

## 1 QUOTE

- (a) **ABA PLUMBING & GAS PTY LTD** ACN 600 326 565 (**ABA**) will either, physically inspect and assess the location (**Site**) in which it is proposed the potential works (**Work**) will be carried out by ABA, or review and assess information provided by the customer (**Customer**), in order to provide the Customer with a quote for the Work to be undertaken by ABA as required by the Customer (**Quote**).
- (b) The Quote:
- (i) will be based on ABA's provision of the Work during normal working hours (7:30 am to 5:00 pm, Monday to Friday) (**Working Hours**);
- (ii) may specify an estimated time-frame for the completion of the Work (**Estimated Completion Date**);
- (iii) will be accepted upon the Customer either, signing the Quote (of which these Terms and Conditions are linked), agreeing in writing to the Quote, or by paying any amount in relation to the Quote or Work (**Acceptance**);
- (iv) is valid (and is available for Acceptance) for a period of 30 days from the Customer's receipt of the Quote, after which, the Customer will need to obtain a new Quote (unless otherwise indicated by ABA); and
- (v) may be varied or amended by ABA at any time prior to Acceptance, for any reason, by notice in writing to the Customer.
- (c) Prior to commencing any Works, we will provide you with a Quote.
- (d) The Quote (which link these Terms and Conditions) must be signed by you before we commence any Works.
- (e) The Quotes are fixed-fee quotes based on the Works and are not calculated by the hours required to complete the Works.
- (f) The Quote may be revised if the Works change.

## 2 ACCEPTANCE AND OBLIGATIONS

- (a) In either, signing the Quote (which links these Terms and Conditions), agreeing in writing to the Quote, or paying any amount in relation to the Quote or Work, the Customer agrees to:
- (i) be bound by these Terms and Conditions, and formally accepts the Quote (subject to these Terms and Conditions);
- (ii) pay to the nominated bank account of ABA, the portion of the Quote that is due and payable to ABA, at the time and in the manner set out in the Quote (or as otherwise required by ABA) (**Due Date**);
- (iii) if the Customer fails to comply with clause 2(a)(ii), pay interest on any amounts outstanding and unpaid, compounded monthly from the Due Date at a rate of 9% per calendar month until payment has been made in full;

- (iv) bear all costs associated with the Quote and Work which are undertaken outside of Working Hours (as required by the Customer), including all recovery and legal costs incurred as a result of the failure to pay for the Works as and when required;
- (v) provide ABA with unencumbered, safe and all-weather, access to the Site as to ensure ABA is able to undertake the Work without interference from any third parties;
- (vi) provide all utilities and facilities required for the performance of the Works;
- (vii) obtain rights of access, including but not limited to, those to adjoining properties, that are required for the performance of the Works;
- (viii) not delay or interfere with the performance of the Works in any way;
- (ix) if the Customer is supplying any parts, materials or equipment for the Works, ensure that they are provided in a timely manner, free from defects and suitable for the Works. ABA may, acting reasonably, determine that those materials, part or equipment are not suitable and may provide an alternative. If that alternative is not acceptable to the Customer, that part of the Works will be omitted from the Quote;
- (x) provide any assistance reasonably required by ABA to carry out the Work in accordance with these Terms and Conditions; and
- (xi) comply with the dispute resolution procedure set out in clause 11 of these Terms and Conditions.

(b) ABA will:

- (i) exercise reasonable skill, care and diligence in carrying out the Work in a thorough and workmanlike manner and in accordance with normal and expected standards of practice applicable to a reasonable, prudent, skilled and effective provider of such services (and in accordance with all relevant Australian standards and requirements)
- (ii) use reasonable endeavours to complete the Work on or before the Estimated Completion Date;
- (iii) use reasonable endeavours to remove any equipment, rubbish or other materials (**Items**) relating to the Work from the Site as soon as reasonably practicable after the completion of the Work; and
- (iv) issue the Customer with an invoice upon completion of each stage of the Work that has been performed (in accordance with the Quote).

(c) The parties acknowledge and agree that:

- (i) the Items shall remain (at all times) the sole and exclusive property of ABA (unless otherwise agreed by ABA);
- (ii) the failure of ABA to complete the Work on or before the Estimated Completion Date is not a breach of ABA's obligations under these Terms and Conditions, and ABA may extend or vary the Estimated Completion Date at its discretion;

- (iii) if the Customer does not pay the outstanding amount on or before the Due Date, ABA may immediately cease carrying out the Work (until payment has been made);
- (iv) the Customer has the sole responsibility of ensuring that the Quote, Work and all associated information is correct before agreeing to these Terms and Conditions; and
- (v) the Customer acknowledges that if a deposit is required to be paid prior to the Works commencing, and the Customer pays such deposit, in the event that the Customer subsequently decides not to proceed with the Works:
  - (A) the Customer acknowledges ABA may withhold from the deposit such costs that ABA reasonably incurs; and
  - (B) ABA will pay only be obligated to return the balance of the deposit after it has recovered its costs; and
  - (C) the Customer expressly acknowledges it may not receive the full amount of the deposit it paid to ABA if it cancels the Works.
- (vi) the Quote may change due to factors outside ABA's control and unless the Quote expressly provides otherwise, it does not include any allowance for:
  - (A) variations to the Works arising either at the request of the Customer or due to circumstances changing during the performance of the Works;
  - (B) costs of ABA associated with delays out of their control;
  - (C) costs associated with unforeseen Site conditions including subsurface conditions, drains, contamination, groundwater, condition of existing structures (including asbestos) and existing services and services infrastructure, water ingress and damage;
  - (D) costs associated with any materials or equipment being supplied by the Customer; and
  - (E) increases or decreases resulting from exchange rate fluctuations, or the availability or unavailability of parts, materials or equipment for the Works.
- (vii) ABA utilises third-party ecommerce providers to facilitate the sale of the Services through its Website (Providers). By purchasing Services from ABA, the Customer agrees to the terms and conditions of these Providers, which are separate from and in addition to these Terms and Conditions.
- (viii) Payments for the Services must be made through the accepted payment methods specified by ABA on its Website. The Customer is responsible for ensuring that its payment method is valid and that

sufficient funds are available to complete the transaction.

- (ix) By paying for the Services through the payment methods specified above, the Customer acknowledges and accepts that ABA is authorised to charge it immediately upon completion of the transaction, using the payment method specified. This authorisation includes all fees and charges related to the Services purchased.
- (x) In the event that the Customer believes it was incorrectly charged, it must contact ABA immediately.

### 3 TITLE

- (a) Title to all parts, materials, goods, equipment fittings and other goods supplied or installed by ABA while carrying out the Work, in part or in whole (**Goods**) shall remain with ABA until:
  - (i) the Goods are installed at the Site; and
  - (ii) the Customer, has made payment to ABA for the Work associated with those Goods in accordance with the Quote, and has complied with all other obligations required under these Terms and Conditions,

after which, title in the relevant Goods passes to the Customer.
- (b) All risk associated with the Goods, including, but not limited to, risk of damage or loss of the Goods, passes to the Customer upon delivery of the Goods to the Site.
- (c) The parties acknowledge and agree that, if the Customer fails to comply with clause 2(a)(ii), ABA may:
  - (i) retain all Goods in their possession of a value equal to the amounts outstanding and owing by the Customer to ABA for the Work; and
  - (ii) deal with those Goods on an unencumbered basis with a view to recovering those amounts outstanding and owing by the Customer to ABA.

### 4 DEFECTS

- (a) Subject to this clause 4, if the Work is defective, the Customer may be entitled to a refund, or repair, replacement, resupply or reinstallation of any Works or parts, in accordance with Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**ACL**), provided that:
  - (i) must notify ABA in writing of the defect (**Notification**), within 1 month of discovering such defect (**Notification Period**);
  - (ii) the Customer must give ABA the opportunity to investigate the defects prior to engaging any other person to investigate or carry out repairs to the defects; and
  - (iii) the Notification must:
    - (A) be made in writing to ABA; and
    - (B) include the following information (and such other information specified by ABA from time to time):

- (1) who undertook the Works;
  - (2) the date and location of the Works;
  - (3) a copy of the Quote and a receipt of payment;
  - (4) comprehensive details about the nature and extent of the defect(s);
  - (5) how and when the Customer came to identify the defect(s); and
  - (6) any video, picture or written evidence the Customer has in relation to the defect(s).
- (b) Subject to the ACL, the Customer acknowledges and agrees that ABA will not remedy any defects, provide the Customer with a refund, or repair, replace, resupply or reinstall any Works or parts, where:
- (i) the Customer fails to notify ABA of the defect within the Notification Period or in the manner otherwise required by clause 4(a), and the Customer continues to use the Work after discovering the defect; or
  - (ii) the defect is (as determined by ABA at their discretion) caused, or contributed (in whole or in part) by:
    - (A) normal wear and tear; or
    - (B) unclean, damaged or aged pipes or drains; or
    - (C) natural disasters or similar causes, including but not limited to, acts of God, fire, explosions, flooding, storms, lightning, cyclones or earthquakes; or
    - (D) the introduction into the piping system of any chemical that would not be permitted in household sewer drainage systems and/or at temperatures greater than the domestic hot standard; or
    - (E) the introduction into the piping system of any liquid or substance at pressure which would exceed the pressure of normal or intended use of the piping system; or
    - (F) the modification, alteration, rectification, repair or rebuilding of the Work by any party other than ABA; or
    - (G) any other causes beyond ABA's control including, but not limited to, other stresses placed on the pipe or its contents that are not considered normal to the original intended use or function of the piping system; or
    - (H) the Customer due to, their negligence, or their failure to use, rely on, or maintain the Work in the ordinary course, or in accordance with any of ABA's instructions; or
    - (I) the actions, admissions or representations of the independent contractor(s) who conduct the Works; or
    - (J) external, physical or chemical qualities which damaged the epoxy lining such as, without limitation, an unsuitable or hostile environment including the use of a flame or torch on the epoxy lining; or
    - (K) corrosion or failure of the host pipe to bond with the Pipe Liner due to shrinkage or incorrect mixture of resin to install the Piper Liner; or
    - (L) settling of the host pipe system; or
    - (M) root intrusion arising from areas outside of the installed pipes; or
    - (N) use of corrosives, vases fluid, acids, grease or other fluids other than the pipes are designed to carry and at pressure pipes were designed to withstand.

**5 INTELLECTUAL PROPERTY**

- (a) In these Terms of Conditions, unless the context otherwise requires, "Intellectual Property" or "IP" means all present and future industrial and intellectual property rights relating to the website, services, materials, and/or us, including, without limitation:
  - (i) inventions, patents, copyright, trade business, company or domain names, rights in relation to registered designs, registered and unregistered trade marks, know how, trade secrets and the right to have confidential information kept confidential, and any and all other rights to intellectual property which may subsist anywhere in the world; and
  - (ii) any application for or right to apply for registration of any of those rights.
- (b) All intellectual property and any documentation containing any IP, that relates to the Works are the sole and exclusive property of ABA, and shall not be used by the Customer (before, during or after the Works) without the prior written consent of ABA.
- (c) The Customer warrants that any IP (or documentation containing IP) that is provided by the Customer to ABA in relation to the Works:
  - (i) is owned by the Customer;
  - (ii) will not breach any third-party rights; and
  - (iii) is lawfully licenced to ABA for the Works.
- (d) The Customer acknowledges that:
  - (i) all rights, title, and interest in the Intellectual Property, anywhere in the world, belong to ABA;
  - (ii) all rights in relation to the Intellectual Property are licensed (not sold) to The Customer;
  - (iii) the Customer holds no proprietary rights, title, or interest in the Intellectual Property, other than the right to use such property in accordance with these Terms and Conditions; and
  - (iv) nothing contained in these Terms and Conditions shall be construed as an assignment or transfer of the Intellectual Property to The Customer.

- (e) ABA grants The Customer a limited, royalty-free, non-exclusive, non-transferrable, non-sublicensable, revocable, licence to use the Intellectual Property to access the website and services for personal and non-commercial purposes only. The Customer acknowledges and understand that the Customer is solely responsible for its use of the Intellectual Property, Website and Services in this regard (including any other party's use of your account).
- (f) The Customer undertakes and agrees that it will not (and will not allow any person using your account to), without our prior written consent:
- (i) rent, lease, sublicense, loan, sell or use for commercial purposes, the Intellectual Property, website and/or services;
  - (ii) modify, adapt, translate, reverse-engineer, decompile, disassemble, or make derivative uses of, the Intellectual Property, website and/or services;
  - (iii) copy, imitate, mirror, reproduce, distribute, disseminate, publish, download, display, perform, post, or transmit any Intellectual Property in any form or by any means;
  - (iv) use the Intellectual Property, website and/or services in a way that may (or does) damage, disable, overburden, interfere with, or adversely affect the functionality of the Intellectual Property, website and/or services;
  - (v) use any data mining, bots, spiders, automated tools or similar data gathering and extraction methods, directly or indirectly, on the website, or collect any information from the website or services;
  - (vi) use the Intellectual Property, website and/or services in a way that may (or does) bring our business, the website or services into disrepute;
  - (vii) use the Intellectual Property unlawfully, in an inappropriate way or in a manner inconsistent with these Terms and Conditions;
  - (viii) infringe our rights (or the rights of any third parties) in relation to the Intellectual Property;
  - (ix) bypass or avoid our security features or measures which have been implemented on the website or in connection with the services (or attempt to do the same); and
  - (x) apply to register, or challenge the validity of, the Intellectual Property.
- (i) *Property Securities Act 2009* (Cth) (**PPSA**) in respect of all current and future Goods; and
- (ii) the security interest created under these Terms and Conditions is a continuing and subsisting security interest in the Goods with priority over any registered or unregistered security and any unsecured creditor; and
- (iii) the Customer consents to ABA registering its PMSI under the PPSA and will, without charge, do all things reasonably necessary to assist ABA to register its security interest.
- (b) ABA may apply to the Registrar to register its PMSI in the Goods and/or any property inside the Goods at any time prior to or after the date of these Terms and Conditions.
- (c) ABA is to be responsible for:
- (i) the preparation and registration of the financing statement or financing change statement; and
  - (ii) payment of any fees associated with the registration.
- (d) The Customer waives the right to receive from ABA verification of the registration pursuant to section 157(3)(b) of the PPSA.
- (e) If the Customer defaults on any sum due for payment under these Terms and Conditions, ABA has the right to (without notice) enter the Site and seize the Goods (in accordance with section 123 of the PPSA), and the Customer indemnifies ABA from any resulting third-party claims, losses or expenses.
- (f) If ABA wants to seize the Goods in accordance with clause 5(e) but the Goods cannot be readily moved from the Site or adequate storage facilities are not readily available for the Goods, ABA may seize the Goods by taking apparent possession of the Goods (in accordance with section 126 of the PPSA).
- (g) If ABA seizes the Goods in accordance with clause 5(e), ABA shall have the right to dispose of those Goods (in accordance with section 128 of the PPSA).
- (h) The Customer will not, without the prior written consent of ABA:
- (i) change its name;
  - (ii) initiate any change to any documentation registered under the PPSA in connection with these Terms and Conditions; or
  - (iii) do any act to create a security interest in the Goods on behalf of the Customer.
- (i) The Customer must notify ABA if another party with a security interest in the Goods seizes or otherwise deals with ABA's PMSI in the Goods.
- (j) If the Customer grants any security interest in the Goods to another party, that other party must acknowledge the priority of ABA's PMSI.
- (k) The Customer undertakes and agrees to do all things required by ABA (including executing all documents and agreements) to register the security interest granted to ABA under this clause 5.

## 6 CONFIDENTIALITY

The Customer undertakes and agrees to keep confidential all information relating to the Works, the Quote and/or the Goods, and the terms of these Terms and Conditions, and to not disclose to any third parties such information without the prior written consent of ABA.

## 7 SECURITY INTEREST

- (a) ABA and the Customer acknowledge that:
- (i) the Customer grants to ABA a purchase money security interest (**PMSI**) under the *Personal*



- (l) ABA may remove the application of any section of the PPSA (at its discretion) in accordance with section 115 of the PPSA.
- (m) The Customer must not (before title in the Goods passes to the Customer):
  - (i) give (or allow any other party to give) a written demand to ABA, requiring ABA to register a financing change statement under the PPSA; or
  - (ii) enter (or allow any other party to enter) into the register of personal property securities, a financing change statement under the PPSA.

- (i) ABA may obtain credit information regarding the Customer's credit history and credit worthiness from any credit agency, trade or credit references, or any other party which provides such information; and
- (ii) ABA has the right to disclose, if the Customer fails to pay any amounts under these Terms and Conditions to ABA, all financial and personal information relating to their account to any party, for the purpose of recouping and collecting any outstanding amounts.

## 8 TERMINATION

- (a) ABA may terminate these Terms and Conditions by notice in writing to the Customer, if the Customer fails to pay to ABA any amounts that are due and payable under these Terms and Conditions within 7 days of the Due Date.
- (b) Either Party may immediately terminate these Terms and Conditions, by written notice to the other Party, where the other Party:
  - (i) breaches these Terms and Conditions; and
  - (ii) does not remedy such breach within 14 calendar days of being notified of such breach in writing.
- (c) In the event of the termination of these Terms and Conditions:
  - (i) ABA will not be required to repay any amounts which have been paid but relate to Work which has not been performed, and will not be liable for any costs, loss, damage or claims resulting from such termination; and
  - (ii) the Customer is responsible (and will be liable to the ABA) for the payment of the balance of the Quote and any other outstanding amounts, together with any other damage, loss, or costs incurred by ABA as a consequence of the termination (including, but not limited to, loss of profits).

## 9 INDEMNITY

The Customer indemnifies, defends and holds harmless ABA from and against any and all damages, claims, costs, losses, and expenses incurred by whatever kind or nature, as a consequence of:

- (a) any breach of these Terms and Conditions by the Customer; and/or
- (b) the condition of the drains at (or the state of) the Site.

## 10 PRIVACY

- (a) The Customer acknowledges and understands that ABA collects and uses the Customer's personal information in accordance with ABA's Privacy Policy, the *Privacy Act 1988* (Cth) and the Australian Privacy Principles. The Customer can access ABA's Privacy Policy at <https://www.abaplumbing.com.au/privacy-policy>.
- (b) The Customer acknowledges and agrees that:

## 11 DISPUTE RESOLUTION

- (a) The Customer may dispute any invoice by notice in writing to ABA (**Dispute**) within 7 days of receipt of that invoice (**Dispute Period**) by providing sufficient detail regarding the source of the Dispute.
- (b) In the event of a Dispute, the Customer will be entitled to retain the portion of the amount that relates to the Dispute (**Disputed Amount**), until the Dispute is resolved, and the Customer must provide all information requested by ABA within 2 days.
- (c) If the Customer fails to comply with clause 11(a) or 11(b), the Customer shall not be entitled to dispute the relevant invoice.
- (d) ABA will consider the Dispute within 14 days of receipt of the notice of the Dispute, and will determine whether the invoice is correct.
- (e) If ABA determines that the invoice is:
  - (i) correct, the Customer must pay the Disputed Amount (in full) to ABA in accordance with ABA's instructions; or
  - (ii) incorrect, the Customer will be required to pay such portion of the Disputed Amount (if any) to ABA in accordance with ABA's instructions.

## 12 LIMITATION OF LIABILITY

- (a) ABA is not liable to the Customer (or in any way responsible) for:
  - (i) damage to drains at the Site where the damage is an unavoidable or likely result of the pre-existing condition of those drains or the performance of drain inspection, clearance or cutting work within those drains; or
  - (ii) any loss of profit, loss of revenue, loss of interest, financing charges, payment or loss of rent, loss of business, business interruption, or loss of business opportunity in connection with the provision of the Work; or
  - (iii) any loss or damage to the Customer's property (or any other party's property) at the Site in the course of ABA carrying out the Work; or
  - (iv) the Customer's error, negligence or failure to exercise care in relation to the Quote; or
  - (v) any loss or damage resulting from ABA's delays in assessing (or delays in remedying after the assessment of) any defects to the Work.

- (b) ABA's liability for failing to remove the Items from the Site at the conclusion of the Work (in accordance with clause 2(b)(iii)) is limited to \$100.
- (c) ABA's liability to the Customer under these Terms and Conditions will not exceed (under any circumstances), and is expressly limited to:
  - (i) replacing or repairing any defective Goods;
  - (ii) reperforming any defective Works; or
  - (iii) if ABA is unable to supply replacement compliant Goods or reperform the Works so that they comply with the Quote, refunding any monies paid by the Customer for the Goods or Works that are non-compliant and making good any part of the Site that has been damaged during the performance of the Works.
- (d) ABA will not provide any other form of compensation or be liable to pay any other costs associated with any ancillary damage (except for those set out in clause 12(b) to 12(c)).
- (e) The Customer acknowledges and understand that:
  - (i) the Website (as defined in clause 16) and Works have not been developed to meet its individual requirements, and it is therefore the Customer's responsibility to ensure that they meet its requirements and/or needs;
  - (ii) the use of this Website and Works are entirely at the Customer's own risk;
  - (iii) ABA assumes no duty of care to the Customer or any other party who relies on anything provided for by ABA through the Website and Works;
  - (iv) ABA relies on all warranties and undertakings provided by the Customer under these Terms and Conditions; and
  - (v) ABA is not obliged to confirm or check the accuracy, legitimacy or efficacy of the personal information or other materials the Customer provides to ABA in connection with the Customer's use of the Website and/or Works.
- (f) Except to the extent that liability may not lawfully be excluded, ABA will not be under any liability to the Customer (or any of the Customer's officers, agents, or employees, if any) for:
  - (i) any loss of profit or anticipated profit, loss of data, loss of use, damage to goodwill, or loss due to delay, or any direct or indirect loss or damage (including, without limitation, consequential loss or damage) however caused (including, without limitation, due to breach of contract, negligence or breach of statute) which may be suffered or incurred by the Customer or which may arise from or in connection with your use of this Website and Works, or the Customer's use of or reliance upon any of the information or the Intellectual Property provided through the Website or Works, or otherwise provided by ABA to the Customer; or
  - (ii) any losses, costs, expenses, and damages (including legal costs and disbursements) sustained or incurred, whether directly or indirectly or consequentially or in any other way, arising in connection with:
    - (iii) death, personal injury, or property damage resulting directly or indirectly from the Customer's use of the Website and Works; and/or
    - (iv) any failure or delay due to matters beyond ABA's reasonable control.
- (g) Where the law implies a warranty into these Terms and Conditions, which may not be lawfully excluded, ABA's liability for breach of such a warranty shall be limited to, in the case of the Works, the total amount paid by the Customer to ABA for the Works.
- (h) The Customer agree that the Website is provided free of charge. ABA shall not be liable to the Customer or any person for any loss or damage of any kind which may arise from the use of the Website. ABA may from time to time, publish links to other third-party websites on this Website. Contents, hyperlinks or information held on other sites is not ABA's responsibility. ABA shall not be held liable for any information held on websites which may have links to or from the Website, and which are not maintained and controlled by ABA. ABA does not endorse any material on those websites and does not provide any warranty, or assume any responsibility regarding the quality, accuracy, source, merchantability, fitness for purpose or any other aspect of material on those websites, nor does ABA warrant that material on other websites does not infringe the intellectual property rights of any other person. ABA's aggregate liability to the Customer for any other losses resulting from use of the Website is limited to the nominal amount of \$AUD1.
  - (i) The Customer discharge s and forever releases ABA from any claim, loss, actions, proceedings, demands, costs, expenses, and liability relating to the Customer's use of the Website and/or the provision of the Works to the Customer.
  - (j) The Customer hereby agrees to defend, indemnify, and hold harmless ABA, ABA's officers, directors, employees, agents, subcontractors, licensors, and suppliers, from and against all claims, actions, demands, liabilities, and settlements arising in connection with the Customer's use of the Website and Works, or the Customer's breach of any of these Terms and Conditions.

**13 WARRANTIES**

- (a) ABA will, from the date of installation of the relevant Works and during the relevant periods set out in clause 13(b), repair, replace, resupply or reinstall (at its discretion) the Works and Goods where they become defective (subject to clause 4).
- (b) ABA provides the warranties in relation to the following (subject to clause 4):
  - (i) Works involving the installation of the Brawoliner Pipe Rehabilitation System (**Pipe Liner**) – 25 years from installation;
  - (ii) Works involving new installations, specifically excluding any Works that connect to existing pipes or Works relating to the Pipe Liner – 20 years unless the Works are due to water pressure and the water pressure is 500KPA or more prior to the Works, or unless the parts have been supplied by the Customer, in which

case the warranty over the Works shall be 12 months from installation;

- (iii) Works involving connections to existing pipes and drains, including but not limited to "Aussie" collars of joints – 24 months from installation of the Works; and
  - (iv) all parts supplied by ABA, specifically excluding all taps and washers – 12 months (as supplied by the manufacturer) plus 24 months (as supplied by ABA) after installation of the Works, unless the Works are due to water pressure and the water pressure is 500KPA or more prior to the Works, in which case the manufacturer's warranty in relation to the parts will only apply.
- (c) For the avoidance of doubt, no warranties or guarantees shall be provided by ABA in relation to:
- (i) Works which are water pressure related and the water pressure is 500KPA or more; or
  - (ii) parts that are supplied by the Customer; or
  - (iii) pipe or drain cleaning services in any respect.

#### 14 REPRESENTATIONS

ABA excludes all representations, warranties, conditions, and promises in relation to the quality, fitness or suitability of the Works and Goods except those which are set out in this Agreement and/or by virtue of law, cannot be excluded.

#### 15 GENERAL

- (a) ABA may:
  - (i) licence or subcontract all or any part of its rights and obligations under these Terms and Conditions without the Customer's consent; and
  - (ii) substitute a product that it considers to be substantially similar to another product to be used for the Work (as specified in the Quote) (**Agreed Product**) where ABA is unable to reasonably acquire the Agreed Product.
- (b) Notwithstanding anything else contained in these Terms and Conditions, ABA will not be liable for any delay in or failure to comply with these Terms and Conditions if such delay or failure is caused by circumstances beyond that ABA's reasonable control, including (without limitation), government restrictions, virus, pandemic, fire, flood, act of God, strikes, lock outs, stoppage of work, trade disputes, any act of war or terrorism, or the failure of public or private telecommunications networks.
- (c) A person agreeing to be bound by these Terms and Conditions (on behalf of another party) warrants and undertakes that they have the authority to bind that party for that purpose.
- (d) These Terms and Conditions may be varied ABA without the consent of the Customer. The Customer may only vary these Terms and Conditions with the consent of ABA. A variation of these Terms and Conditions may increase the Quote, and the cost of any variations shall be payable in accordance with ABA's instructions.
- (e) ABA may assign or otherwise deal with its rights or obligations under these Terms and Conditions by

notice in writing to the Customer. The Customer may not assign or otherwise deal with its rights or obligations under these Terms and Conditions without the written consent of ABA.

- (f) These Terms and Conditions may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.
- (g) These Terms and Conditions must be governed and construed in accordance with the laws applicable in South Australia. The parties irrevocably submit to the non-exclusive jurisdiction of the courts of South Australia.

#### 16 WEBSITE

- (a) ABA operates and provides the website located at [www.abaplumbing.com.au](http://www.abaplumbing.com.au) (**Website**) and its related Services subject to these Terms and Conditions.
- (b) By accessing, browsing, or using this Website or the Services the Customer agrees that it has read, understood, and agree to be bound by these Terms and Conditions, the Privacy Policy (Privacy Policy) and all applicable laws, and the Customer acknowledges that the Website and the Services are available for its use only on the condition that the Customer agrees to be bound to these Terms and Conditions. The Customer should read these Terms and Conditions and Privacy Policy carefully before using this Website.
- (c) ABA reserves the right to revise and update these Terms and Conditions by making any changes immediately.
- (d) ABA grants the Customer a limited, royalty-free, non-exclusive, non-transferrable, non-sublicensable, revocable, licence to use the Intellectual Property to access the Website and Services for personal and non-commercial purposes only. The Customer acknowledges and understands that it is solely responsible for its use of the Intellectual Property, Website and Services in this regard (including any other party's use of your account).
- (e) The Customer is prohibited from linking to ABA's Website without ABA's express written consent. Any links provided the Website to third-party websites are for convenience only. These third-party websites operate under their own terms and conditions, which are independent of ABA's. The Customer's access to and use of these third-party websites is entirely at its own risk and expense. ABA disclaims all responsibility for, and make no claims, representations, or warranties regarding, the content, quality, nature, reliability, or security of any third-party websites, including any material or services provided by them. ABA does not endorse or assume any responsibility for any information, products, or services available on or through any third-party websites. It is the Customer's responsibility to review and understand the terms and privacy policies of any third-party websites it visits.
- (f) By accepting these Terms and Conditions, the Customer consents to receiving newsletters, service information updates, and other relevant communications from ABA via email.
- (g) The Customer may opt out of these communications at any time by requesting removal from ABA's mailing list.

17 **PROMOTIONS ON WEBSITE**

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- (a) From time to time, ABA may offer limited-time promotions or discounts on its Website (**Promotions**). These Promotions may only be available for limited time(s) as determined by ABA.
- (b) Each Promotion is subject to availability and may be withdrawn or modified at ABA's sole discretion, without prior notice.
- (c) Promotions are non-transferable, non-refundable, and may not be exchanged for cash or any other benefit.
- (d) Unless explicitly stated otherwise, Promotions may not be combined with any other offer, discount, or Promotion, and only one Promotion may be applied per Quote.
- (e) ABA will determine the terms and conditions surrounding each Promotion from time to time and advertise it appropriately.
- (f) Any decision made by ABA regarding the application, interpretation, or enforcement of these terms concerning Promotions is final and binding.
- (g) A Promotion may be marked with an asterisk (\*) on the Website.
- (h) ABA may offer the Customer promotional codes (**Promo Code**) for the purposes of reducing the purchase price of certain Services, or bonus or free additional Services, subject in all respects to the specific terms and conditions associated with that Promo Code, which may be prescribed by ABA from time to time.
- (i) Unless otherwise specified in the terms of a Promo Code, where ABA has multiple Promo Codes which are active at the same time, the Customer may only apply one Promo Code to each order.
- (j) ABA reserves the right to cancel, modify, deactivate, or refuse the use of the Promo Code, at any time, for any reason and without providing notice to the Customer.
- (k) ABA makes no representations that a Promo Code will work at the time of the Customer's purchase.