

Terms and Conditions governing provision of Good and Services by Greg Houston Plumbing

1. Application

- 1.1 When we say "We", "Us" "Our" or "GHP", we are referring to Greg Houston Plumbing Pty Ltd (ACN 001 896 662), references to "You", "Your", "Customer" or "Client", refer to the entity that has requested the Services from GHP.
- 1.2 Please read through these terms and conditions (the "T&Cs"), if you are using or have used our Services, or submitted a Project Proposal to GHP it is understood that as part of Your Agreement with GHP You have agreed to these T&C's.
- 1.3 Please be aware that the applicable clauses of these T&C's to Your Agreement with GHP will depend on the type of Services You have requested and the Contract Period during which these Services are to be provided.
- 1.4 These T&C's can change at any time. We will write to you to let you know of any changes, by continuing to use the Services provided by GHP, You agree to any changes or revisions to these T&Cs.
- 1.5 We use a number of definitions throughout these T&Cs, please see clause 23 for an explanation of what different terms mean and how these T&C's are to be interpreted.

2. Services

- 2.1 These T&C's govern the provision by GHP to You of Our Services.
- 2.2 The specific Services You have requested GHP to provide to You are set out in detail in your Project Proposal.
- 2.3 You can accept a Project Proposal by signing and returning a true copy to Us, We will not start work until such time as a signed Project Proposal has been returned to us.

3. Term of Your Agreement with GHP

- 3.1 Your Agreement with GHP commences on the date identified in Your Project Proposal, if no such date has been nominated, the commencement date will be agreed in consultation with You.
- 3.2 Your Agreement with GHP will remain in force until the end of the Contract Period, subject to:
 - (a) earlier termination or expiry in accordance with the provisions of these T&C's; or
 - (b) extension in accordance with the provisions of these T&C's.

4. Fees and Payment

- 4.1 On receipt of an invoice from GHP in respect of any Services We provide to You, You must pay, in full, the amount specified in the invoice (including GST) on or before the due date specified on the face of that invoice (time being of the essence).
- 4.2 Should You delay or default in respect of payment of any Fees invoiced by GHP and due to GHP by You pursuant to Your Project Proposal and these T&C's then GHP shall have the right to charge You interest on all overdue amounts at a rate of 15% calculated on a per annum basis.
- 4.3 In the event that You cancel or terminate Your Agreement with GHP prior to the expiration of the Contract Period, all Fees as set out in the Project Proposal shall immediately become due and payable by You to GHP.

5. Retention of Title

- 5.1 Notwithstanding the delivery or installation of any Goods by GHP title to the Goods remains with GHP until You have paid all monies owing to GHP in relation to the Goods.
- 5.2 You acknowledge and agree that until such time as you have made payment, in full, to GHP for any Goods, that You take possession of the Goods as bailee and must not encumber or charge the Goods.

6. Personal Property Securities Act

- 6.1 In this clause 6, PPSA shall mean the *Personal Property Securities Act 2009* (Cth), if a term in this clause has a particular meaning in the PPSA, it has the same meaning in this clause.
- 6.2 Pursuant to these T&C's and the PPSA the customer grants a security interest in the Collateral to GHP to secure payment of all Fees.

- 6.3 In this clause 6 **Collateral** means all of the Customer's present and after acquired property. It includes anything in respect of which the Customer has at any time a sufficient right, interest or power to grant a security interest.

- 6.4 The Customer acknowledges that GHP may apply to register its interest in the Collateral at any time before or after the provision of the Services by GHP to the Customer, and the Customer waives its right under section 157 PPSA to receive notification of any verification of the registration.

- 6.5 To the maximum extent that is permitted by law, the parties agree that the following provisions of the PPSA do not apply to the enforcement by GHP of any security interest it has in the Collateral: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 142 and 143.

7. Security and Charge

- 7.1 The Customer hereby charges all interests in real property, whether legal or equitable, present or future, in respect of any monies owing or that may be owing to GHP pursuant to Your Agreement with GHP.
- 7.2 The Customer authorises GHP 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.

8. Site Access

- 8.1 You shall ensure and warrant that GHP shall have clear and uninterrupted access to the Site until all Services the subject of Your Project Proposal are completed and GHP has been paid, in full, for those Services.

9. Our Intellectual Property

- 9.1 You acknowledge that GHP or its representatives owns and shall retain all the Intellectual Property Rights and Moral Rights in and to the GHP Materials, already in existence or created and/or used by GHP in the provision of the Services generally.
- 9.2 To the extent that You obtain any ownership or rights in the GHP Materials, You irrevocably assign those rights to GHP.

10. Confidentiality

- 10.1 You must keep all confidential and proprietary information provided or disclosed by GHP to You confidential and You must ensure that Your employees, agents and/or contractors assume the same obligations.
- 10.2 For the purpose of these T&C's, such information includes, but is not limited to, information relating to GHP business affairs, methods of carrying on business and its pricing arrangement with You.

11. Warranties and Liability

- 11.1 You make the following warranties to GHP:
 - (a) Where You provide GHP with Client Materials, that You are entitled to use the Client Materials and that their use by GHP will not infringe upon the Intellectual Property Rights or Moral Rights of any third party.
 - (b) GHP will not be liable to You for damages or any other remedy for failure to perform its obligations under its Agreement with you due to a Force Majeure Event.
 - (c) That a Force Majeure Event will not relieve You from any obligation to pay for Services already delivered or capable of delivery to You by GHP after a Force Majeure Event comes to an end.
 - (d) GHP will not be liable to You for damages or any other remedy due to delay where GHP has used its reasonable endeavours to meet any agreed deadlines.
 - (e) GHP will not be liable to You for any business interruption, loss of revenue, loss of income, loss of business, loss of profits, loss of opportunity, loss of contracts or any other indirect or consequential loss arising in connection with, or as a result of, the provision of the Services by GHP to You.
- 11.2 Notwithstanding anything else contained in these T&C's, the maximum liability of GHP to You whether under contract at

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law, in equity or otherwise, is limited to an amount equal to the Fees actually paid by You to GHP in accordance with Your Agreement.

12 Indemnity

- 12.1 You shall indemnify GHP from and against all losses, damages, costs and expenses suffered or incurred by GHP, and all claims, demands, actions, suits or proceedings made or brought against GHP arising out of:
- (a) Your breach of any of the provisions of Your Agreement with GHP;
 - (b) any of the warranties at clause 11 of these T&C's; and/or
 - (c) any loss, damage, or injury, caused by, resulting from or in any way connected with the Services provided by GHP to You under this Agreement and howsoever caused.
- 12 The indemnity at clause 12.1 does not apply to the extent that any such loss or damage arises from the wilful misconduct of GHP, or any of its officers, employees or agents.

13 Termination

- 13.1 GHP may terminate its Agreement with You if:
- (a) there is a breach by You of any term of Your Agreement with GHP that has not been remedied within 14 days of service by GHP to You of a written notice specifying the breach and requiring it to be remedied;
 - (b) Fees owing to TWS are more than 30 days overdue; and/or
 - (c) You are subject to an Insolvency Event.

14 Implied Terms

- 14.1 Except for any warranties expressly made in these T&C's, all conditions, warranties, undertakings or representations, express or implied, arising by statutes, general law or otherwise are expressly excluded to the extent permitted by law.

15 Costs

- 15.1 You must pay to GHP, on demand and on a full indemnity basis, all costs and expenses incurred in recovering any amount owed by You to GHP.

16 Severability

- 16.1 If any provision of these T&C's is wholly or partly invalid or unenforceable in any jurisdiction, that provision will be severed and will not affect the validity or enforceability of the remaining provisions which will continue in full force.

17 GST

- 17.1 If any amounts payable by You are subject to goods & services tax ("GST"), then You are liable to pay the GST on that amount.

18 Waiver

- 18.1 The failure of a party to at any time to require performance of any obligation under these T&C's is not a waiver of that party's right to assert any remedy for breach of that obligation and at any other time to require performance of that or any other obligation under these T&C's.

19 Notices

- 19.1 Any notices under these T&C's must be in writing which may be given by personal delivery, pre-paid postage or facsimile to the party's business address or registered office.

20 Entire Agreement

- 20.1 Your Agreement with GHP constitutes the entire agreement between the parties in relation to its subject matter and the parties agree that all prior representations, agreements, statements and understandings, whether verbal or in writing, have not been relied upon and are expressly excluded.

21 Inconsistency

- 25.1 Should any inconsistency exist or arise between a provision of these T&C's and any other document constituting Your Agreement with GHP, then the provision in these T&C's shall prevail.

22 Jurisdiction

- 22.1 These T&C's are governed by the laws of New South Wales Australia and each party submits to the exclusive jurisdiction of the courts of that state and waives any right to any claim of

forum non-conveniens, inconvenient forum, or transfer or change of venue.

23 Definitions and Interpretation

The following definitions shall apply to these T&C's:

Agreement shall mean these T&C's and any Project Proposal or other document incorporated by reference.

Contract Period shall mean the fixed term of the Agreement (where applicable) as set out in the Project Proposal which accompanies these T&C's.

Client Material shall mean any blueprints, designs, information, documents, or other materials in which Intellectual Property Rights subsist, supplied by You to GHP for the purposes of GHP providing the Services.

Fees shall mean the fees payable by You to GHP in accordance with the terms of this Agreement and as set out in Your Project Proposal.

Force Majeure Event shall mean any event beyond GHP's control including without limitation an act of god, adverse or inclement weather, government interference, trade or industrial disputes, power outage and/or non-delivery or shortage of supplies.

GHP Materials shall mean any property or material brought into existence by GHP prior to the date of Your Agreement with GHP.

Goods shall mean plumbing products and associated components utilised or installed by GHP in its provision to You of the Services.

Insolvency Event shall mean in relation to an entity that it is unable to pay its debts as and when they fall due or is subject to a winding up in insolvency application or is placed into liquidation, administration or receivership.

Intellectual Property Rights shall mean the rights in any patents, copyright, designs, trademarks (registered or unregistered), domain names, confidential information and all rights of a similar nature which subsist in Australia or elsewhere whether or not such rights are registrable or capable of being registered.

Moral Rights shall mean the right of integrity of authorship, the right of attribution of authorship of a work and the right not to have the authorship of a work falsely attributed, as defined in the *Copyright Act 1968* (Cth).

Project Proposal shall mean the written contract You have signed and returned to GHP and in which You acknowledge that You have read and agree to be bound by these T&C's.

Services shall mean the services provided by GHP to You in accordance with Your Agreement with GHP.

Site shall mean the designated location where the Services are to be carried out by GHP.

Third Party Intellectual Property shall mean any material owned by a third party in which Intellectual Property and/or Moral Rights subsist.