

TERMS AND CONDITIONS

THIS AGREEMENT is made as of the date on the first page of this Service Agreement (“Agreement”) between Miami Water Heater, Inc. (“MWH”) and Customer.

MWH and Customer agree as follows:

1. The term of this agreement is that listed on the first page of this Agreement.
2. The price is that listed on the first page of this Agreement.
3. The services to be provided under this Agreement is for MWH to provide one (1) service call per year for the term of this Agreement. The service call will be scheduled at the convenience of MWH on a weekday and according to its regular schedule during normal business hours. MWH’s normal business hours are Monday through Friday 7:00 AM through 3:00 PM not including legal holidays. MWH will schedule the first service call within three months for any water heater that is more than one year since installation. MWH will schedule the first service call within 12 months for any water heater that is less than one year since installation. The services performed are those listed on the first page of this Agreement. No other service or service call is included in this Agreement.
4. Customer represents and warrants that his/her/its water heater is manufactured by Rheem, Rudd or Richmond. This agreement is void if the water heater is not manufactured by one of the above.
5. Any additional service calls by MWH during the term of this Agreement will be 20% off the price at the time of the service call.
6. Any parts needed for the annual service call or any other service call during the term of this Agreement will be 20% off the price at the time of the service call.
7. Service calls requested by Customer for after normal business hours, weekends and holidays are considered Emergency Service Calls. Emergency Service Calls during the term of this Agreement are 10% off regular price listed on the MWH website at the time of the Emergency Service Call. Holidays shall be as follows: New Year’s Eve and Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, the day after Thanksgiving Day and Christmas Eve and Day.
8. Any new water heater will be 10% off regular price at the time of the service call.
9. Installation of a new water heater will be 10% of regular price at the time of the service call.
10. All corrections must be initiated by MWH.
11. This is a service agreement and **not** a warranty. MWH does not guarantee or warrant any service, water heater or part. Any new part installed includes only the manufacturer’s standard warranty.
12. The annual services does **not** include “opening the manhole” of the water heater, if any.
13. This Agreement is **not** assignable by the Customer. This agreement is assignable by MWH.
14. This Agreement constitutes the entire agreement between the parties.
15. None of the provisions of this Agreement shall be deemed to have been waived by any act or acquiescence on the part of MWH, its agents, employees or assigns, but only by an instrument in writing signed by an authorized officer of MWH.
16. No waiver of any provision of this Agreement shall constitute a waiver of any other provision(s) or of the same provision on another occasion.
17. In the event of any dispute hereunder, the prevailing party shall be entitled to recover all costs and expenses incurred by it in connection with the enforcement of this Contract, including all Attorney’s Fees and all costs in connection therewith.
18. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, without regard to the principles of conflicts of law, and the Customer further consents to jurisdiction by the state and federal courts sitting in the State of Florida
19. If any one or more of the provisions of this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been made a part hereof.
20. All representations, warranties, covenants and conditions set forth in this Agreement shall survive the execution and delivery hereof and the change and/or termination of the parties’ business relationship.
21. The waiver of any of the provisions of this Agreement by any of the parties hereto shall constitute a waiver of that provision, on that occasion, only, and shall not, with respect to any other occasion constitute a waiver of any other term of this Agreement, or that term.
22. The terms, covenants and conditions herein contained shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of the parties hereto.
23. Waiver of Trial by Jury. SELLER AND BUYER HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED ON THIS CONTRACT OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS CONTRACT OR ANY DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION WITH THIS CONTRACT, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTION OF ANY PARTY HERETO. THIS PROVISION IS A MATERIAL INDUCEMENT FOR SELLER AND BUYER ENTERING INTO THE SUBJECT TRANSACTION.