

# Terms & Conditions

## 1. Interpretation

In these conditions:

“**Conditions**” means these terms and conditions of sale and any written variations by Us.

“**Default Rate**” means interest at a rate equivalent to 2% (two percent) higher than the rate for the time being fixed under Section 2 of the *Penalty Interest Rates Act 1983 (Vic)*.

“**GST**” has the meaning given to that term in GST Law.

“**GST Law**” has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

“**Order**” means a written order by You to Us requesting the supply of Products.

“**PPSA**” means the *Personal Property Securities Act 2009 (Cwth)*.

“**PPSA Security Interests**” has the meaning given to this term in clause 11.1.

“**Products**” means hardware, if any, specified in any Order, including (without limitation) locks, keys, master keys, electronic access hardware, CCTV equipment, alarm equipment, intercom equipment, door handles, door closers, washroom equipment and sanitary equipment.

“**Related Body Corporate**” is as defined in section 9 of the *Corporations Act 2001*.

“**Security Interest**” includes a “security interest” within the meaning of section 12(1) of the PPSA.

“**State**” means the State of Victoria in the Commonwealth of Australia.

“**Us**”, “**Our**” and “**We**” means and includes a reference to Omega Security Solutions Pty Ltd (ACN 058 216 587) and / or their successors and assigns (as applicable)

“**You**”, “**Your**” and any similar word means the purchaser of the Products.

## 2. Terms of Sale

2.1. All sales of the Products to You are sold subject to these Conditions.

## 3. Orders

3.1. Once you place an Order it cannot be withdrawn and you agree to pay the Price for the Products the subject of the Order upon delivery by Us to You.

3.2. It is Your responsibility to provide all information necessary to enable performance of the Order and You will be responsible for any costs arising directly or indirectly from any error or omission in that information or delay in providing that information.

3.3. All Orders must be made in writing unless otherwise agreed by Us. You agree and acknowledge that if an Order is made by any of Your officers, agents or employees, or any of Your related entities or their officer, agents or employees, that Order will be deemed to have been made as if it was made directly by You and will bind You.

3.4. If You cancel or alter any order or part order for Products, at any time after We have received the Order, then (without prejudice to any other rights We have against You) We reserve the right to charge You for any costs or extra expenses incurred by Us.

## 4. Price

4.1. A quotation is not an offer by Us, and We may withdraw or alter the quotation at any time without notice. Unless We withdraw the quotation, the quotation is valid for 30 days after the date of the quotation.

4.2. You agree and acknowledge that the Products are to be delivered within three months of Our acceptance of the Your Order.

4.3. Unless otherwise stated all prices quoted are GST exclusive and You must pay to Us an amount equal to any GST payable by Us in respect of the sale of the Products.

4.4. You must pay GST without deduction or set off of any amounts, at the same time and on the same basis as You pay the amount payable for the Products.

4.5. You indemnify Us for any loss that We incur as a result of the incorrect payment or non payment of any GST and associated fees and/or penalties.

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**5. Payment Terms**

- 5.1. We are entitled to issue an invoice with respect to the Products at the time the Product is completed and ready for collection / delivery (as applicable) whether or not you wish to collect / take delivery (as applicable) of the Products.
- 5.2. You must pay the amount payable for the Products (as set out in the invoice including GST) within 30 days of the end of the month in which the invoice is issued.
- 5.3. For installation works on long term projects,
- (a) We are entitled to render progress invoices with respect to all Products and equipment procured for installation on site the following month and all materials and equipment stored off site because of delays in construction or unavailability of site access; and
  - (b) no Products will be delivered to You for storage on site but will be securely stored at Our head office at Your cost until such time as they are required for installation.
- 5.4. At Your written request, all relevant insurance documents and, subject to payment in full of all amounts owing to Us in respect of the supply of the Products, letters of ownership will be supplied to You.
- 5.5. You must pay all invoices irrespective of whether all Products ordered have been delivered on the due date for payment.
- 5.6. If you fail to pay Us any amount owing to Us by the due date for payment, or are otherwise in breach of any of these Conditions, We shall be immediately entitled:
- (a) to cease supply/production of the Products and/or to deliver to you the Products (or any part thereof); and/or
  - (b) to recall any Products in transit;
  - (c) to exercise our rights under Condition 7; and/or
  - (d) to otherwise cease to perform any of our obligations to You,
- and You must immediately pay to Us all amounts due and payable to Us, interest at the Default Rate on all amounts owing by You to Us, and all expenses which We incur in enforcing these Conditions (including, without limitation, legal expenses, and all debt collection agency costs).

**6. Delivery and Risk**

- 6.1. The delivery times made known to You are estimates only and We shall not be liable for late delivery or non-delivery and under no circumstance shall We be liable for any loss, damage or delay occasioned to You arising from late or non-delivery of the Products.
- 6.2. If any of the Products delivered by Us to You are defective in any way, this shall not constitute a repudiation of the contract between Us and You and We shall be liable only for the cost of replacement of the Products.
- 6.3. In the event that You are unable or unwilling to accept delivery of the Products as agreed then You will be liable for payment of all storage costs, charges, expenses and additional delivery charges.
- 6.4. You are responsible for insuring the Products at Your cost from the time of despatch from Our premises and You bear all risk of loss or damage to the Products during transit.

**7. Property and Ownership (Retention of Title clause)**

- 7.1. Title to the Products shall not pass to You until You have paid in full all monies owing by You to Us (whether such moneys are in respect of the moneys payable under a specific contract or on any other account whatsoever) and We reserve the right to enter upon any of your premises or premises which are under Your control to take possession of any of the Products without liability for trespass or any resulting damage caused to the premises in exercising Our rights hereunder.

- 7.2. You agree that:
- (a) property in the goods remains with Us until We have been paid in full for the Products under all individual contracts for the supply of the Products from Us to You;
  - (b) You are a bailee of the Products until such time as property in them passes to You and this bailment continues in relation to each of the Products until the price of the Products has been paid in full;
  - (c) pending payment in full for the Products, You:
    - (i) must not supply any of the Products outside of the ordinary course of business;
    - (ii) must not allow any person to have or acquire any Security Interest in the Products;
    - (iii) must insure the Products for their full insurable or replacement value (whichever is the higher) with an insurer licensed or authorised to conduct the business of insurance in the place where You carry on business; and
    - (iv) must not remove, deface or obliterate any identifying plate, mark or number on any of the Products.
- 7.3. Despite condition 7.2, if You supply any of the Products to any person before all moneys owing to Us are paid in full, You agree that:
- (a) You hold the proceeds of re-supply of the Products in trust for and as agent for Us immediately when they are received by You;
  - (b) You must either pay the amount of the proceeds of re-supply to Us immediately when You receive them or pay those proceeds into an account with a bank or financial institution as trustee for Us;
  - (c) any accessory or item which accedes to any of the Products by Your act or an act of any person at Your direction or request becomes and remains Our Property until We are paid in full when the property in the Products (including the accessory) passes to You;
  - (d) if You fail to pay for the Product within the time required under these terms and conditions, We may recover possession of the Products at any site owned, occupied or controlled by You and You agree that We have an irrevocable licence to do so.
- 7.4. When you make payment to Us of moneys owing to Us, We reserve the right to apply the funds against any moneys owing by You to Us at our discretion.
- 7.5. If the Products are re-sold, or are installed or converted into any other product or are installed as a fixture on any land, You must hold such part of the proceeds of any sale as represents the invoice price of the Products sold or installed or converted as referred to above in a separate identifiable account as the beneficial property of Us and must pay such amount to Us upon demand.
- 7.6. You must execute any document that We require in order for Us to register or otherwise perfect our rights under this Condition 7.
- 7.7. This clause applies notwithstanding that the Products may be affixed to a chattel or any land.

## **8. Our Warranties**

- 8.1. Subject to payment in full of the price to Us for the Products, We extend to You the benefit of the warranty, if any, provided by Our suppliers in relation to the Products supplied by Us to You pursuant to these Conditions.
- 8.2. Subject to clause 8.1 above, to the extent permitted by law, all representations, warranties and conditions regarding the Products are excluded.
- 8.3. To the extent permitted by law, Our liability (if any) for breaching any implied representation, warranty or condition that cannot be excluded is limited to (at Our option):
- (a) the supply of the Products again; or

- (b) the payment of the cost of supplying the Products again, and in no event shall We be liable for consequential, incidental or punitive loss, damages or expenses howsoever arising, including but not limited to Our negligence or the negligence of Our contractors or agents.

**9. Inspection**

- 9.1. You are responsible for the inspection of the Products at the time of collection or delivery (as applicable) and shall within 7 days of the date of collection or delivery (as applicable) notify Us in writing of any damage or defect in the Products or of any non-compliance with description
- 9.2. You warrant and acknowledge that unless You notify Us as provided in sub-clause 9.1, You are deemed to have accepted the Products.
- 9.3. Under no circumstances are Products which are made to order and/or non stocked Products (as applicable) returnable unless they are faulty. Other undamaged Products in the original condition and packaging may be returned to Us within the period from 60 days of the date of collection / delivery (as applicable).
- 9.4. Subject to clause 9.3, You are not entitled to any credit for returns unless We (in Our absolute discretion) issue You a credit note. A restocking fee of 25% of the original purchase price may be deducted from the credit note.

**10. Intellectual Property**

- 10.1. To the extent that We own intellectual property, copyright and design rights in and to the Products and any associated documentation, We will retain ownership of all the intellectual property, copyright and design rights in and to the Products and any associated documentation.
- 10.2. You must not do anything which causes You or Us to breach any other person's intellectual property rights in connection with the Products or any of our marketing material for the Products. We will hold you liable for all loss and damage which We suffer or incur as a result of any breach by You of another person's intellectual property rights in connection with the Products or any marketing material of the Products.
- 10.3. To the extent that We own documentation produced in connection with the Products We retain the ownership of any such documentation.

**11. Personal Property Securities Act 2009**

**11.1. Security Interests**

You acknowledge that these Conditions give rise, or may give rise, to one or more Security Interests for the purposes of the PPSA (**PPSA Security Interests**).

**11.2. No Postponement of Attachment**

Nothing in these Conditions may be taken as an agreement that any PPSA Security Interest provided for by these Conditions attaches later than the time contemplated by section 19(2) of the PPSA.

**11.3. Acknowledgement of No Subordination**

You acknowledge that We have not agreed to subordinate any PPSA Security Interest provided for by these Conditions in favour of any third party.

**11.4. PPSA Security Interest Continues Despite Dealing**

If, in breach of these Conditions, You attempt to dispose of or otherwise deal with any personal property that is subject to a PPSA Security Interest in favour of Us, You acknowledge that, despite the disposal or dealing:

- (a) We have not authorized the disposal or agreed that the dealing would extinguish Our PPSA Security Interest; and
- (b) Our Security Interest continues in that property.

**11.5. Authority to Register and Waiver of Right to Receive Verification Statements**

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You acknowledge that We may, at Your cost, register one or more financing statements in relation to any PPSA Security Interests provided for by these Conditions. If permitted by the PPSA, You waive your rights under section 157 of the PPSA to receive notice of any verification statement relating to the registration of any such financing statement or any related financing change statement.

**11.6. PPSA Further Steps**

Without limiting any of the other paragraphs in this clause 11, if We determine that these Conditions (or a transaction in connection with it) is or contains a PPSA Security Interest, You agree to do anything (such as obtaining consents, signing and producing documents, getting documents completed and signed and supplying information) which We ask and consider necessary for the purposes of:

- (a) ensuring that the Security Interest is enforceable, perfected and otherwise effective;
- (b) enabling Us to apply for any registration, or give any notification in connection with the Security Interest so that the Security Interest has the priority required by Us; or
- (c) enabling Us to exercise rights in connection with the Security Interest.

**11.7. Costs of Further Steps and Undertaking**

Everything that You are required to do under this clause 11 is at Your expense. You agree to pay all costs and expenses (including legal fees) reasonably incurred by Us with anything You are required to do under this clause 11.

**11.8. PPSA Confidentiality**

- (a) In this clause 11.8, all references to legislative provisions are to legislative provisions in the PPSA.
- (b) You and We must not disclose information of the kind mentioned in section 275(1), except in the circumstances required by sections 275(7)(b) to (e). You must obtain Our consent before authorising the disclosure of information under section 275(7)(c) or requesting information under section 275(7)(d). Nothing in this paragraph prevents any disclosure by Us that We believe is necessary to comply with Our other obligations under the PPSA.
- (c) To the extent that it is not inconsistent with paragraph 11.8(b) constituting a "confidentiality agreement" for the purposes of section 275(6)(a), You agree that We may disclose information of the kind mentioned in section 275(1) to the extent that We are not doing so in response to a request made by an "interested person" (as defined in section 275(9)) pursuant to section 275(1).

**11.9. Warranty**

You covenant and warrant to Us that You do not intend to use the Products for personal, domestic or household purposes.

**11.10. Contracting out of the PPSA**

To the extent that Chapter 4 of the PPSA would otherwise apply to an enforcement by Us of any PPSA Security Interest provided for by these Conditions, You agree that, to the extent that section 115 (1) of the PPSA allows them to be excluded, the following provisions of the PPSA do not apply: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4), 135, 138B(4), 142 and 143.

**12. Privacy**

12.1. You agree to Us collecting, using and disclosing Your personal information for the following purposes:

- (a) to assess Your creditworthiness ;
- (b) to supply the Products to You and the management of Your account with Us;
- (c) to communicate with You about the Products which We or Our partners or affiliates may provide to You; and
- (d) to implement these Conditions or to enable Us to exercise our rights under these Conditions.

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12.2. You consent to Us collecting Your personal information subject to the Privacy Act as amended from time to time.

**13. Force Majeure**

13.1. If We are prevented (directly or indirectly) from supplying the Products (or any part thereof) by reason of acts of God, strikes, lockouts, trade disputes, fire, breakdown, delay in the manufacture of the Products for any reason whatsoever, interruption of transport, government action, non-delivery of raw materials or any cause whatsoever whether or not of a like of nature to those specified above) outside its control, We shall be under no liability whatsoever to You and We shall be entitled to give notice to You to either cancel the contract or extend the time for performance by Us of its obligations.

**14. General**

14.1. This agreement constitutes the entire agreement between Us and You and any prior agreement or understanding between Us and You in respect of the subject matter in this agreement is superceded by this agreement.

14.2. This agreement may be varied only by agreement in writing between the parties.

14.3. This agreement shall be governed by and construed in accordance with the laws of the State and the parties submit to the jurisdiction of the Courts of the State.

14.4. If a provision of these Conditions would, but for this clause, be unenforceable:

- (a) the provision must be read down to the extent necessary to avoid the result; and
- (b) if the provision cannot be read down to that extent, it must be severed without effecting the validity and enforceability of the remainder of these Conditions.

14.5. A party waives a right relating to these Conditions only by notice to the other party that it waives that right. A single or partial exercise or waiver of a right relating to these Conditions will not prevent any other exercise of that right or any other right.

## Acceptance of Terms and Conditions

I/We hereby:

- (a) acknowledge that I/we have read and understood the terms of trade as set out in these Terms and Conditions;
- (b) agree that these Terms and Conditions shall form part of each and every contract and order entered into by Us with Omega Security Solutions Pty Ltd;
- (c) warrant that the information supplied by in these Terms and Conditions is true and correct; and
- (d) I am/we are authorised to sign these Terms and Conditions.

State, by ticking the relevant box, whether you are a:

Sole Trader

Partnership

Trustee

Company

If you are an individual or sole trader, please complete the following:

Full name:

Date of Birth:

If you are a business, please complete the following:

Business name:

ABN:

Address:

Telephone:

Facsimile:

Email:

Postal address (if different):

If you are a business, individual or sole trader, please sign below:

Individual Name: \_\_\_\_\_ ABN: \_\_\_\_\_

Position: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

If you are a company, please complete the following:

**Company Name:** \_\_\_\_\_

ACN: \_\_\_\_\_

ABN: \_\_\_\_\_

**Business address:**

Telephone:

Facsimile:

Email:

Postal address (if different):

If you are a company, please sign below:

Company Name: \_\_\_\_\_ ACN: \_\_\_\_\_

Authorised Representative: \_\_\_\_\_

Position: \_\_\_\_\_

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

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## SERVICE WARRANTY

Omega Security Solutions (ABN 11 495 377 040) provides the following warranty in relation to our installation, repair and maintenance services ("Services").

### Warranty

We warrant that, subject to the limitations below, our Services will be performed at or above industry standards and will be free from defects in workmanship for a period of 3 months from the date of completion ("Warranty Period").

If a defect appears in our Services before the end of the Warranty Period, and we find that the Services were not properly performed, we will in our sole discretion either refund the cost of the Services, or re-supply the Services free-of-charge. Under no circumstances shall any warranty claim exceed the invoiced value of the Services in dispute.

We will use our best reasonable endeavours to pass on to you the benefit of any third party manufacturers' warranties in relation to goods supplied. Please note that the length of manufacturer's warranties provided for the goods and their terms may vary depending on the item.

### Warranty Claims

1. If a defect covered by warranty occurs, please contact us at the address listed below.
2. Any warranty claim must be accompanied by details of the Services provided, details of the alleged defect, and any other documentation we request.

Your warranty claim can be lodged free of charge. If no defect is found in the Services, then you may be required to pay our usual call out fee.

### Limitations

We make no express warranties or representations other than set out in this Warranty. The re-supply of the Services (or a refund of the cost of the Services) is the absolute limit of our liability under this Warranty.

The benefits of this Warranty are in addition to any rights and remedies imposed by Australian State and Federal legislation that cannot be excluded. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure.

### Contact

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