

**These Terms & Conditions acts as a contract guideline between Unicorn Air Conditioning represented by T & R Kandola
(Contractor Licence 22215C) and who hereby accepts any service supplied by Unicorn Air Conditioning**

1. Definitions

- 1.1 "Installer" shall mean Unicorn Air Conditioning and any person acting on behalf of and with the authority of Unicorn Air Conditioning.
- 1.2 "Customer" shall mean the customer (or any person acting on behalf of the customer with their authority) as described on any quotation, work authorisation or other form as provided by the installer to the customer.
- 1.3 "Goods" shall mean Goods supplied by the installer to the customer and are as described on the invoices, quotation, work authorisation or any other forms as provided by the installer to the customer.
- 1.4 "Services" shall mean all Services supplied by the installer to the customer and includes any advice and recommendations.
- 1.5 "Price" shall mean the price payable for the good and services as agreed between the installer and the customer.

2. The Commonwealth Trade Practices Act 1974 ("TPA") and Fair Trading Acts ("FTA")

- 2.1 Nothing in this agreement is intended to have effect of contracting out of any applicable provisions of the TPA or the FTA in each states and Territories of Australia, except in the extent permitted by those acts where applicable.

3. Acceptance

- 3.1 Upon signing on a copy of a quote issued by the installer and/or allowing a representative of the installer on the site to commence work, the customer shall constitute acceptance of the terms and conditions contained herein
- 3.2 Where more than one customer has entered into this agreement, the customers shall be jointly and severally held liable for payments for the price.
- 3.3 Upon acceptance of these terms and conditions by the customer the terms and conditions are binding and can only be amended by the Installer.
- 3.4 Customer shall notify in writing no less than 14 days of any name change not limited to address and contact details or change in ownership.

4. Price And Payment

- 4.1 At the installers discretion the Price shall be as indicated on a quotation provided by the installer to the customer in respect of any good or services provided.
- 4.2 The installer reserves the right to change the price in the event of any variation to the installers quotation.
- 4.3 At the installers discretion a 10% deposit or higher in certain circumstances will be required which would be stated on the quotation.
- 4.4 New customers will make payments on the day at the site upon delivery of equipment if earlier than date of installation or upon completion of installation. Payment terms as stated in quotation.
- 4.5 Time for payment would be as stated on the quotes and if no time is stated the default is 1 day which is payment on the day of work.
- 4.6 Payment will be made in cash or bank transfer or bank cheque. In case of payment being made by bank transfer, customer has to provide a copy of bank transfer receipt in printed copy or via email.
- 4.7 In case of payment being made by bank cheque and in case where a Bank cheque bounces or is not honoured, any fees charged by the installers bank to the installer would be passed on to the customer who will be held liable for the fees.
- 4.8 A 15.5% late payment fees calculated fortnightly on the outstanding amount will be payable by the customer in case of non or late payment. Late payment fee will be calculated next day from date of invoice due date.
- 4.9 It is the customers responsibility to ensure they have the full amount in cash or access to facilities for Bank transfer and/or printing if required. Bank transfer is to be made 48 hours prior to invoice due date to ensure successful transfer before due date. Bank cheques are to be mailed out well in advance to be received prior to due date.

5. Delivery of Goods

- 5.1 At the installers sole discretion delivery of the goods shall take place when:
 - (a) the customer take possession of the goods at the installers address;
 - (b) the customer takes possession of the goods at the customers nominated address (in case of Goods being delivered by installer)
 - (c) the customer takes possession of the goods as fully installed at the customers nominated address.

6. Risks/Insurance

- 6.1 Upon delivery of goods by the installer to the customers nominated address all risks for the good passes to the customer.
- 6.2 If customer nominated address is under construction no liability will be taken of any damage caused by other construction work or theft, fire, paint spills and other damage.
- 6.3 If any of the goods are damaged following delivery but prior to full payment and transfer of ownership to Customer then the installer would be entitled to receive all insurance proceeds payable for the goods.

7. Title/Ownership

- 7.1 The installer and customer agrees that ownership of goods would not be transferred till full payment is made for the goods and services provided by the installer to the customer.
- 7.2 Receipt of any other form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the installers ownership or rights of the goods shall continue.
- 7.3 Till goods has been fully paid for and ownership has been passed on to the customer, goods must be kept separate and identifiable.
- 7.4 Any damage caused to the goods prior to full payment would be customers own risk and would be payable to the installer in case of returns.
- 7.4 If the customer fails to clear payments the installer or its agents may enter upon and into the land and premises owned, occupied or used by the customer, or any premises as the invitee of the customer, where goods are situated and take possession of the goods. In this case any damage caused to the site due to removal will not be installers responsibility.

8. Defects

- 8.1 The customer shall inspect the goods upon delivery or at time of installation and shall within 5 working days notify the installer of any alleged defects, damage or failure to comply with the description or the quote. The customer shall permit the installer to inspect the goods within a reasonable time frame. Failure to do so would be presumed that goods are free of any defect or damage.
- 8.2 If goods are found to be defective or damaged, the installer is to be given a reasonable time frame to contact the manufacturers whereby then responsibility of replacing or repairing the goods would be passed on to the manufacturers.
- 8.3 If defect is found to be in workmanship done by installer within 12 months of installation, the installer is to be given a reasonable time frame to rectify the problem.

9. Warranty

- 9.1 Subject to the conditions of warranty set out in clause 9.2 the installer warrants that if any defect in any workmanship of the installer becomes apparent within (12) months of the installation date, then the installer will either at the installer discretion replace or remedy the workmanship.
- 9.2 The conditions applicable to the warrant in clause 9.1 are:
 - (a) the warrant shall not cover any defect or damage which may be caused or partially caused by or arise through:
 - (i) failure on the part of the customer to properly maintain the goods including cleaning filters, blown fuses, cleaning of drains, blockage of condenser/evaporator coils, failure of any equipment to function properly through the incorrect setting of any controls.
 - (ii) failure on part of the customer to follow any instructions, suggestions or guidelines provided by the installer including equipment sizing;
 - (iii) further work being done on goods by any other agent other than those authorised by the installer;
 - (iv) the continued use of goods after any defect become apparent
 - (v) fair wear and tear, vandalism, any accident or act of God including fire, flood etc.
 - (vi) damage caused by insects, rodents or any animals.
 - (b) the warranty shall cease and the installer not be held liable if the workmanship is repaired, altered or replaced by a third party without the installers consent.
 - (c) the warranty shall cease and the installer not be held liable if the customer delays payment or in case of non payment.
 - (d) the installer will not be held liable to compensate the customer for any delay in repairing or replacing the defect workmanship.
- 9.3 If in the event a service call is placed and it is found that the equipment is operating normally or malfunctioning due to misuse or negligence by the client or the equipment has not been properly maintained by a licensed air conditioning company in accordance with the manufacturer's recommendation, the customer will pay the cost of the service call together with labour and material costs.
- 9.4 The installer is not responsible for boxing in, positioning and the space required for the dropper. In some circumstance due to the structure of the building some quoted outlets may not be accessible.

Warranty - continued

- 9.5 The installer will not be responsible for any existing duct work or any other existing accessories. Some airflow may be restricted due to existing duct work which cannot be accessed.
 - 9.6 The installer is not responsible for minor cracks and blemishes that may appear in ceilings and walls where duct outlets and return airs are installed; due to the construction techniques used in modern houses and older fragile ceilings this can be an unavoidable occurrence. All care will be taken to avoid this eventuality.
 - 9.7 The installer should be given a reasonable timeframe to assess the defect and rectify it.
 - 9.8 Goods not manufactured by the installer, will be covered under the manufacturers warranty in Residential use being (5) years or as described in the quote. The installer will not be held liable for any term, condition or warranty other than that which is provided by the manufacturers warranty.
 - 9.9 It is the customers responsibility to obtain, understand and comply with the manufacturer's warranty terms.
 - 9.10 If goods are found to be defective or damaged, the installer is to be given a reasonable time frame to contact the manufacturers whereby then responsibility of replacing or repairing the goods would be passed on to the manufacturers. The installer will not be held responsible if the manufacturer fails to honour their warrant.
 - 9.11 The installer has the right to withdraw the workmanship warranty if found to be misused or abused.
 - 9.12 Any unnecessary or wrongful claims of defect on workmanship found not to be genuine will be charged to the customer at the callout rate and hourly rate at that current rate at that time.**
- 10. Public Liability Limitation**
- 10.1 Subject to the conditions of liability set out in clause 10.2 any damage caused by the installer accidentally or due to negligence which becomes evident on the day of work at site would be covered under the installers liability insurance.
 - 10.2 The conditions applicable to the liability in clause 10.1 are:
 - (a) the insurance shall not cover any defect or damage which may be caused or partially caused by or arise through:
 - (i) pre existing problems already at site including but not limited to weak and damp ceilings, old and loose brick walls, weak inner walls and brittle roof tiles. Customer would be notified of any concerns. Alternate options would be organised at the customers discretion and additional charges may apply.
 - (ii) Minor damages caused during cutting for vent outlet, drilling in brick walls, accessing through roof and mounting wall units. Due to the construction techniques used in modern houses and older fragile ceilings this can be an unavoidable occurrence.
 - (iii) Faulty electrical work done by electrician organised by the installer but not acting on behalf of the installer or organised by the customer for the sole purpose of system installation.
 - 10.3 The liability would cease if customer does not notify the installer of any apparent damage on the day or if the damage is repaired, altered or replaced without notifying the installer. Claims for repair cost would not be compensated.
 - 10.4 The installer should be given a reasonable time frame to assess the damage and to contact their insurance company. The customer is to follow instructions provided by the installers insurance company for repair/replacement cost.
 - 10.5 The installer will not be held liable to compensate the customer for any delay in repairing or replacing the damage.
 - 10.6 At no given time is the customer to hold any part or full payment owed for any service provided by the installer as security to get any property damage fixed or repaired. Invoices need to be paid as stated on quotation and late payment fees may apply if a delay occurs.
- 11. Default / Non Payment**
- 11.1 As stated in clause 4.8, A 15.5% late payment fees calculated fortnightly on the outstanding amount will be payable by the customer in case of non or late payment.
 - 11.2 If the customer defaults on payment, the customer shall be responsible for all legal costs and fees incurred by the installer in pursuing the debt including legal costs on a solicitor, own client basis and the installer's collection agency costs.
 - 11.3 In the event that the customer's payment is dishonoured for any reason the customer shall be liable for any dishonour fees incurred by the installer.
 - 11.4 If any account remains overdue after thirty (30) days then an amount of the greater of twenty dollars (\$20.00) or ten percent (10.00%) of the amount due whichever is greater (up to a maximum of one hundred dollars (\$100.00)) shall be levied for administration charges which sum shall become immediately due and payable.
 - 11.5 In the event of default payment the installer reserves the right to stop all or any future work to be done and withdraw all or any workmanship warranty provided by the installer. Any damage or costs arising due to stoppage of work will not be responsibility of the installer.
 - 11.6 The customer agrees to mortgage and/ or charge any land, reality or any other asset held by the customer to secure the amount payable to the installer. The clause stands in addition if the customer become bankrupt, insolvent or convenes a meeting with its creditors or proposes or enters into an arrangement with creditors or a receiver, manager, liquidator or similar person is appointed in respect to the customer or an asset of the customer.
- 12. Privacy Act 1998**
- 12.1 The customer agrees for the installer to obtain from a credit reporting agency a credit report containing personal credit information about the customer in relation to credit provided by the installer.
 - 12.2 The customer consents to the installer being given a consumer credit report to collect overdue payment on commercial credit (section 18k(1)(h) Privacy Act 1998
 - 12.3 The customer agreed to the installer passing on this information to their managers, debt recovery agencies, law agents and other third parties in order to secure payment owed by the customer.
- 13. Building and Construction Act of Payment Act 1999**
- 13.1 At the installers sole discretion, if there are any disputes or claims for unpaid goods/ and or services then the provision of the buildings and construction Industry Security Of Payment Act 1999 may apply.
 - 13.2 Nothing in this agreement is intended to have the effect of contacting out of any applicable Provisions of the Building and constructions Industry Security of Payment Act 1999 of New South Wales, except to the extent permitted by the act where applicable.
- 14. General**
- 14.1 IF any provisions of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
 - 14.2 These terms and conditions and any contract where they apply shall be governed by the law of New South Wales and are subject to the jurisdiction of the courts of New South Wales.
 - 14.3 The installer shall be under no liability whatsoever to the customer for any indirect loss/or expense arising due to any breach by the installer of these terms and conditions.
 - 14.4 In the event of any breach of the terms and conditions by the installer the remedies of the customer shall be limited to damages which under no circumstances shall exceed the Price of the goods.
 - 14.5 The customer shall not be entitled to set off against or deduct from the price any sums owed or claimed to be owed to the customer by the seller.