

c) and we will supply them within a reasonable time.

5.2 Statutory Rights

Nothing in this agreement excludes the Customer's statutory rights as a consumer under the Australian Consumer Law. The Customer agrees that the Contractor's liability for the Goods and/or Services is governed solely by the Australian Consumer Law and this agreement.

6 CANCELLATION

6.1 In the event the Customer cancels the delivery of Goods or accepted Services, the Customer shall be liable for any loss incurred by the Contractor (including but not limited to, any loss of profits) up to time of cancellation.

6.2 The Contractor may cancel these terms and conditions or cancel the Services or the delivery of Goods at any time, without cause and by giving written notice. The Contractor shall not be liable for any loss or damage whatsoever arising from such cancellation.

7 DELIVERY OF GOODS

7.1 Delivery of the Goods shall take place when the Customer takes possession of the Goods at the Customer's nominated address. Delivery of Goods to a third party nominated by the Customer is deemed to be delivery to the Customer for the purpose of this agreement. The failure of the Contractor to deliver shall not entitle either Party to treat this contract as denied. The Contractor shall not be liable for any loss or damage whatsoever due to the failure by the Contractor to deliver the Goods (or any part of them) promptly or at all.

7.2 The failure of the Contractor to deliver the Goods shall not entitle either party to treat this agreement as repudiated.

7.3 The Customer shall indemnify the Contractor from any costs incurred should Site access not be available and subsequently the Contractor is unable to make delivery.

8 SITE ACCESS

8.1 The Customer shall ensure that the Contractor has clear and uninterrupted access to the Site until the Good

have been supplied and/or the Services have been completed and the Contractor is paid in full.

8.2 The Customer shall indemnify the Contractor from additional costs or penalties if the completion of the

Services is delayed due to interrupted Site access.

9 RISK

9.1 The risk in the Goods shall pass to the Customer upon delivery/installation of the Goods to the Customer or to a third party nominated by the Customer.

9.2 If any of the Goods are damaged or destroyed prior to property in them passing to the Customer, the Contractor is entitled, without prejudice to any of its other rights or remedies under this agreement (including the right to receive payment of the balance of the Price for the Goods), to receive all insurance proceeds payable for the Goods. This applies whether or not the Price has become payable under this agreement. The production of this agreement by the Contractor is sufficient evidence of the Contractor's rights to receive the insurance proceeds without the need for any person dealing with the Contractor to make further enquiries.

10 COMPLETION AND DELAY

The Contractor agrees to complete all Services authorised in a good and workmanlike manner as soon as is reasonably practicable and shall not be responsible for any delay in completion or damage occasioned directly or indirectly by weather conditions, labour disputes, accidents, fire, Act of God, Civil Riots, shortages or material or difficulty of securing labour or any government or similar authority's announcement or decision in response to a pandemic or an epidemic (such as but not limited to boarder closures, social distancing measures, lockdowns, or closures) or any other cause beyond the reasonable and practicable control of the Contractor. Where a definite date for completion has been given, the Contractor reserves the right to unilaterally extend such date for completion.

11 PAYMENT

11.1 Price

At the Contractor's sole discretion, the Price shall be either:

a) as indicated on Invoices provided by the Contractor to the Customer in respect of Goods and/or Services supplied; or

b) the Contractor's quoted amount (subject to clause 2) which shall be binding upon the Contractor provided that the Customer shall accept in writing the Contractor's quotation within thirty (30) days.

11.2 Time for Payment

Time for payment for the Goods and Services shall be of the essence and will be as stated on the Invoice, Quote or any other order forms. Any discrepancy between an Invoice, Quote or any other order forms shall be resolved, at all times, by adopting the following order of precedence (i) the Invoice (ii) the Quote and (iii) any other order form. If no time is stated for payment, then payment shall be due seven (7) days following the date of the Invoice.

11.3 Deposit

The Contractor may require a deposit as indicated on an Invoice provided by the Contractor to the Customer in respect of Goods and/or Services supplied, and if a deposit is requested by the Contractor the Customer acknowledges the Contractor is under no obligation to undertake any work until the deposit is received by the Contractor in full.

11.4 Progress Payments

The Price is to be paid in full in accordance with an Invoice, without any deduction/or payment plan at the completion of the supply of the Goods and/or Services unless otherwise agreed in writing with the Contractor.

11.5 Building Industry Fairness (Security of Payment) Act 2017

At the Contractor's sole discretion, if there are any disputes or claims for unpaid Goods and/or Services, then the provisions of the Building Industry Fairness (Security of Payment) Act 2017 (Qld) may apply.

11.6 'Do and Charge'

Where applicable, the hourly rate for 'Do and Charge' work may change should the Contractor hit a major obstacle including but not limited to solid rock, requiring the hire of special equipment and if necessary, an operator to complete the work. The Customer shall be responsible for all costs and expenses associated with such a hire and a daily hire rate shall apply.

11.7 Interest

If the Customer fails to make any payment, the Contractor may charge interest of 2% on the outstanding amount/s from the due date of payment until the date of full payment.

11.8 Damages

The Customer must pay to the Contractor any costs, expenses or losses incurred by the Contractor as a result of

the Customers failure to pay to the Contractor all sums outstanding as owed by the Customer to the Contractor

including without limiting the generality of the forgoing any debt collection and legal costs incurred (on an indemnity basis) in enforcing payment.

11.9 Set-off

All payments required to be made by the Customer under this Agreement will be made free of any set-off, or counterclaim and without deduction or withholding. Any amount due to the Contractor from time to time may be deducted from any monies which may be or may become payable to the Customer by the Contractor.

11.10 Goods and Services Tax

All Goods and Services are subject to Goods and Services Tax (GST).

12 TITLE

Notwithstanding the delivery or installation of the Goods, title in any particular Goods shall remain with the Contractor until the Customer has paid and discharged any and all monies owing pursuant to any Invoice issued by the Contractor for the Goods, including all applicable GST and other taxes, levies and duties.

Where the Goods have been on sold by the Customer, the Customer will be taken to hold the proceeds of sale of such Goods upon trust for the Contractor and to account to the Contractor for these proceeds. Any payment made by or on behalf of the Customer which is later avoided by the application of any Statutory Provisions shall be deemed not to discharge the Contractor's title in the Goods nor the Customer's indebtedness to the Contractor 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.

13 PERSONAL PROPERTY SECURITIES ACT 2009 ("PPSA")

The Customer agrees:

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a) that, pursuant to the Personal Property Securities Act 2009 (Cth) ("PPSA"), this agreement creates a security interest in all Goods (and proceeds of Goods) in favour of the Contractor to secure the purchase price for the Goods;

b) that the following sections of the PPSA do not apply: 95, 118, 121(4), 125, 129(2), 129(3), 130, 132(3) (d), 132(4), 135, 142, 143 and, to the extent section 115(7) applies, each section of Part 4.3 of the PPSA is excluded unless the Contractor elects in writing to retain Part 4.3 (which the Contractor may elect to do either in whole or in part);

c) to waive its right to receive notice of a verification statement in relation to registration of a security interest; and

d) the Contractor may recover from the Customer the cost of doing anything under this clause 13, including registration fees.

14 WARRANTY & LIABILITY

14.1 In relation to any Goods which are the subject of a manufacturer's warranty, the Customer agrees to comply with the terms of the manufacturer's warranty in the event there is a defect in the Goods.

14.2 To the extent permitted by law, all terms, guarantees warranties, representations or conditions which are not expressly stated in this agreement are excluded. If the Contractor is liable for a breach of an imposed term, guarantee, warranty, representation or condition or warranty, the Contractor's liability is,

at Contractor's option, limited to:

a) the replacement of the Goods or the supply of equivalent goods or the supply of the Services again;

b) the repair of the Goods;

c) the payment of the cost of replacing the Goods or acquiring equivalent goods; or

d) the payment of the cost of having the Goods repaired or resupplying the Services.

14.3 To the extent permitted by law the Contractor will not be liable for any special, indirect or consequential loss or damage, loss of profit or opportunity and loss of data arising out of or in connection with the Goods and/or Services, including as a result of the late or non supply of Goods, whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

15 INSURANCE

The Contractor will, in its sole discretion, take out and maintain all insurance it considers appropriate in respect of the supply of Goods and/or Services and all other insurances required by law.

16 PRIVACY

16.1 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 Act 1988 (Cth) and subsequent amendments, 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.

16.2 The Contractor 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 (Cth) and subsequent amendments.

17 INDEMNITY

17.1 The Customer is liable for and agrees to indemnify, defend and hold the Contractor harmless for and against any and all Claims, liabilities, suits, actions and expenses, including costs of litigation and reasonable legal costs, resulting directly or indirectly from:

a) damage, loss, repair, and/or otherwise in respect to the Contractor's property such as equipment, tools and/or materials while on the Site that is not directly a result of the conduct of the Contractor, its agents or employees. Examples of this include, but are not limited to, the Contractor's equipment becoming stuck in a drain located on the Site and the retrieval of the Contractor's property;

b) any information provided by the Customer that is not accurate, up to date or complete or is misleading or a misrepresentation;

c) the Customer's breach of this agreement;

d) any misuse of the Goods and/or Services by the Customer, their employees, contractors or agents; and

e) the Customer's breach of any law or third-party rights.

17.2 The Customer agrees to co-operate with the Contractor (at the Customer's expense) in the handling of disputes, complaints, investigations or litigation that arise as a result of the Customer's use of the Goods and/or Services, including but not limited to, disputes, complaints, investigations or litigation that arises out of or relates to incorrect information the Customer has provided to the Contractor.

17.3 This clause 17 will survive the termination of this agreement.

18 SECURITY & CHARGE

The Customer hereby charges 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 the Contractor under the terms and conditions or otherwise and hereby authorises the Contractor 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.

19 TERMINATION

The Contractor may terminate this agreement, for convenience and without cause, by giving written notice in

accordance with clause 19. The Contractor shall not be liable for any loss or damage whatever arising from such termination.

20 DISPUTE RESOLUTION

20.1 If a dispute arises between the Parties, then either party shall send to the other party a notice of dispute in writing adequately identifying & providing details of the dispute. Within seven (7) days after service of a notice of dispute, the Parties shall confer at least once, to attempt to resolve the dispute.

20.2 At any such conference each party shall be represented by a person having authority to agree to a resolution of the dispute. In the event that the dispute cannot be so resolved either party may by further notice in writing delivered or sent by certified mail to the other party refer such dispute to a court of competent jurisdiction.

21 GENERAL**21.1 No Waiver**

A power or right is not waived solely because the party entitled to exercise that power or right does not do so. A single exercise of a power or right will not preclude any other or further exercise of that power or right or of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver.

21.2 Notices

Any notice required or permitted to be given by either Party to the other under this agreement will be in writing addressed to the relevant address on any Invoice provided by the Contractor to the Customer or any other document, as defined in the Acts Interpretation Act 1954 (Qld), that is exchanged between the Parties whereby the Customer is providing their details to the Contractor. Any notice may be sent by standard post or email, and notices will be deemed to have been served

on the expiry of 48 hours in the case of post, or at the time of transmission in the case of transmission by email.

21.3 Licence and Sub-contract

The Contractor may license or sub-contract all or any part of its rights and obligations arising under this agreement without the Customer's consent.

21.4 Amendment

The Contractor reserves the right to review these terms and conditions at any time. If, following any such review, there is to be any change in such terms and conditions, that change will take effect from the date on which the Contractor notifies the Customer of such change.

21.5 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.

21.6 Governing Law and Jurisdiction

This agreement is governed by the law in force in the State or Territory in which the Contractor's premises are located and the Parties submit to the non-exclusive jurisdiction of the courts of that State or Territory and any courts which may hear appeals from those courts in respect of any proceedings in connection with this agreement.