

Ariel Plumbing and Gasfitting Limited

Standard Terms and Conditions.

1.0 Definitions

Agreement means these terms and conditions, Our quotation for the supply of the Goods and the Notice of Acceptance.

Goods means the goods, materials, products and any services supplied by Us under the Agreement.

Notice of Acceptance means the notice of acceptance of Our quotation signed by You and returned to Us.

Site means the land and building(s) on or in which the Goods are intended to be attached or incorporated.

You/Your means the person named as the Buyer in the Notice of Acceptance.

We/Us/Our means Ariel Plumbing and Gasfitting Limited.

2.0 General

These terms and conditions shall be deemed to be incorporated into and form part of any contract between You and Us for the supply of goods and services, to the exclusion of any terms and conditions set out in any request for tender, notice to tenderers, other terms and conditions of contract or terms of trade, or any other document or correspondence.

3.0 Terms of Payment, Passing of Property and Risk

3.1 The contract price for the Goods shall be payable by You to Us in accordance with any payment terms set out in Our quotation. Where no terms of payment are set out in Our quotation then We shall be entitled to submit invoices/payment claims on a monthly basis. Service of payment claims by email or facsimile shall be acceptable. All accounts or any proportion of the contract price outstanding shall be payable by the 20th of the month following the date of Our invoice/payment claim. Retentions shall be limited to the amount stipulated in Our quotation (if any).

3.2 Upon Your acceptance of Our quotation You shall deposit with Us the percentage of the contract price set out in Our quotation (if any). If for any reason (other than Our breach) the Agreement is terminated or cancelled We shall retain the deposit in payment of expenses incurred to the date of such termination or cancellation without prejudice to other rights under this Agreement.

3.3 We shall retain full legal and equitable title in the Goods and property in those Goods shall not pass to You until all payments (including deferred payments) have been made in full and You have become responsible for their safe custody. The Goods shall remain Our property and We shall have the right to immediate possession of the Goods and You shall have no rights to them, whatever their mode of attachment to the Site or other premises where the Goods are located, until You have fully paid for the Goods. We reserve the right to enter upon the Site or other premises where the Goods are located, to take full possession of the Goods without responsibility for any damage caused or any stock lost as a result of the repossession and to resell the Goods and apply the proceeds of sale towards payment of the contract price. Should the Goods be sold by You prior to property in those Goods passing to You by way of Your payment for those Goods, the proceeds of sale thereof shall be Our property to be held on trust by You for Us, and We shall be entitled to the full recovery of those proceeds of sale.

3.4 You undertake to pay all amounts due in full without deduction or set off on or before the due date. In default of such prompt payment, You

undertake to pay late payment fees of 2.5% per month on any amount outstanding and to indemnify Us for all costs and expenses on a solicitor and own client basis if legal action is necessary, and/or any Debt Recovery fees are incurred, to recover from You any overdue amount.

3.5 We reserve the right to charge interest on overdue accounts at the rate of two percent (2%) over the Bank rate per annum from the time payment was due until the date payment is received by Us without prejudice to Our other rights in respect of non payment or late payment. The Bank rate is the rate applied to Us by Our bankers for the time being.

3.6 Any liability on Our part is subject to You observing the terms of payment and all other obligations under the Agreement.

3.7 If delivery cannot be effected for lack of instructions from You, then delivery shall be deemed to have been made within thirty (30) days of Our giving notice that the Goods are ready and Your payment shall be due accordingly.

3.8 Risk in the Goods will pass to You on delivery of the Goods to the Site or other premises designated for delivery by You even though We may remain the owner of them. Risk of damage to the Goods arising out of any installation work at Your premises shall be borne by You unless such damage is caused by Our negligence or that of Our servants, agents or contractors.

4.0 Construction Contracts Act 2002

4.1 The parties acknowledge and agree that this Agreement is subject to the provisions of the Construction Contracts Act 2002 (“the Act”).

4.2 You must serve any payment schedule in response to a payment claim served by Us within fifteen (15) Working Days of receipt of the payment claim. “Working Days” has the meaning ascribed to it in the Act.

4.3 The provisions of this Agreement are without prejudice to any remedies the parties may have under the Act.

5.0 Taxation

Goods and Services Tax will be payable at the applicable rate.

6.0 Alterations to Price

Prices are based on the rate of exchange and the costs of material, labour, transport, insurance and other items as at the date of Our quotation. If between that date and the completion of the delivery of the Goods variations occur in such items or there are increases or costs attributable to Our suppliers or to change orders or variations made by You, or to taxation or legislation, then We reserve the right to amend Our price accordingly without prior notice to You.

7.0 Time of Delivery

The time of delivery of the Goods indicated on Our quotation is subject to strikes, lock-outs, fire, suspension of production, transportation, hindrances, deferred delivery or non delivery of materials ordered or other causes beyond Our control. If necessary, the delivery period will in such cases be extended correspondingly and liability for such delayed delivery will only be accepted by Us if expressly agreed upon in writing.

8.0 Failure to Take Delivery

If You fail or refuse to take delivery of the Goods We shall have the right to cancel this Agreement and You shall forfeit all moneys paid to Us in addition to and not in substitution for any other rights We have against You. Any storage charges or additional costs caused by delays in forwarding dispatch instructions or accepting delivery shall be for Your account.

9.0 Transportation

Transportation of the Goods or parts for the Goods is at Your risk and You shall be responsible for all insurance in relation thereto.

10.0 Extent of Delivery

The extent of delivery in relation to the Goods is limited in that stipulated in Our quotation. Foundation work, excavation, masonry, carpentry, painting or other building works as well as installation of utilities including water, steam, gas, electricity, lighting and power are not included in Our delivery unless expressly stated otherwise.

11.0 Guarantee

11.1 We agree that, in return for Your payment of the contract price We will as the case may be supply Goods to You which have been manufactured or prepared by suppliers, or supply Goods to You which have been constructed by ourselves or, install Goods (whether or not they have been manufactured or prepared by Our suppliers), or prepare designs for You.

11.2 In relation to Goods manufactured or prepared by Our suppliers, Our liability to You shall be strictly limited to the extent of the guarantees and warranties given by such suppliers to Us in relation to those Goods.

11.3 In the case of Goods constructed by Us or Goods installed by Us or designs prepared by Us on Your behalf We undertake to use reasonable skill and care in their construction, installation or preparation. In relation to products constructed, installed or designed by Us We give You the following twelve (12) months guarantee to be reckoned from the day of delivery or installation of such Goods: If any part of those Goods is proved unfit for use owing to Our faulty design, workmanship or materials We will, according to Our assessment of the position, substitute or repair such Goods or remedy the defective installation, free of charges, such substitution or repair or remedial work to be carried out by Us during ordinary working hours provided that any defective parts are promptly returned free of charge to Us unless otherwise arranged. Where Goods or services are supplied pursuant to these conditions of contract for the purposes of a business, the Consumer Guarantees Act 1993 does not apply.

11.4 If the substitution, repair or remedial work is required because of the negligent or improper use of the Goods by You, Your agent, contractors or invitees or by any unsuccessful repair of or tampering with the Goods by You, Your agents, contractors or invitees, then the guarantees given by Us in relation to the Goods shall be void, and the cost of the substitution repair or remedial work shall be born solely by You.

11.5 Our liability to You is strictly limited by the undertakings and provisions set out in 11.1 to 11.4 above and any condition or warranty or other implied term not expressly contained in those terms and conditions is hereby excluded to the extent permitted by law. Except to the extent of those undertakings We shall not be liable to You, whether in contract, tort (including negligence), strict liability or by virtue of the breach of any statutory duty or otherwise, and in particular We shall not be liable to You for consequential, indirect or any special damage or loss of any kind (including loss of profit and loss of stock) sustained by You, or arising from any failure of the Goods themselves or breach of this Agreement by Us. In any event, Our liability to You shall not extend beyond the difference between the contract price and the value of the goods and/or design(s) supplied by Us to You. Unless otherwise agreed in writing, We give no warranty in relation to second hand goods and such goods are sold on an "as

is" basis. Unless expressly agreed Otherwise in no circumstances shall we be liable to pay liquidated damages.

12.0 Notice of Defects

12.1 We are not required to accept responsibility for any defective Goods or services if You have not:

(a) notified Us of the defect as soon as You became aware of the defect, having regard to the nature of the Goods or services concerned; and

(b) included in Your notice full details of the Goods or services, the alleged defect, and all documents associated with Your order and delivery; and

(c) assisted Us in a full investigation of Your claim.

13.0 Suspension and Cancellation

Without prejudice to any other rights that We may have against You, We may suspend or cancel this Agreement if You fail to make payments on the due date in respect of the Goods and/or the design(s). We may also cancel this Agreement if You become insolvent or bankrupt, or if You cease or threaten to cease business, or if You admit in writing Your inability to pay Your debts as they mature or if proceedings are commenced by or against You in any jurisdiction under a provisional chapter of any bankruptcy law or if You have a liquidator, receiver or trustee appointed or if You make any assignment for the benefit of creditors. You may not cancel this Agreement except upon payment to Us of the value of the Goods and/or the design(s) at the date of cancellation, together with Our non recoverable costs and/or including special incidental and consequential damages, and the loss of profit attributable to the order for the Goods and design(s), and all expenses in

respect of the Goods and/or design(s) to which We are irretrievably committed to incur and pay.

14.0 General Provisions

These terms cannot be modified except by agreement in writing signed by Us. A waiver or repeated waiver by Us of any provision or the breach of any provision shall not constitute a further waiver by Us of such provision or breach. The Agreement constitutes the complete and exclusive statement of the terms of the contract between Us and all representations, warranties or statements by Us or any of Our employees that differ in any way from such terms shall have no force or effect. The Agreement shall not be assignable by You without Our prior written consent.

15.0 Security for payment

If We consider that Your credit is unsatisfactory at any time, We may require security for payment and suspend Our performance of the contract until such sufficient security is provided by You. All costs or expenses incurred by Us as a result of such suspension and recommencement shall be payable by You upon demand.

16.0 Personal Property Securities Act 1999 (“PPSA”)

16.1 You agree to grant to Us a security interest in all Goods supplied by Us to You from time to time as security for all amounts payable by You to Us, including but not limited to amounts owed on account of Goods supplied, and credit facilities provided, by Us to You from time to time.

16.2 You:

(a) Must, upon request, promptly give Us all assistance and information as is necessary to register a Financing Statement under the PPSA in respect of the Goods;

(b) Agree to Us registering a Financing Statement to protect Our security interest under these terms and conditions, including Our rights and remedies under the reservation of title provisions in 3.3 above;

(c) Must pay to Us promptly on request the cost of registering the Financing Statement, and the costs of enforcing or attempting to enforce the contract evidenced by these terms and conditions and security interest granted under clause 15.1; and

(d) Agree that sections 114(a), 121, and 131 of the PPSA will not apply to the security interests created by these terms and conditions, and waive Your right to receive a verification statement under section 148 of the PPSA.

17.0 Costs

We reserve the right to recover from You all costs and/or expenses incurred in instructing a solicitor or debt collection agency to recover any amount overdue for payment and such costs and expenses shall bear interest as provided in 3.4 above from the date upon which they were incurred by Us up to the date they are paid for by You.

18.0 Credit

All claims and requests for credit must be made within fourteen (14) days of the date of invoice in each case quoting the relevant invoice numbers.

19.0 Disclosure and Consent

19.1 We are hereby authorised to collect any information We reasonably regard as necessary for credit inquiry and control purposes from any third party as We consider appropriate. Accordingly, any person or company is authorised to provide Us with such information it may require in response to its credit inquiry. Any information collected may be used for other purposes in addition to that of credit inquiry.

19.2 We are further authorised to furnish to any party details of any credit application and any subsequent dealings that You may have with Us as a result of such credit application being actioned by Us. It is agreed that You acknowledge that You understand that You have certain rights under the Privacy Act 1993, to access and correct any information We may hold about You.

20.0 Governing Law and Language

The contract between Us shall be subject to New Zealand Law and We both agree to accept the non-exclusive jurisdiction of New Zealand courts and if translated its governing language shall be English.

End.