

Terms and Conditions - Service and Repair

1. Definitions and Interpretation

1.1 In these terms and conditions:

- (a) **Customer** means the person or entity named in the Invoice;
- (b) **Goods** mean any products and or related parts and components supplied by Rinnai, its agents or contractors during the provision of Services;
- (c) **GST** means goods and services tax in accordance with *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (d) **Invoice** means the invoice issued by Rinnai, its agents or contractors for the supply of Goods or the provision of Services;
- (e) **Order** means any order for or any statement of intent to purchase Goods or Services placed by the Customer with Rinnai;
- (f) **Rinnai** means Rinnai Australia Pty Ltd ACN 005 138 769 trading as 1st Care;
- (g) **Services** mean all services, installation, commissioning, maintenance or repairs provided by Rinnai, its agents or contractors in relation to any products, appliances, or any other Goods or services referred to in the Invoice; and
- (h) **Site** means the site or premises listed in the Invoice.

1.2 Only these terms and conditions, and terms which cannot be excluded by law, will bind Rinnai. All other conditions, warranties and representations (including any conditions attached to the Customer's purchase order or the Customer's acceptance of a written quotation) are excluded.

1.3 Any special conditions specified in the Invoice shall, to the extent they are inconsistent with these terms and conditions, shall take precedence over these terms and conditions.

2. Orders

- 2.1 Once an Order has been accepted by Rinnai, the Order formed by that acceptance cannot be cancelled by the Customer.
- 2.2 The supply of Goods and Services by Rinnai is subject to availability.
- 2.3 Rinnai may, with notice to the Customer, cancel, suspend or discontinue the supply of Goods or the provision of Services to the Customer without penalty. If Rinnai is unable to supply all of the Customer's Order, these terms and conditions will continue to apply to any part of the Order supplied.

3. Pricing

- 3.1 Where a quotation is provided by Rinnai, the price or rate is as specified in that quotation. The price for any Goods provided will be in accordance with the Rinnai price list current at the date of supply and the charge for the Services will be at the Rinnai prevailing rates at the time of supply.
- 3.2 In cases where Rinnai intends to progress bill the Customer for the supply of Goods or the provision of Services, Rinnai will do so on a percentage (%) of completion of works basis and specify the billing schedule in its written quotation. A separate Invoice will be raised for each progress payment in accordance with the billing schedule.
- 3.3 Unless otherwise specified, all prices are exclusive of GST and any GST applicable to the supply of Goods and or provision of Services will be added to the amount payable by the Customer.

4. Payment

- 4.1 The Customer must make immediate payment upon the completion of the works and the issuance of an Invoice.
- 4.2 Time is of the essence in respect of the Customer's obligation to make payment for Goods and Services supplied by Rinnai to the Customer.

5. Access to the Site

- 5.1 The Customer agrees to give clear and safe access to the Site to Rinnai employees, agents and contractors at an agreed time to supply the Goods and Services.
- 5.2 The Customer shall pay:
 - (a) Any service call out fee if the Goods are not accessible and as a result not serviceable;
 - (b) Any service call out fee if the Goods are not installed in accordance with manufacturer's installation instruction, applicable standards and or regulations, and as a result not serviceable; and
 - (c) All costs and expenses associated with making the Goods accessible for Service, such as restricted access or working at heights, or the labour cost for an additional person(s) due to occupation, health and safety (OHS) requirements.
- 5.3 Unless otherwise specified, the Customer is responsible for, at its sole expense, to provide hoisting and cranes, and fall protection, scaffolding and safety guardrails, where required.
- 5.4 Any excess costs associated with attending a Site located in a remote area, as determined by Rinnai, or over 40Kms from the nearest authorised Rinnai service provider, or off the state/territory mainland, including travel, insurance and delivery costs, will be at the sole expense of the Customer.
- 5.5 If the Customer is not the owner of the Site, the Customer represents and warrants to Rinnai, that:
 - (a) It has obtained the consent of the owner and any agent of the owner of the Site for Rinnai to supply the Goods or Services to the Site;
 - (b) It is liable to pay Rinnai even though it is not the owner of the Site; and
 - (c) It will indemnify Rinnai against all costs or damage suffered by Rinnai or which is claimed against Rinnai arising from any breach of this clause 5.5 by the Customer.

6. Title and Risk in Goods

- 6.1 The title and ownership in the Goods remain with Rinnai until full payment is received for all the Goods.
- 6.2 The affixing of Goods to any part of the Site does not have the effect of making the Goods a fixture and is severable by Rinnai.

6.3 The Customer indemnifies Rinnai, its employees, agents and contractors for any costs of removal, claims, actions and causes of action of any kind in respect of the removal of Goods under clause 6.2.

6.4 Risk in the Goods passes to the Customer on their delivery to the Site.

7. Warranty

7.1 Subject to clause 8, Rinnai warrants against:

- (a) Defective Goods supplied during the provision of the Services for a period of 12 months from the date the Services are provided (**Goods Warranty**); and
- (b) Defective workmanship for Services for a period of 90 days from the date the Services are provided (**Services Warranty**).

7.2 Any claim under the Goods Warranty or the Services Warranty must be notified to Rinnai as soon as possible after the Customer becomes aware of the defect providing all relevant details of the claim.

8. Limitation of Liability

8.1 Other than the warranties set out in these terms and conditions, Rinnai excludes any other warranty or condition which would otherwise be implied in relation to the supply of Goods and the provision of Services. To the extent permitted by law, Rinnai limits its liability to:

- (a) in the case of Goods supplied during the provision of Services:
 - (i) the replacement or repair of Goods or the supply of equivalent goods; or
 - (ii) the payment of the cost of replacing or repairing the Goods or of acquiring equivalent goods;
- (b) in the case of Services:
 - (i) the supply of Services again; or
 - (ii) the payment of the cost of having Services supplied again.

8.2 Certain Goods supplied by Rinnai or an authorised dealer of Rinnai, may be covered by a written express warranty. To the extent permitted by law, such a warranty is in substitution of all other terms, conditions, warranties and representations, express or implied by law or otherwise.

8.3 Subject to this clause 8 and clause 9, Rinnai is not liable for any injury, loss or damage of any kind whatsoever which is consequential, special, indirect or otherwise arising out of or in connection with the supply of Goods or the provision of Services, even if due to negligence of Rinnai, its employees, agents and contractors.

9. Australian Consumer Law

- 9.1 Our Goods and Services come with guarantees that cannot be excluded under the Australian Consumer Law:
 - (a) For a major failure with a Good, the Customer is entitled to a replacement or refund and compensation for any other reasonable foreseeable loss or damage. If the failure does not amount to a major failure and if the Goods fail to be of acceptable quality, the Customer is also entitled to have the Goods repaired or replaced; and
 - (b) For a major failure with the Service, the Customer is entitled to cancel any Service contract with Rinnai and obtain a refund for the unused portion, or to compensation for its reduced value. The Customer is also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure the Customer is entitled to have problems with the Service rectified in a reasonable time and, if this is not done, to cancel any contract and obtain a refund for the unused portion of the contract.

10. Cancellation and Recovery of Debt

- 10.1 If the Customer does not make any payment by the due date on the Invoice or commits any other material breach of these terms and conditions, Rinnai may (without limiting any other right or claim it may have against the Customer), do any or all of the following:
 - (a) charge the Customer interest at a rate equivalent to two percent (2%) in excess of the rate of interest for the time being fixed under Section 2 of the Penalty Interest Rates Act 1983 on any portion of the Customer's account that is overdue;
 - (b) cancel or suspend any incomplete Orders or cease providing Services;
 - (c) terminate any contract between Rinnai and the Customer and demand immediate payment of any monies due and outstanding under those contracts; and
 - (d) institute any recovery process as Rinnai considers necessary, and at the Customer's cost and expense.

11. Governing Law

11.1 These terms and conditions are governed and interpreted according to the laws of Victoria, and Rinnai and the Customer agree to submit to the jurisdiction of the Courts of Victoria.

12. General

- 12.1 Rinnai may amend these terms and conditions from time to time. The current terms and conditions are on Rinnai's website (www.rinnai.com.au). A copy of the current terms and conditions will also be provided to the Customer when an Order is placed for the supply of Goods or provision of Services. The Customer agrees to be bound by these terms and conditions as amended.
- 12.2 The invalidity or enforceability of any provision of these terms and conditions shall not affect the validity or enforceability of the remaining provisions.
- 12.3 The failure or delay by Rinnai to enforce a provision of any contract incorporating these terms and conditions shall not constitute a waiver of such provision and shall not affect its right to enforce it.