



Terms of Trade:

1. DEFINITIONS

In these terms of trade:

“**Account**” means the Customer’s account with the Vendor.

“**Polite Plumbers**” means Polite Plumbers Ltd and its employees and authorised subcontractors.

“**Customer**” means the person or entity accepting these terms and conditions and their employees and authorised sub-contractors.

“**Product**” means goods supplied by Polite Plumbers Ltd to the Customer at any time.

“**Guarantor**” means any party guaranteeing and indemnifying the performance of the Customer’s Account with Polite Plumbers Ltd.

“**Goods**” means the goods or products supplied by Polite Plumbers Ltd to the Customer pursuant to these terms and conditions.

“**Order**” or “**Orders**” means the order or orders of the Customer to Polite Plumbers Ltd requesting it to supply Goods and Services.

“**PPSA**” means the Personal Property Securities Act 1999.

“**Prices**” means the prices for the supply of the Goods or Services or both.

“**Services**” means the services supplied by Polite Plumbers Ltd to the Customer pursuant to these terms and conditions.

“**Vans**” means company vehicles.

“**CCA**” means the Construction Contracts Act 2002 and revisions.

2. ORDERS AND QUOTATIONS

Order forms

- 2.1 Orders will be on such forms as Polite Plumbers Ltd specifies from time to time.

Quotations

- 2.2 Where a quotation is given by Polite Plumbers Ltd for the supply of Goods and Services it is valid for 30 days from the date of issue.

Cancellation of Orders

- 2.3 Any Order accepted by Polite Plumbers Ltd cannot be subsequently cancelled by the Customer without Polite Plumbers Ltd’s written consent and payment of any costs and expense that Polite Plumbers Ltd may have incurred or be liable for as a result of the cancellation.

Contracting out

- 2.4 By accepting these terms, the Purchaser:

(a) represents that it acquires the Goods and Services for business purposes so that the Consumer Guarantees Act 1993 (“CGA”) does not apply to them and their sale is not a consumer sale; and

(b) agrees with Polite Plumbers Ltd that ss 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 (“FTA”) do not apply to Polite Plumbers Ltd or to any of its directors, employees or contractors in respect of any contract on these terms and conditions; and

(c) it is fair and reasonable for Polite Plumbers Ltd to contract out of the **CGA and FTA**.

Hidden problems

- 2.5 In providing the Goods and Services, if Polite Plumbers Ltd encounters unforeseen or hidden problems or unsuitable conditions (including but not limited to those underground, in wall or roof spaces and relating to flooring or worn, damaged or corroded fittings) then Polite Plumbers Ltd will contact the Customer immediately and discuss the situation. Responses and options may then vary:
 - (a) if Polite Plumbers Ltd believe that the hidden problem poses a significant threat to the safety of people and/or property then Polite Plumbers Ltd will attempt to immediately remedy the fault if they can. In such circumstances the Customer will pay Polite Plumbers Ltd on a “charge up” (i.e. time and materials) basis for the additional works needed to (or for reasonable attempts to) make the site safe.
 - (b) if the hidden problem does not pose an immediate threat to the safety of people and/or property then the parties can:
 - (i) agree to increase the scope of the works to include the problem remedy on a “charge up” (i.e. time and materials) basis; or
 - (ii) have Polite Plumbers Ltd prepare a separate quote for the additional works to remedy the problem.Alternatively,
 - (c) Polite Plumbers Ltd reserves the right to terminate the contract without penalty and claim payment of all costs incurred to the date of termination.

Data Cables

- 2.6 Before any works commence the Customer must advise Polite Plumbers Ltd of the location of any data cabling in the vicinity of where Polite Plumbers Ltd are about to work. Polite Plumbers Ltd must be alerted to this potential hidden problem.

Type of works

- 2.7 Polite Plumbers Ltd as registered and licensed plumbers and gasfitters will only undertake work that is in accordance with ASNZ Standards.
- 2.8 Polite Plumbers Ltd works do not extend to other trades such as building, electrical, earthworks, decorating (i.e. painting, plastering or tiling), glazing or joinery (i.e. cabinetry, shelving, or altering benchtops) directly, but we work very closely with those trades and can supply these if required.

3. ACCEPTANCE

- 3.1 When the Customer makes an Order, the Customer accepts these terms and conditions of trade to the exclusion of the Customer’s terms and conditions and any prior communication and discussions whether oral or written so that the contract between Polite Plumbers Ltd and the Customer is only on the basis of these terms and conditions.
- **4. PRICES**

Order Price

- 4.1 All Orders will be charged at Prices prevailing at the date of the contract. Fixed rates exist for certain jobs, starting at \$150, Plus GST. For specialised services, like Hydroblasting, a minimum charge of \$350, plus GST is payable.

Price Increases

- 4.2 Polite Plumbers Ltd may increase those prices by any increase in prices charged to it by its suppliers or by any reasonable cost of supply between the date of the contract and the date of delivery or performance of the Goods and Services.

5. DELIVERY OF THE GOODS AND SERVICES

- 5.1 If the Order specifies the date and place for delivery and performance of the Goods and Services then those details apply but if no details are specified then delivery and performance will take place at the physical address of the Customer notified to Polite Plumbers Ltd.

6. CONSENTS, ACCESS, STORAGE, AND RISK

Consents

- 6.1 The Customer is solely responsible for obtaining any necessary permits and ensuring compliance with all legislation, regulations, by-laws or rules in connection with the installation operation and provision of the Goods and Services.

Access and Storage

- 6.2 The Customer agrees to provide Polite Plumbers Ltd free of charge with:

(a) all necessary facilities for the delivery of the Goods and Services, including power, lighting, unloading, hoisting and lifting facilities, labour, site preparation and compliant employee amenities; and

(b) safe storage facilities are provided for protection against theft and damage of the Goods or any equipment or other items belonging to Polite Plumbers Ltd.

- 6.3 The Customer is solely responsible for arranging and providing convenient access for the Goods and provision of Services to the proposed place of installation including stairs, lift or crane access as the case may require, failing which Polite Plumbers Ltd may a further charge to the Customer to cover the additional reasonable costs incurred from such failure.

Failure to accept delivery

- 6.4 If the Customer cannot take delivery of the Goods or Services then the Customer is responsible for all additional charges caused by that failure.

Site co-ordination

- 6.5 Where installation or supply of the Goods or Services must be co-ordinated with other trades the Customer must provide Polite Plumbers Ltd with a schedule detailing all relevant information relating to installation or supply with sufficient time allowed for Polite Plumbers Ltd to meet delivery or supply dates.

Delivery date extension

- 6.6 The delivery or supply period will be extended to cover delays caused by strikes, lockouts, prohibitions, non-availability of materials or any circumstances beyond Polite Plumbers Ltd's control.

Customer Supplied Goods

- 6.7 If the Customer is to supply materials then those materials must meet the relevant ASNZ Standard. If Polite Plumbers Ltd are not satisfied that the goods meet the ASNZ Standard then the materials will not be used. Polite Plumbers Ltd will not be liable for any costs arising from the decision not to use the materials the Customer supplied. The Customer will be liable to pay for Polite Plumbers Ltd time, materials and equipment costs that arise from the failure of the Customer to satisfy Polite Plumbers Ltd that the goods they have supplied meet ASNZ Standard.
- 6.8 If the Customer is to supply materials then those materials must be on site prior to Polite Plumbers Ltd attending to carry out the work. Specification sheets alone will not suffice. Polite Plumbers Ltd will not be liable for any costs arising from delays due to Customer supplied materials not being available when Polite Plumbers Ltd attend the site. The Customer will be liable to pay for Polite Plumbers Ltd time, materials and equipment costs that arise from the failure of the Customer to have materials on site prior to Polite Plumbers Ltd attending to carry out the work.

Risk

- 6.9 From the time of dispatch to the Customer by Polite Plumbers Ltd, risk in all Goods supplied pass to the Customer and any loss, damage or deterioration to the Goods is the responsibility of the Customer. The Customer is liable to pay for the Goods notwithstanding any loss, damage or deterioration to them.
- 6.10 In providing the Goods and Services Polite Plumbers Ltd may be required to join into preexisting plumbing and gas installations that are to some extent to be retained. Polite Plumbers Ltd will not be liable for any defects in the retained preexisting plumbing and gas installations.
- 6.11 If the Customer elects not to undertake some aspects of work recommended by Polite Plumbers Ltd intended to protect the plumbing or gas installation from potential risk (such as, but not limited to, the risk of over-pressure), then Polite Plumbers Ltd will not be liable in any regard should the potential risk eventuate.

7. HEALTH AND SAFETY IN EMPLOYMENT ACT 1992

- 7.1 Polite Plumbers Ltd is responsible for the actions of its employees pursuant to s 15 of the Health and Safety in Employment Act 1992 ("HSEA").
- 7.2 The Customer is responsible for compliance with the HSEA in respect of the Customer's site and shall advise Polite Plumbers Ltd prior to commencement of any work of any hazards on the Customer's site and indemnify Polite Plumbers Ltd against any breach by the Customer of the HSEA in respect of the site.

8. TIME OF PERFORMANCE

- 8.1 Time is not of the essence of the delivery of Goods or the provision of Services. Any failure to meet any indicated delivery date is not the breach of a material term of this contract.
- 8.2 Polite Plumbers Ltd is not responsible for any delay in the delivery of Goods or the provision of Services. Delivery of Goods by Polite Plumbers Ltd to a carrier is deemed to be delivery to the Customer.

9. TERMS OF PAYMENT

Generally

- 9.1 Unless otherwise specified, payment for all Goods and Services must be made no later than:

(a) the 7th day following supply for domestic and non-account commercial Customers;

(b) the 20th day of the month following the date of invoice for account commercial Customers.

Progress payments

- 9.2 Progress payments claimed under the Construction Contracts Act 2002 must be made no later than 20 days after a payment claim is served on the Customer.

Deposit

- 9.3 Polite Plumbers Ltd may require payment of a deposit by the Customer prior to its processing any Order.

Overdue accounts

- 9.4 Polite Plumbers Ltd may charge interest on all overdue amounts at 2.5% per annum over the best overdraft rate available to Polite Plumbers Ltd on a daily basis from the due date to date of actual payment.
- 9.5 All costs of or incurred by Polite Plumbers Ltd as a result of a default by the Customer including but not limited to administration charges, debt collection costs and legal costs as between solicitor and client are payable by the Customer.

Acceleration of payment

- 9.6 If the Customer defaults in any payment or commits any act of bankruptcy or any act which would render it liable to be wound up or if a resolution is passed or proceedings are filed for the winding up of the Customer or if a receiver is appointed for all or any assets of the Customer, Polite Plumbers Ltd may cancel any Order without prejudice to any other rights it may have and payment for all completed Orders will immediately become due.

10. CONSTRUCTION CONTRACTS ACT 2002

- 10.1 All Orders that are construction contracts under s 5 of the Construction Contracts Act 2002 ("CCA") are subject to the CCA and the Customer agrees that Polite Plumbers Ltd has all the rights of a party to a construction contract under the CCA and any revision of the CCA.

11. WARRANTIES

Manufacturer's warranties

- 11.1 The Goods are purchased by Polite Plumbers Ltd from distributors and/ or manufacturers and are subject to manufacturer's warranties and limitations of liability. The Customer agrees that its rights and remedies in respect of those Goods are only as contained in those manufacturer's warranties which Polite Plumbers Ltd is able to assign to the Customer. Any performance of manufactured standard data given by Polite Plumbers Ltd is based on information supplied by the distributors or OEM of the Goods. Polite Plumbers Ltd does not independently warrant to the Customer that the data is correct unless Polite Plumbers Ltd has specifically done so in writing and then subject to recognised tolerances and variances based on inputs, loads, installation and usage requirements.
- 11.2 Subject to clause 11.1, if the warranty is not available to Polite Plumbers Ltd, Polite Plumbers Ltd gives to the Customer the following express conditions and warranties otherwise implied under the Sale of Goods Act 1908:

(a) Polite Plumbers Ltd has the right to sell the Goods, free from any charge or encumbrance in favour of any third party;

(b) Where there is a contract for the sale of the Goods by description there is an implied condition that the Goods correspond with the description; and if the sale is by sample, as well as by description, the bulk of the Goods will correspond with the sample of the Goods and with their description;

(c) Where the Customer has expressly made known to Polite Plumbers Ltd the particular purpose for which the Goods are required, so as to show that the Customer relies on Polite Plumbers Ltd's skill or judgment, and the Goods are of a description which it is in the course of Polite Plumbers Ltd's business to supply, the Goods are reasonably fit for such purpose; and

(d) Where the Goods are bought by description from Polite Plumbers Ltd as a dealer in goods of that description the Goods are of merchantable quality except that where the Customer has examined the Goods upon delivery there is no warranty as regards defects which such examination ought to have revealed.

- 11.3 In respect of the Services Polite Plumbers Ltd warrants that they will be performed to a standard of reasonable skill and care and in respect of both the Goods and Services to the extent that the Master Plumber's guarantee gives the Customer greater rights that guarantee will also apply to the Goods and Services.
- 11.4 The warranties given in clause 11.2(b), (c) and (d) are valid for 12 months from the date of installation of the Goods or the performance of the Services by the Purchaser.
- 11.5 The warranties given by manufacturers which referred to in in clause 11.1 and by Polite Plumbers Ltd in clause 11.3, at Polite Plumbers Ltd's option in either case, may be satisfied by Polite Plumbers Ltd either replacing the defective Goods or re-performing the Services at no cost to the Customer or by refunding the Price paid to the Customer.
- 11.6 Polite Plumbers Ltd gives to the Purchaser no other warranties whether express or implied by law (including the Sale of Goods Act 1908) and makes no other representations (whether for the purposes of the Fair Trading Act 1986 or any other legislation).
- 11.7 Polite Plumbers Ltd will accept no liability for any damages or losses (including loss of profits) arising as a consequence of any act, default or negligence on the part of Polite Plumbers Ltd or of an employee, agent or contractor of Polite Plumbers Ltd.
- 11.8 Notwithstanding anything in clauses 11.2 and 11.3, insofar as Polite Plumbers Ltd may be liable for any loss, damage or injury arising directly or indirectly from any defect in the Goods or Services, the total liability of Polite Plumbers Ltd, whether in part, contract or under any other legal rule or principle, is limited in its aggregate to the lesser of \$500 or the cost of replacing the Goods or re-performing the Services to the required standard.
- 11.9 Under no circumstances whatsoever is Polite Plumbers Ltd liable to the Customer for direct or indirect, special, incidental or consequential damages or loss including but not limited to damage or loss resulting from inability to use the Goods or from defective Services, loss of anticipated profits, loss by reason of plant shut down, non-operation or increased expense of operation, service interruption, loss of production, cost of purchased or replacement power, claims of customers, cost of money, loss of capital or revenue, or for any other damages or loss, or consequential damages, whether similar or dissimilar or of any nature arising from any cause whatsoever, whether based in contract, tort (including negligence), strict liability or any other theory of law and whether or not Polite Plumbers Ltd has been given notice of the possibility of any such damages or losses occurring.
- 11.10 Disputes – No claim relating to Service and products will be considered by Polite Plumbers Ltd unless made by the Customer within fourteen (14) days of supply or installation.

Consumer Guarantees Act 1993

- 11.11 Where the Consumer Guarantees Act 1993 (CGA) applies in spite of clause 2.4, the Customer has all the rights and remedies provided under the CGA.

12. PERSONAL PROPERTY SECURITIES ACT 1999 (PPSA)

- 12.1 Polite Plumbers Ltd and the Customer acknowledge that these terms constitute a security agreement as defined by the Personal Property Securities Act 1999 ("PPSA"). For the purposes of the PPSA, in this clause the term "Collateral" includes the Goods and their proceeds including insurance payments. The Customer agrees to give Polite Plumbers Ltd a security interest in all of the Customer's present and after-acquired property that Polite Plumbers Ltd has supplied as the Goods as the Collateral and agrees not to allow any person to file a finance statement over any of the Goods secured by this security agreement without the prior written consent of Polite Plumbers Ltd .
- 12.2 Upon receiving these terms the Customer acknowledges that:

(a) these terms are a security agreement for the purposes of s 36 of the PPSA, and

(b) a security interest is taken in all Goods previously supplied to the Customer and all Goods that will be supplied in the future by Polite Plumbers Ltd to the Customer during the continuance of the party's relationships.

- 12.3 The Customer undertakes to:

(a) Sign any further documents and/or provide any further information which Polite Plumbers Ltd may reasonably require to register financing statements or financing change statements on the Personal Properties Securities Register,

(b) Give Polite Plumbers Ltd not less than 14 days prior written notice of any proposed change to the Customer's name and will use its best endeavours to ensure that a financing change statement is registered disclosing its new name; and

(c) Immediately advise Polite Plumbers Ltd of any material change in its business practices of selling the Goods that would result in a change of the nature of proceeds derived from such sales.

(d) The Customer waives the rights listed in section 107(2) of PPSA, its right to receive the notice referred to in section 114(1)(a) of the PPSA, its right to reinstate under sections 133 and 134 and its right to receive verification statements under section 148 of the PPSA. The Purchaser agrees that Polite Plumbers Ltd may exercise the rights in sections 108, 109, 111(1) and 120(1) of the PPSA whether or not Polite Plumbers Ltd has priority over all other secured parties, and that Polite Plumbers Ltd may charge for complying with a demand under s 162 of the PPSA. The Customer will inform any trustee in bankruptcy or liquidator of the Customer or any receiver of the Customer's business or assets of the rights of Polite Plumbers Ltd and title to the proceeds of sale.

- 12.5 The security agreement is a continuing security and will operate irrespective of any intervening payment or settlement of account until a release has been signed by Polite Plumbers Ltd. The security interest granted in the Collateral has the same priority in relation to any Goods supplied to the Customer by Polite Plumbers Ltd at any time.

13. ADDITIONAL SECURITY

Bonds and guarantees

- 13.1 Before Polite Plumbers Ltd accepts an order from the Customer, Polite Plumbers Ltd may require the Customer to pay a deposit, make progress payments or at the Customers' expense provide a bond or guarantee on such terms as Polite Plumbers Ltd may reasonably require in order to secure payment of the Price. If it at any time considers that the payment of the Price is at risk Polite Plumbers Ltd may require those securities to be put in place as a condition to any further supply of the Goods and Services whether or not in respect of an existing contract.

Certificates

- 13.2 It is agreed by the Customer that if the Customer fails to pay any account Polite plumbers may withhold the release of any producer statement or other certification or documentation relating to the work performed until such time as the account and any associated costs are paid in full.

14. EVENTS OF DEFAULT

- 14.1 The Price is immediately due to Polite Plumbers Ltd (which also has the option to suspend delivery or performance of the Goods and Services or to terminate any contact on these terms and conditions) if:

(a) a receiver is appointed over any of the assets or undertaking of the Customer;

(b) an application for the appointment of a liquidator is filed against the Customer which remains unsatisfied for a period of 10 days, or any of the conditions necessary to render the Customer liable to have a liquidator exist, or a liquidator is appointed;

(c) the Customer goes into voluntary liquidation or amalgamates with another company;

(d) the Customer suspends payments to its creditors or makes or attempts to make an arrangement or composition with its creditors; or

(e) the Customer becomes insolvent within the meaning of the Insolvency Act 2006 or is, becomes, or is presumed to be unable to pay its debts as they fall due as defined in section 287 of the Companies Act 1993 or commits any act of bankruptcy.

15. DISPUTE RESOLUTION

If there is any dispute relating to these terms or the Work, the party raising the dispute must give the other party written notice specifying particulars of the dispute.

If negotiations between the parties do not resolve the dispute, either party may refer a dispute to adjudication under the CCA or bring a claim before the Disputes Tribunal or the High Court, as appropriate.

16. GENERAL

- 16.1 The Customer authorises Polite regards to collect and use information from you and third parties relating to the performance and enforcement by Polite plumbers of any contract with the Customer, subject to compliance with the Privacy Act 1993 in the case of personal information.
- 16.2 For Training, Quality & Verification purposes we may take images, videos and/or audio recordings relevant to the job.
- 16.3 All Quotations, Orders and Prices are excluding GST.
- 16.4 Polite plumbers is not responsible for any failure to perform its obligations, if it is prevented or delayed in performing those obligations by an event of force majeure.

17. ADDITIONAL ELEMENTS OF OUR TERMS OF TRADES

- *17.1 Invoices sent to you are payment claims under the Construction Contracts Act 2002 (& amendments).*
- *17.2 We will determine site staffing levels considering the job and our Health & Safety policy.*
- *17.3 Chargeable time includes travel to site and time collecting materials*
- *17.4 Goods remain the property of Polite plumbers until accounts are paid in full.*
- *17.5 No Receipts are issued.*
- *17.6 Our bank account details are on your invoice.*