



## TERMS OF TRADE

### 1. Definitions

- (a) "Company" means Alex Cowden Plumbing Limited and includes all lawful assigns and successors.
- (b) "Customer" means the purchaser of the Goods and/or Services.
- (c) "Goods" means any goods supplied by the Company to the Customer.
- (d) "Instructions" means any instructions received by the Company from the Customer whether acceptance of a quote or otherwise including instructions by way of email, fax, in writing or verbally requesting the Company to supply Goods and/or Services.
- (e) "Services" means any services provided by the Company to the Customer.
- (f) "Terms" means these terms of trade.

### 2. Acceptance

Any Instructions received by the Company from the Customer shall constitute a binding contract and acceptance of these Terms

### 3. Price

- (a) The price of the Goods and/or Services shall be the price as advised by the Company at the time as the Instructions are accepted.
- (b) The price may be increased by the amount of any reasonable increase in the cost of supply of the Goods and/or Services that is beyond the control of the Company between the date of the Instructions and completion.

### 5. Payment

Payment is required as specified in the invoice issued by the Company or if no terms stated then by no later than 14 days following the date of invoice.

### 6. Interest on Overdue Moneys

Without prejudice to any other of its rights, the Company shall be entitled to charge interest at the rate of 18% per annum on all overdue moneys. Interest shall compound daily following the due date for payment.

### 7. Delay

If any time for completion is stated, such time shall be approximate only and shall not be deemed to be the essence of the contract.

### 8. Reservation of Title

- (a) The Customer acknowledges that it is in possession of any Goods supplied by the Company, solely as bailee for the Company until such time as full price is paid to the Company together with the full price of any other Goods the subject of any other contract with the Company.
- (b) Until such time as the Customer becomes the owner of the Goods it will wherever practicable store them on its premises separately from its own goods or those of any other person and in a manner which makes them readily identifiable as the Goods of the Company.
- (c) The Customer's right to possession of the Goods shall cease if it, not being a company, commits an available act of bankruptcy or if it, being a company, does anything or fails to do anything which would entitle a receiver to take possession of any assets or which would entitle any person to make application for the appointment of a liquidator of a company. The Company may for the purpose of recovery of its goods enter upon any premises where they are stored or where they are reasonably thought to be stored and may repossess the same.

### 9. Warranty

The manufacturer's warranty applies where applicable.

### 10. Consumer Guarantees Act

The guarantees contained in the Consumer Guarantees Act 1993 are excluded where the Customer acquires Goods and Services from the Company for the purposes of a business in terms of section 42 and 43 of the Act.

### 11. Title and Security (Personal Property Securities Act 1999)

- (a) Title in any Goods and/or Services supplied by the Company passes to the Customer only when the Customer has made payment in full for all Goods and/or Services provided by the Company and of all other sums due to the Company by the Customer on any account whatsoever. Until all sums due to the Company by the Customer have been paid in full, the Company has a security interest in all Goods and/or Services.
- (b) If the Goods and/or Services are attached, fixed, or incorporated into any property of the Customer, by way of any manufacturing or assembly process by the Customer or any third party, title in the

Goods and/or Services shall remain with Company until the Customer has made payment for all Goods and/or Services, and where those Goods and/or Services are mixed with other property so as to be part of or a constituent of any new Goods and/or Services, title to these new Goods and Services shall be deemed to be assigned to the Company as security for the full satisfaction by the Customer of the full amount owing between the Company and Customer.

- (c) The Customer gives irrevocable authority to the Company to enter any premises occupied by The Customer or on which Goods and/or Services are situated at any reasonable time after default by the Customer or before default if the Company believes a default is likely and to remove and repossess any Goods and/or Services and any other property to which Goods and/or Services are attached or in which Goods and/or Services are incorporated. The Company shall not be liable for any costs, damages, expenses or losses incurred by the Customer or any third party as a result of this action, nor liable in contract or in tort or otherwise in any way whatsoever unless by statute such liability cannot be excluded. The Company may either resell any repossessed Goods and/or Services and credit the Customer's account with the net proceeds of sale (after deduction of all repossession, storage, selling and other costs) or may retain any repossessed Goods and/or Services and credit the Customer's account with the invoice value thereof less such sum as the Company reasonably determines on account of wear and tear, depreciation, obsolescence, loss or profit and costs.
- (d) Where Goods and/or Services are retained by the Company pursuant to clause 8.3 the Customer waives the right to receive notice under s.120 of the Personal Property Securities Act 1999 ('PPSA') and to object under s.121 of the PPSA.
- (e) The following shall constitute defaults by the Customer:
  - (i) Non payment of any sum by the due date.
  - (ii) The Customer intimates that it will not pay any sum by the due date.
  - (iii) Any Goods and/or Services are seized by any other creditor of the Customer or any other creditor intimates that it intends to seize Goods and/or Services.
  - (iv) Any Goods and/or Services In the possession of the Customer are materially damaged while any sum due from the Customer to the Company remains unpaid.
  - (v) The Customer is bankrupted or put into liquidation or a receiver is appointed to any of the Customer's assets or a landlord distains against any of the Customer's assets.
  - (vi) A Court judgment is entered against the Customer and remains unsatisfied for seven (7) days.
  - (vii) Any material adverse change in the financial position of the Customer.
  - (viii) If the Credit Repossession Act applies to any transaction between the Customer and Company, the Customer has the rights provided in that Act despite anything contained in these Terms.

### 12. Costs of Collection

The Customer shall be immediately liable for all costs of collection of and incidental to the enforcement or attempted enforcement of the Company's rights, remedies and powers under these Terms (including legal costs, as between solicitor and client).

### 13. Variation of Terms

The Company reserves the right to amend these Terms at any time and from time to time by giving to the Customer notice in writing and instructions thereafter received by the Customer shall constitute acceptance of any such amendments.

### 14. Waiver

If at any time the Company does not enforce any of these Terms or grant you time, or other indulgence, the Company will not be construed as having waived that term or its rights to later enforce that or any other term.

### 15. Severability

If any portion of these Terms is/are deemed to be invalid, illegal or unenforceable the remaining provisions shall remain in full force and effect.

### 16. Governing Law

These terms of trade will be governed by New Zealand law and the Customer agrees to submit to the exclusive jurisdiction of the New Zealand Courts. The application of the United Nations Convention on contracts for the International Sale of Goods is expressly excluded.