

Terms & Conditions

1. Term. The term of the rental of the Equipment will start (the "Start Date") on the date that you sign and deliver the acceptance certificate referred to below in this Section and will continue for the number of months shown as the Minimum Rental Term following the last day of the month in which the Start Date occurs (the "Minimum Term"), unless terminated earlier by you or us in accordance with the terms of this Agreement. If, at the end of the Minimum Term, neither you nor we have terminated this Agreement, the rental of the Equipment will be automatically renewed for an indefinite term on the same other terms and conditions as had existed during the Minimum Term, which indefinite term may be terminated either by you or us in accordance with this Agreement. Immediately after delivery of the Equipment, you will either deliver to us (i) a signed acceptance certificate, in a form acceptable to us, regarding the delivery and your acceptance of the Equipment of (ii) a signed notice, rejecting the Equipment.

2. Rental Payments. During the term of this Agreement, you will pay us on approximately the same day each month, the Total Monthly Payment. We will notify you 15 days prior to your first pre-authorized payment ("PAP") of the Total Monthly Payment. On approximately the same day (a "PAP Date") each month, the charges set out on your bill are due and we will debit your account for those charges and all other amounts you owe us. If the PAP Date falls on a weekend or a statutory holiday, your account will be debited on the next business day. You will only receive another bill from us if the amount of the Total Monthly Payment changes. **You agree that each year during the term of this Agreement your Monthly Rental Payment will increase by the greater of (i) 3.5% and (ii) the percentage increase (as determined by us) in the Consumer Price Index (All Items) for Ontario, published by Statistics Canada or any successor agency (or comparable index if such index is no longer published) for the 12-month period ending three months preceding such increase. Notwithstanding the foregoing, the portion of the Monthly Rental Payment that applies to equipment that is not a water heater (if any) will not increase during the first 5 years of this Agreement, and the increase during the next two 5 year periods (years 5 to 10, and years 10 to 15) shall not exceed 10% in each of such periods.**

3. Pre-Authorized Payments; Credit Card Payments. You authorize us to debit the account identified in the sample cheque you have provided (or any other account that you may identify to us from time to time) (the "Account") for payment of (i) the Total Monthly Payment on or shortly after each Payment Due Date (each a "PAD Date"); and (ii) any other amount that may become due under this agreement on the next PAD Date. You agree that we will not notify you in advance of each debit. The equipment is rented for your personal use. You may cancel this authorization upon 30 days written notice to us, however, you remain obligated to pay all amounts due or owing under this agreement. You have certain recourse rights if any debit that we draw does not comply with this authorization. For example, you have the right to reimbursement for any debit that is not authorized or is not consistent with this authorization. For more information on your right to cancel a pre-authorized debit agreement or on your recourse rights, contact your financial institution or visit payments.ca. You may also elect to pay the Total Monthly Payment or any other amount due under this Agreement by credit card.

4. Charges for Late Payments and Returned Payments. You will pay us on demand interest on all amounts payable by you (including interest) and not paid when due, both before and after judgment, at a rate equal to 1.5% per month (or 19.6% per annum), compounded monthly. You will be charged our standard charge (currently \$25) for any cheque that is returned unpaid by your bank or for any PAP that cannot be processed for any reason.

5. Ownership; Registration Costs/ Charges. We are the owner of the Equipment and you have no rights to the Equipment, except as provided in this agreement. You agree to ensure that any of our identification or labelling is not removed from the Equipment or covered in any manner. We will register, at your expense, our interest in the Equipment against you and/or against the title to the Premises. To the extent permitted by applicable law, you will also pay us our standard charge (currently \$120), as revised by us from time to time without notice to you, each time we do any registrations in respect of this Agreement, including any Discharge of postponement of our interest in the Equipment. To the extent permitted by law, you waive any right to receive a copy of any such registration and you appoint us as your lawful attorney for the purpose of doing any such registrations. You agree that the Equipment will remain personal property even though it may become affixed to any real property. During the term of this Agreement, you will, at all times, be the registered owner of the Premises.

6. Equipment Use; No Liens. You will keep and use the Equipment only at the Premises and will maintain a convenient, safe, dry and heated location for the Equipment, free of any combustible materials and obstructions for future servicing, repairs or removal. You will not use the Equipment unsafely or unlawfully. You will not make any alterations to the Equipment without our prior written consent. You will keep the Equipment free of all liens, security interests, mortgages and other claims. We may inspect the Equipment at any reasonable time and you will allow us reasonable access to the Premises for the purposes of inspecting, servicing, repairing, disconnecting and removing the Equipment as provided for in this Agreement, and to otherwise give effect to this Agreement.

7. LIMIT ON LIABILITY. We are not the manufacturer of the Equipment and we make no representations, warranties or conditions as to the performance of the Equipment, except for those which are given by statute and which you cannot waive. We will not be liable for any loss, damage or injury of any type arising out of or related to this Agreement or caused or contributed to in any way by the use and operation of the Equipment or any indirect, incidental, special or consequential damages, even if reasonable foreseeable. Notwithstanding the foregoing, we warrant that the Equipment will work for the term of this Agreement, subject to any limitations of law or equity. If we are unable to perform any of our obligations under this Agreement because of circumstances or events beyond our control, we shall be excused from the performance of such obligations for the duration of such circumstances or events and we shall not be liable to you for such failure to perform.

8. Our Obligations. The Equipment initially installed by us will be new equipment and not used or reconditioned. If the initially installed Equipment is subsequently replaced under this Agreement during the Minimum Rental Term, we reserve the right to install previously installed Equipment that has been repaired for redeployment. During the term of this Agreement and so long as you are not in default under this Agreement, we will, at our expense, (i) conduct each year a maintenance check of the Equipment and (ii) repair the Equipment and, if not repairable, replace it; provided that, after the end of the Minimum Term, we will not be required to replace such Equipment unless, before we install the replacement Equipment, you enter into a new rental agreement with us, for a term starting on the date that the replacement Equipment is installed and continuing for the number of months shown as the Minimum Rental Term following the last day of the month in which the Equipment was replaced for our then standard prices, and on such other standard terms and conditions in effect upon the replacement of the Equipment. If you fail to arrange, or allow us reasonable access in order to, maintain or service the equipment, we may charge you our then standard rates for any necessary repairs to the equipment caused by such failure to maintain or service.

9. Termination; Termination/Removal Charges. So long as you are not in default under this Agreement, you may terminate this Agreement at any time following the end of the Minimum Term, by notifying us in writing not later than 30 days before the date you propose to terminate this Agreement, which proposed termination date must be set out in your notice and must be a business day. We will contact you prior to such proposed termination date to set a time or a range of times during which we will disconnect and remove the Equipment. If we are not given access to the Premises in order to disconnect and remove the Equipment, your obligation to pay the Total Monthly Payment will continue until we are able to disconnect and remove the Equipment. You agree that the Equipment will only be disconnected and removed by one of our authorized technicians and that, at the time of such disconnection and removal, the Equipment must be in the same condition as when it was delivered to you, except for normal wear and tear. You will pay the cost to repair any damage in excess of normal wear and tear,

which costs include the cost necessary to: (a) repair and damage attributed to use of the Equipment for purposes for which it was not intended; and (b) repair or replace, beyond normal wear and tear, (1) all missing, broken, scratched, dented or rusted exterior components and (2) all damage which would be covered by physical loss or damage insurance, whether or not such insurance is actually in force, (3) any damage that appears to us, acting reasonably, to be intentionally, wilfully or negligently inflicted on the Equipment and (4) any other mechanical damage or other condition that causes the Equipment to operate in an improper, unsafe or unlawful manner or causes the Equipment to fail any requirements of law. You will pay such charges when billed by us.

10. Buy-out. So long as you are not in default under this Agreement, you may elect to buy the Equipment on an "as is, where is" basis, without any recourse, representation, warranty or condition from us (express, implied, statutory or otherwise, except for those which are given by statute and which you cannot waive), by notifying us in writing not later than 30 days before the date you propose to buy the Equipment. The price at which you may buy the Equipment under this Section will be equal to (i) if you buy the Equipment on the last day of the Minimum Term, the Estimated Residual Value, or (ii) if you buy the Equipment on any other day, the depreciated fair market value of the Equipment as at the date of such buy-out (as determined by us on a straight-line basis in accordance with Canadian generally accepted accounting principles and assuming, for the purpose of such determination, that the Equipment is valued on an installed basis without regard to the cost of removal and has been maintained as required by this Agreement). If you exercise any option and pay all amounts owing under this Agreement, title to the Equipment will be transferred to you and this Agreement will terminate.

11. Our Remedies. If you breach any term of this Agreement or if the authorizations in Section 3 are cancelled, we may (i) terminate this Agreement and require you to immediately pay us an amount equal to (a) the depreciated fair market value of the Equipment as at the date of such termination (as determined by us on a straight-line basis in accordance with Canadian generally accepted accounting principles and assuming, for the purpose of such determination, that the Equipment is valued on an installed basis without regard to the cost of removal and has been maintained as required by this Agreement), plus (b) in the case where we have terminated this Agreement prior to the end of the Minimum Term, an amount equal to the present value as at the date of such termination (calculated using a discount rate of 6% per annum) of all unpaid Total Monthly Payments to the end of the Minimum Rental Term, plus (c) all other amounts owing under this agreement, (ii) enter on any premises where the Equipment is located and take possession of, disable or remove it and require you to pay an amount equal to all costs related thereto, plus our then applicable removal fee and (iii) exercise any other remedies available to us, whether at law, in equity or otherwise. To the extent permitted by law, you waive the benefit and protection of any law that restricts or limits our remedies under this Agreement.

12. Indemnity; Taxes. You will indemnify us from any loss or damage to the Equipment for any reason (other than normal wear and tear) and all claims, losses and costs that we may suffer or pay or may be required to pay (including legal expenses), in connection with the Equipment, this Agreement or the use, operation, installation, return, removal and/or repossession of the Equipment, including any claims against us for any injury or death to individuals or damage to property. You will pay, when due, all taxes and other charges imposed by any governmental authority on or in connection with this Agreement, the payments made under it or the Equipment. Without limiting the generality of Section 13, we may change the Total Monthly Payment to reflect any increase or decrease in such taxes or changes for whatever reason.

13. Changes to Agreement. For greater certainty, we have the right to change, from time to time, any of our returned payments charges, administration fees, removal fees and other charges that are provided for in this Agreement, without notice to you. We also have the right to change, from time to time, any other term of this Agreement by sending you written notice of the change, which change will be effective on the date set out in that notice. You also authorize us to correct patent errors and to fill in any description information missing from the Home Comfort Rental Package section and/or in any schedule that is attached to this Agreement.

14. Assignment. If you sell the Premises, you agree to inform the purchaser that the Equipment is rented pursuant to this Agreement. You will be released from your obligations under this Agreement, effective from the date of sale, so long as (i) the purchaser is notified in the agreement of purchase and sale that the Equipment is rented, (ii) you have notified us in advance of the purchaser's name, current contact information, including but not limited to, current phone number, email address and mailing address, and the intended date of sales, (iii) the purchaser agrees in writing or by conduct to rent the Equipment on our then current terms and conditions, (iv) the purchaser is approved by our credit department and (v) you have paid us all other amounts owing under this Agreement. You authorize us to respond to information requests relating to your account made by or on behalf of the purchaser. We may sell, assign, concurrently lease or otherwise dispose of, or grant a security interest in, (each, a "transfer") all or any part of our right, title and interest in the Equipment or this Agreement or our obligations under this Agreement to anyone else (a "transferee"), without notice to you or your consent. To the extent not prohibited by law, you will not assert against any such transferee any claims, defences, set-offs, deductions or counter-claims which you may not or in the future be entitled to assert against us. Subject to this section, this Agreement is binding upon and will ensure to your and our benefit and their respective heirs, personal representatives, successors and permitted assigns.

15. Governing Law. This Agreement will be governed by the laws of the province or territory in which the Premises are located.

16. Our Termination. Without limiting our right to terminate this Agreement pursuant to Section 11(i), we may terminate this agreement at any time after giving you reasonable notice of our proposal to terminate this Agreement. If we choose to terminate this Agreement under this Section, you may elect to either (i) request us to disconnect and remove the Equipment or (ii) buy the Equipment at the same price and on the same terms that would apply if you had exercised your buy-out option. You must notify us in writing of your election no later than 30 days before the date we propose to terminate this Agreement.

17. Miscellaneous. All of your obligations under this Agreement will survive the termination of this Agreement to the extent required for their full observance and performance. This Agreement contains the entire agreement between you and us. No waiver by us of any default under this Agreement or any of our remedies will be effective unless in writing. Any such waiver is not a waiver by us of any other later default, whether similar or not, or a waiver of our right to exercise our remedies in the future. References to Sections in this Agreement are to Sections of this Agreement. The Headings in this Agreement are for convenience only and will not affect the construction of interpretation of the Agreement. You will do such acts and execute such documents as we may require to give effect to this agreement and to protect our rights in the Equipment.