

# RED HANDED SECURITY TERMS AND CONDITIONS

The following terms and conditions apply where Red Handed Security Pty Ltd (RHS) supplies goods or services to a customer (Customer)

## 1. Defined Terms

- a. **ACL** means the Australian Consumer Law comprising Schedule 2 of the CCA.
- b. **CCA** means the Competition and Consumer Act.
- c. **Equipment** means all equipment supplied by RHS in accordance with these Terms and the Quotation.
- d. **GST** means goods and services tax in accordance with the A New Tax System (Goods and Services Tax) Act 1999.
- e. **Price** means the price outlined in a Quotation for the provision of Products or Services by RHS.
- f. **PPSA** means the Personal Property Securities Act 2010.
- g. **Products** means all products and equipment detailed in a Quotation.
- h. **Services** means all security services details in a Quotation which may include monitoring, planned guard patrols, alarm responses, service, maintenance and installation work.
- i. **Quotation** means any written quotation provided by RHS for the provision of Services or Products.
- j. **Terms** means these terms and conditions.

## 2. Acceptance

- a. All orders for Services or Products are subject to the Terms.
- b. By placing an order for Services or Products the Customer is taken to have accepted these terms and conditions.
- c. If the Customer submits an order for Services or Products together with its own terms and conditions, the terms and conditions submitted by the customer have no application. The only contractual terms that apply to any order for Products or Services are these Terms together with any quotation from RHS.

## 3. Variation

- a. These Terms may be varied at any time by RHS.
- b. Where the Customer is receiving Products or Services from RHS on an ongoing basis, these Terms may only be amended after RHS first gives 30 days' notice in writing of variation.

## 4. Price

- a. The Price is valid for 30 days' from issue of the Quotation. After 30 days, RHS reserves the right to vary the Price.
- b. RHS reserves the right to change the Price where:
  - i. There is a variation in the Products or Services to be supplied either due to an express request from the Customer or because of the discovery of circumstances which were not foreseen when the Quotation was prepared (such as, but not limited to, difficulties accessing the site, safety considerations, third party works not being completed); or
  - ii. Information provided by the Customer is inaccurate and this changes the nature or scope of the Services or the provisioning or installation of the Equipment; or
  - iii. There is a change in the time within which the Products or Services are to be supplied; or
  - iv. There is a variation in the amount paid by RHS for supplies or labour.
- c. Unless stated otherwise the Price excludes GST. In addition to the Price the Customer must pay to RHS the amount of any GST payable in respect of a supply under a Quotation. The GST amount must be paid without deduction or set off and must be made at the same time and in the same manner as the Price is paid.

## 5. Payment

- a. The Price must be paid in accordance with the Quotation.
- b. Where the Quotation does not specify:
  - i. Products and any installation services must be paid on or prior to the day of installation;
  - ii. Monitoring which is provided on an ongoing basis must be paid as per invoice and must remain in advance at all times;
  - iii. Service calls are charged at an hourly rate of the technician plus any parts or incidentals and are required to be paid on the day or if the customer holds a trade account with RHS within 7 days;
  - iv. Patrol call within 7 days from the date of the invoice; and
  - v. Services (other than as described above) which are to be provided on an ongoing basis are to be paid monthly in advance on the first day of the month.
- c. Equipment remains the property of RHS until full payment is received. Warranty is void until full payment is received.

## 6. Delivery and Installation

- a. Delivery of the Equipment occurs when it is shipped or otherwise brought onto the Customer's premises.
- b. Delivery of the Equipment to a third party nominated by the Customer constitutes delivery under this agreement.
- c. Despite anything stated on a Quotation, delivery times are indicative only. The Customer must accept delivery of the Equipment even if it is after a date specified on a Quotation. RHS is not liable for any late or delayed delivery.
- d. The Customer must provide clear, unimpeded and reasonable access to the premises at which any Equipment is to be installed. Delays to RHS personnel waiting for access, clearing obstacles or other delaying causes may result in additional fees being added to the Price.
- e. Unless otherwise specified in writing Quotations do not include costs associated with but not limited to: cutting of ways, trenching, backfilling, 240v mains connections, interfacing with heat or fire detection systems, platform hire, asbestos related costs, costs associated with Heritage Listings, networking and IT provisions or adjustments, the provision and arrangement of Static IP addresses, disposal of hazardous waste and any other cost which may arise, which a reasonable person would consider a result of an unreasonable impediment to the efficient and logical progression of works.
- f. Where the Services include installation of Equipment including underground works, the Customer must advise RHS of the precise location of all underground services and clearly mark the same. RHS accepts no responsibility for any claims, loss, damage, costs or other charges payable as a result of damage to services which are not precisely identified by the Customer.
- g. Should there be any delay caused in the program of works that is outside the reasonable control of RHS, such as extreme weather, natural disaster, mass transport disruptions, civil unrest, traffic collision, or any other such event, RHS will be entitled to a reasonable extension of time to complete the program of works.
- h. In the event of a customer site found to be unsafe due to undeclared asbestos, hazardous materials, civil unrest, extreme weather, natural disaster or any other event whatsoever outside the control of RHS it reserves the right not to attend the site until the situation is resolved.

## 7. Monitoring

- a. Under the following circumstances alarm monitoring will not work and the Control Room will not contact the client:
  - i. If intruders pre-emptively cut the telephone line on sites that have telephone line monitoring only.
  - ii. If the alarm panel has suffered undiagnosed lightning or water damage immediately preceding the intrusion.
  - iii. If there has been a generalised mobile network failure on sites where a GSM/GPRS dialer is used exclusively.
  - iv. If the client has neglected to arm the alarm.
- b. The Customer acknowledges that RHS' obligation to action alarm events is suspended at any time the communications link between the Customer's premises and RHS' monitoring room is subject to interruption or failure.
- c. The Customer must maintain the accuracy of their monitoring instructions. RHS accepts no responsibility for consequences arising from out of date, incorrect, incomplete, unclear, conflicting or contradictory instructions. It is the responsibility of the customer to advise of any changes to alarm contacts, including but not limited to: "being overseas", "changing phone numbers".
- d. Alarm Contact list passwords are only requested when there has not been a recent valid disarming and the phone call has been placed to the site landline. If the customer requires password validation at all times this must be communicated in writing to RHS.
- e. RHS will only contact Emergency Services when this is in accordance with current Emergency Service Protocols. It is the decision of the Emergency Services Contact Centre whether or not to dispatch resources. Any cost incurred for Emergency Service attendance are to be borne by the client.
- f. RHS will not take any action on an alarm system event unless this is expressly requested in writing in the monitoring instructions.
- g. If a patrol response is requested by the client or is enacted by the monitoring instructions the patrol response will be enacted within the requirements of Guard and Patrol Security Services Standard (AS/NZS 4421). In the event of extreme weather, natural disaster, transport disruptions or congestion, civil unrest, traffic collision, or any other such event these response times may not be met and RHS shall not be liable for any delay.
- h. Once on site the guard will make all reasonable efforts to determine whether the alarm event has occurred due to a genuine intrusion or false alarm. When provided with keys and access to the site the guard will perform an internal patrol and reset the alarm. When the guard has no greater than public access to the site they will perform the most thorough patrol possible in the circumstances. Guards are not permitted to jump fences and will only enter sites when it is judged safe to do so.
- i. If a break in has occurred the guard will remain on site until the customer can be contacted for further instructions or until emergency services arrive.

- j. RHS monitors both alarms installed by RHS and alarms installed by other providers. Whilst alarm equipment is in general highly reliable it is imperative that the client conduct weekly tests of the equipment, in consultation with the Control Room. RHS can provide chargeable regular maintenance of alarm systems. RHS bears no responsibility for client failure to regularly test the function of their alarm system or to conduct maintenance.

#### **8. General service standard**

- a. RHS will perform the Services and provide Products in accordance with these Terms.
- b. In providing the Products and Services RHS will use due care and skill and perform its works to a standard that would be expected from a reasonably competent supplier of the Products and Services.
- c. No other terms and conditions are to be implied to affect the service standard that applies to RHS.

#### **9. Risk**

- a. Risk in the Equipment passes to the Customer on delivery.
- b. Title to the Products remains vested in RHS until the Price has been paid in full by the Customer. If this agreement is terminated as a consequence of the Customer's failure to pay the Price then Customer grants to RHS an irrevocable licence to enter onto its premises and do all things reasonably necessary for the purpose of taking possession of the Products.
- c. The Customer acknowledges that RHS does not warrant that any Equipment will render the premises to which it is attached secure or safe. RHS is not liable for any loss (including consequential loss) or damage suffered by the Customer because of reliance on the Equipment or the Services.
- d. RHS is not liable for any criminal activity that occurs at premises at which the Equipment is installed or the Services are provided. This includes liability for damage caused by break and entry, vandalism, fire, smoke, system failure or other commercial loss. Installation of Equipment is a risk management tool and is not a standalone solution. The Customer should always ensure that it is protected by adequate insurance.
- e. RHS will apply all professional care in providing the Services and Products but will not have liability to the Customer beyond the lesser of:
  - i. The amount of any insurances held by RHS; and
  - ii. The Price paid by the Customer for the Products or Services.

#### **10. Work, Health and Safety**

- a. RHS personnel will provide any Services in a safe manner compliant with RHS' obligations under work, health and safety legislation.
- b. The Customer must ensure that the premises at which any installation is to occur are safe. To the extent that RHS will need to liaise with other service providers at the Premises, it is the Customer's responsibility to ensure that such other service providers perform their duties in a safe manner compliant with all laws.
- c. RHS will ensure that its personnel comply with reasonable and lawful health and safety directions provided by the Customer whilst RHS personnel are on the Customer's premises.
- d. The Customer must hold, and provide evidence of, public liability insurance to an amount not less than \$20 million.

#### **11. Personal Property Securities Act**

- a. Terms used in this clause are to have the meaning given to them in the PPSA.
- b. These Terms constitute a security agreement for the PPSA and create a security interest in the Products.
- c. The Customer undertakes to:
  - i. Promptly sign any further documents and/or provide any further information which RHS reasonably requires to:
    - Register a financing statement or financing change statement in relation to a security interest on the Personal Property Securities Register; or
    - Register any other document required to be registered by the PPSA; or
    - Correct a defect in a statement referred to in the paragraphs above;
  - ii. Not register a financing change statement in respect of a security interest without the prior written consent of RHS; and
  - iii. Not register or permit to be registered a financing statement or a financing change statement in relation to the Products in favour of a third party without the prior written consent of RHS. This does not apply when the Price has been paid in full.
- d. RHS and the Customer agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these Terms.
- e. The Customer waives its right to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- f. The Customer waives its rights as a grantor and a debtor under sections 142 and 143 of the PPSA.
- g. The Customer waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- h. The Customer must unconditionally ratify any actions taken by RHS under this clause.

#### **12. Defects, Warranties and Returns**

- a. RHS will pass to the Customer any manufacturer warranties on Products supplied.
- b. The Customer must notify of RHS of any evident defect, damage, shortage in quantity or failure to comply with description or Quotation within 7 days of the date of delivery. All other defects in the Products must be notified as soon as reasonably practicable after the defect becomes apparent. The Customer must allow RHS to inspect the Products to determine whether any defect exists.
- c. Under applicable state, territory and Commonwealth law (including the CCA) certain statutory implied guarantees and warranties may be implied into these Terms (**Consumer Guarantees**). Nothing in these Terms purports to modify or excludes the Consumer Guarantees.
- d. RHS' liability to the Customer will be limited to, at the discretion of RHS to:
  - i. The replacement of defective goods or services;
  - ii. The repair of defective goods; or
  - iii. Performing the Services again; or
  - iv. The payment of the cost of replacing the goods or acquiring equivalent goods; or
  - v. The payment of the cost of having goods repaired.
- e. Subject to the CCA, RHS does not accept liability for any defect or damage which is caused or partly caused as a result of:
  - i. The Customer failing to properly maintain any Equipment; or
  - ii. The Customer using any Equipment for any purpose other than which it is designed; or
  - iii. The Customer continuing to use any Equipment after any defect becomes apparent or should have become apparent to a reasonably prudent person; or
  - iv. The Customer failing to follow any instructions or guidelines provided by RHS; or
  - v. Fair wear and tear, accident (other than caused by RHS) or act of God.

#### **13. Default**

- a. If the Customer fails to pay the Price for Products or Services RHS may terminate the supply arrangement on giving 5 days' notice in writing. The Customer acknowledges that on termination RHS may cease to provide monitoring services.
- b. RHS may recover from the Customer any other costs and expenses incurred because of the Customer's breach of these Terms (including legal costs on a full indemnity basis)

#### **14. Miscellaneous**

- a. The Customer acknowledges that RHS may, during the course of providing Services, record telephone conversations for training or other internal purposes. The Customer consents to this recording.
- b. This Agreement is governed by the laws of New South Wales. Each party submits to the exclusive jurisdiction of the Courts of New South Wales.
- c. The non-exercise or delay in performance of a right under this Agreement does not constitute a waiver. A waiver of a right may only be made by notice in writing signed by the party waiving the right.
- d. This Agreement and any Quotation are the entire agreement of the parties in respect of the supply of the Products and Services. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this Agreement and any relevant Quotation.
- e. Any notice required or permitted to be given under this Agreement must be in writing and may be delivered personally or by pre-paid post or by facsimile or by electronic mail. Notices sent by post will be deemed to be received 3 clear business days after posting and notices sent by facsimile or electronic mail will be deemed to be received immediately except where the sender receives notification that the transmission did not complete (whether in whole or part). Where a notice sent by facsimile or e-mail after 5 PM (in the place of transmission) it will be deemed to be received on the next business day following transmission.

#### **15. Trade Accounts**

- a. A trade account application must be made in writing in the form approved by RHS.
- b. RHS may (at its sole discretion) approve applications for trade accounts.
- c. In the event that a trade account application is accepted, the terms of payment will be 30 days from the provision of the goods and/or services to the trade account holder.
- d. In the event of a breach by the trade account holder of the payment terms set out in clause 15c. then the trade account customer must pay in accordance with the applicable section of clause 5.