

## Terms and Conditions – Supply and Installation

### 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;
  - (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 for the supply of Goods or the provision of Services;
  - (e) **Quotation** means a written quotation provided by Rinnai to the Customer including full details of the Goods and Services, drawings and specifications, pricing, payment, etc;
  - (f) **Rinnai** means Rinnai Australia Pty Ltd ACN 005 138 769 trading as 1<sup>st</sup> 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 Customers 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. Quotation

- 2.1 Rinnai will provide a Quotation for intended works upon request by the Customer. All Quotations are valid for a period of fourteen (14) days from the date of the Quotation.
- 2.2 All Quotation are subject to verification by Rinnai head office.
- 2.3 If variation in equipment or installation is required, it will be accepted only if the Customer provides the variation in writing, and the price adjustment has been duly accepted and approved.
- 2.4 Where the Customer has not signed a credit application or other binding document with Rinnai, the Customer acknowledges and agrees that by placing an order with Rinnai for the supply of Goods or provision of Services, the Customer agrees to be bound by these terms and conditions.

### 3. Pricing

- 3.1 Where a Quotation has been given by Rinnai, the price for the Goods and Services is as specified in the Quotation.
- 3.2 In cases where Rinnai intends to progress bill the Customer for the Goods and Services, Rinnai will do so on a percentage (%) of completion of works basis and specify the payment schedule in its written Quotation. A separate Invoice will be raised for each progress payment in accordance with the payment schedule.
- 3.3 Unless otherwise specified, all prices are inclusive of GST.

### 4. Payment

- 4.1 The Customer must make immediate payment upon the completion of the works and the issuance of an Invoice, without deduction, retention or set-off of any kind.
- 4.2 Rinnai may apply a payment received from the Customer to any amount owed by the Customer (including interest, part payment of an invoice, administration, collection and other costs) in any order.
- 4.3 The Invoice will be required as proof of purchase if making a warranty claim.
- 4.4 A surcharge of 1% will apply to all payments by credit and debit card.
- 4.5 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 craneage, and fall protection, scaffolding and safety guardrails, where required.
- 5.4 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 5.4 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 upon delivery to the Site.

### 7. Goods and Services

- 7.1 Rinnai may update, modify, make substitution or alter any of its Goods or any component or raw material incorporated in or used in forming any part of the Goods as part of its ongoing business.
- 7.2 Photographs, drawings, illustrations, weights, dimension and any other particulars accompanying, associated with or given in a Quotation, or the descriptive literature or a catalogue specifying the Goods may be altered without notice.
- 7.3 Drawings, specifications and designs submitted or prepared by Rinnai shall remain the sole property of Rinnai, and are not to be reproduced, copied or used, for the intended purpose or for any other purpose, in whole or in part without the prior written consent of Rinnai.
- 7.4 The Customer agrees to accept current Goods in substitution for any Goods ordered provided they are not materially different.
- 7.5 Rinnai may offer to provide installation Services (including any required cabinetry, electrical and plumbing work) for the Goods supplied, directly by Rinnai or through its agents and contractors. The scope of work to be provided will be agreed with the Customer beforehand and full details specified in the Quotation provided by Rinnai. All installation Services will take place, where possible, at the time of delivery of the Goods by a fully licensed and insured technician.

### 8. Customer's obligations

- 8.1 Where permits, licences or approval, may be required by any law, regulation or authority, for the works to be performed, the Customer is responsible for obtaining or facilitating such permit, licence or approval prior to the commencement of the works by Rinnai.
- 8.2 The Customer shall provide electrical power for the use by Rinnai during the provision of Services.
- 8.3 The Customer is responsible for any damages caused to duct work, fittings or equipment after the completion of works by Rinnai.

### 9. Works to be done by others

- 9.1 The Customer agrees to be responsible for, at its sole expense, unless otherwise agreed in writing by Rinnai:
- (a) All gas points for ducted heaters (including gas cocks) being provided and installed prior to fit off;
  - (b) Roof access lights and power points for both heaters and evaporative coolers being provided and installed prior to fit off;
  - (c) Appropriately sized electrical supply isolator being provided at an outdoor location (and indoor on 3 phase units). The Customer shall be responsible for inquiring or contacting the manufacturer for appropriate amperage ratings;
  - (d) Installation of gas and water isolator cocks prior to requested fit off for gas ducted heaters and evaporative coolers;
  - (e) All required upgrades to the electrical mains and switch boards at the Site;
  - (f) Installation of appropriate concrete support base or roof platforms for all outdoor units (condensers);
  - (g) Making sure condensate is emitted from internal head units and external units. Rinnai will only drain to drainage points provided by others, such as tun dishes;
  - (h) Boxing and framing of all ductwork where required, bulkheads return and supply air grills, etc.
  - (i) All penetration and coring for ducting and refrigeration piping, structural changes, and all builders work including control wiring and interfacing;
  - (j) Installation and supply of access panels for unit, filter and branch box serving. If access cannot be provided in appropriate location for servicing, plaster may need to be cut and replaced at Customer's expense. (Note the manufacturer may refuse warranty under its access terms and conditions for warranty); and
  - (k) Modification of any structural beams, roof trusses, stud, etc. to allow structural support and access to the quoted equipment.

### 10. Locating unit and registers (outlets)

- 10.1 If the Customer is not at home at the time of installation, Rinnai will install the unit and registers (outlets) at a location determined as appropriate by Rinnai.
- 10.2 The Customer acknowledges and agrees that limiting structural factors may lead to Rinnai deviating from any planned installation location. The Customer must pay Rinnai's costs and expenses for any change of location of installed components done at the Customer's request.

10.3 The Customer will be responsible for the costs of returning the affected surfaces to their original condition, including and not limited to rendering, painting and plastering.

## 11. Design Conditions

- 11.1 Design conditions are based on the Customer installing appropriate roof and wall insulation, and external blinds on glass, particularly north/west facing.
- 11.2 Equipment is specified based upon rated conditions. Rated test conditions are based on the current Australian Standards.
- 11.3 The Customer must notify Rinnai, in writing, when placing its order of any specific installation requirements or restrictions, including any heritage overlays that may impact on the installation location of the Goods.

## 12. Air Balancing

- 12.1 With ducted heating or cooling systems, Rinnai will attempt to balance the outlets as best as possible, however precise balancing of air volumes may not be possible, due to structural reasons.
- 12.2 If the Customer requests Rinnai to rebalance air volumes after installation, Rinnai will charge the Customer at the current rates plus materials.

## 13. Zoned Heating and Cooling Systems

- 13.1 Where zoning is quoted as part of a ducted system, it is taken that the system does not have capacity to heat and or cool the Customer's entire Site, and zones must be closed down to heat and or cool to achieve rated conditions.

## 14. Claims

- 14.1 All complaints, claims, or notifications, relating to incomplete, damaged, or defective Goods and Services must be submitted by the Customer to Rinnai in writing.

## 15. Warranty

- 15.1 Subject to clause 16, Rinnai warrants against:
- (a) Defective Goods in accordance with the manufacturer's warranty or goods warranty for the relevant Goods (**Goods Warranty**); and
  - (b) Defective workmanship for Services for a period as specified in the Quotation (**Services Warranty**).
- 15.2 Goods supplied or installed which are covered by a Goods Warranty will be replaced or repaired, however additional Service charges will be applied where the Services are conducted outside the timeframe specified by the Goods Warranty and or Service Warranty.
- 15.3 Any claim under the Goods Warranty, manufacturer's warranty and or 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.

## 16. Limitation of Liability

- 16.1 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.
- 16.2 Certain Goods supplied by Rinnai, may be covered by a manufacturer's 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.
- 16.3 To the extent permitted by law, Rinnai disclaims responsibility or liability for any injury, loss or damage resulting from the Customer not using or applying the Goods in accordance with the recommendations and directions provided by Rinnai and or the manufacturer.
- 16.4 Subject to this clause 16 and clause 17, 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.

## 17. Australian Consumer Law

- 17.1 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.

## 18. Cancellation and Recovery of Debt

- 18.1 If the Customer does not make 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.
- 18.2 Unless Rinnai has consented in writing no cancellation or partial cancellation of any order shall be accepted. Rinnai may charge a cancellation fee in order to indemnify against loss.

## 19. Delay

- 19.1 If the commencement or completion of works in accordance with the order is delayed by the Customer, or any third party engaged by the Customer, for a period exceeding six (6) months from the date of acceptance, Rinnai may charge 10% delay increment on the total price, which shall be paid by the Customer upon completion of the works.
- 19.2 In the event that gas and electrical services are not available to Rinnai to carry out final commissioning of the equipment installed, Rinnai may claim the final payment, upon the understanding that Rinnai will return to carry out the final commissioning when the said services become available.

## 20. Recalls

- 20.1 In the event of a product recall, the Customer must assist Rinnai insofar as Rinnai reasonably requires in relation to such recall.

## 21. Governing Law

- 21.1 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.

## 22. General

- 22.1 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](http://www.rinnai.com.au)). A copy of the current terms and conditions will also be provided to the Customer with the Quotation. The Customer agrees to be bound by these terms and conditions as amended.
- 22.2 The invalidity or enforceability of any provision of these terms and conditions shall not affect the validity or enforceability of the remaining provisions.
- 22.3 The failure by Rinnai to enforce, at any time or any period of time, any term of any contract incorporating these terms and conditions shall not constitute waiver of such term and shall in no way affect its right to enforce it.