

Trans Group Electronic Pty Ltd – Terms and Conditions

1. **Definitions**
- 1.1 "Contract" means the terms and conditions contained herein, together with any quotation, order, invoice or other document or amendments expressed to be supplemental to this Contract. 8.1
- 1.2 Trans Group Electronic Pty Ltd Trading As Transhite, its successors and assigns or any person acting on behalf of and with the authority of Trans Group Electronic Pty Ltd.
- 1.3 "Client" means the person's, entities or any person acting on behalf of and with the authority 8.2 of the Client requesting Transhite to provide the Services or buying Products as specified in any proposal, quotation, order, invoice or other documentation, and includes:
 - (a) if there is more than one Client, is a reference to each Client jointly and severally; and 8.3
 - (b) if the Client is a partnership, it shall bind each partner jointly and severally; and
 - (c) if the Client is a part of a Trust, shall be bound in their capacity as a trustee; and
 - (d) includes the Client's directors, administrators, successors and permitted assigns.
- 1.4 "Products" means all Products or Services supplied by Transhite to the Client at the Client's request from time to time (where the context so permits the Terms "Products" or "Services" (including "Monitoring Services" and "where the context so permits, the supply of Equipment) shall be interchangeable for the other).
- 1.5 "Confidential Information" means information of a confidential nature whether oral, written or in electronic form including, but not limited to, this Contract, either party's intellectual property, operational information, know-how, trade secrets, financial and commercial affairs, contracts, client information (including but not limited to, "Personal Information" such as: name, address, D.O.B, occupation, driver's license details, electronic contact (email, Facebook or Twitter details), medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) and pricing details.
- 1.6 "Cookies" means small files which are stored on a user's computer. They are designed to hold a modest amount of data (including Personal Information) specific to a particular client and website, and can be accessed either by the web server or the client's computer. If the Client does not wish to allow cookies to operate in their browser and when ordering from the website, then the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable provided on the website, prior to ordering Products via the website.
- 1.7 "Price" means the Price payable (plus any GST where applicable) for the Products as agreed 9. between Transhite and the Client in accordance with clause 5.2 below.
- 1.8 "GST" means Products and Services Tax as defined within the "A New Tax System (Products and Services Tax) Act 1999" (Cth). 9.1
2. **Acceptance**
- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for Products, or accepts Delivery. 9.3
- 2.2 In the event of any inconsistency between the terms and conditions of this Contract and any other prior document or schedule that the parties have entered into, the terms of this Contract shall prevail.
- 2.3 Any amendment to the terms and conditions contained in this Contract may only be amended in writing by the consent of both parties.
- 2.4 The Client acknowledges and agrees that:
 - (a) the supply of Products on credit shall not take effect until the Client has completed a credit application with Transhite and it has been approved with a credit limit established for the account; and
 - (b) all descriptive specifications, illustrations etc stated on Transhite's website or the manufacturer's fact sheets, price lists or advertising material, are approximate only and are given by way of identification only. The Client shall not be entitled to rely on such information or visual interpretation, and any use of such does not constitute a sale by Transhite and does not form part of the Contract, unless expressly stated as such in writing by Transhite; and
 - (c) the Client shall be responsible for ensuring that the Products ordered are suitable for their intended use; and
 - (d) where the Products are required to be installed, that the Products are:
 - (i) purchased from a licensed/registered security adviser; and 9.4
 - (ii) installed by a licensed/registered security installer to comply with the current Australian Standards for the Alarm/Security Industry. Failure by the Client to follow 9.5 this clause may result in any warranty becoming void.
- 2.5 In the event that the supply of Products request exceeds the Client's credit limit and/or the account exceeds the payment terms, Transhite reserves the right to refuse Delivery. 9.6
- 2.6 Electronic signatures shall be deemed to be accepted by either party providing that the parties 9.7 have complied with Section 9 of the Electronic Transactions (Victoria) Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act.
3. **Errors and Omissions**
- 3.1 The Client acknowledges and accepts that Transhite shall, without prejudice, accept no liability in respect of any alleged or actual error(s) and/or omission(s):
 - (a) resulting from the supply of Products made by Transhite in the formation and/or 10. administration of this Contract; and/or
 - (b) contained in/omitted from any literature (hard copy and/or electronic) supplied by Transhite in respect of the Services.
- 3.2 In the event such an omission occurs in accordance with clause 3.1, and is not attributable to the negligence and/or willful misconduct of Transhite; the Client shall not be entitled to treat this Contract as repudiated nor render it invalid.
4. **Change in Control**
- 4.1 The Client shall give Transhite not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number), or business structure. The Client shall be liable for any loss incurred by Transhite as a result of the Client's failure to comply with this clause. 10.3
5. **Price and Payment**
- 5.1 At Transhite's sole discretion the Price shall be either:
 - (a) as indicated on the invoice provided by Transhite to the Client; or
 - (b) the Price as at the date of Delivery according to Transhite's current price list; or
 - (c) Transhite's quoted price (subject to clause 5.2) which will be valid for the period stated in the quotation or otherwise for a period of thirty (30) days.
- 5.2 Transhite reserves the right to change the Price of the Client of a variation to Transhite's quotation. Any variation from the specifications of the Products (including, but not limited to, any variation as a result of increases to Transhite in the cost of materials and labour, or fluctuations in currency exchange rates, which are beyond the control of Transhite) will be detailed in writing and shown 11.3 as variations on Transhite's invoice. The Client shall be required to respond to any variation submitted by Transhite within ten (7) working days. Failure to do so will entitle Transhite to add the 11.4 cost of the variation to the Price. Payment for all variations must be made in full at the time of their completion.
- 5.3 At Transhite's sole discretion, a non-refundable deposit may be required.
- 5.4 Time for payment for the Products being of the essence, the Price will be payable by the 11.5 Client on the date's determined by Transhite, which may be:
 - (a) before Delivery;
 - (b) on Delivery;
 - (c) by way of instalments/progress payments in accordance with Transhite's payment schedule; 11.7
 - (d) the date specified on any invoice or other form as being the date for payment; or
 - (e) failing any notice to the contrary, the date which is thirty (30) days following the end of the month in which the invoice's and/or statement is posted to the Client's address or address for notices.
- 5.5 Payment may be made by cash, cheque, electronic/on-line banking, credit card – excluding Diners (a surcharge may apply per transaction), or by any other method as agreed to between Transhite and the Client.
- 5.6 Transhite may in its discretion allocate any payment received from the Client towards any invoice that Transhite determines to be due at the time of receipt or at any time afterwards. On any default by the Client Transhite may re-allocate any payments previously received and allocated. In the absence of any payment allocation by Transhite, payment will be deemed to be allocated in such manner as preserves the maximum value of Transhite's 11.8 Purchase Money Statement in respect of the Products.
- 5.7 The Client shall not be entitled to set off against, or deduct from the Price, any sums owed or claimed to be owed to the Client by Transhite nor to withhold payment of any invoice because 11.9 of that invoice is in dispute.
- 5.8 Unless otherwise stated the Price includes GST. In addition to the Price the Client must pay to Transhite an amount equal to any GST Transhite must pay for any supply by Transhite under this or any other agreement for the sale of the Products. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Price. In addition the Client must pay any other taxes and duties that may be applicable in addition to the Price except where they are expressly included in the Price.
6. **Delivery**
- 6.1 Delivery of the Products ("Delivery") is taken to occur at the time that:
 - (a) the Client or the Client's nominated carrier takes possession of the Products at Transhite's premises; and
 - (b) Transhite (or Transhite's nominated carrier) delivers the Products to the Client's nominated address, even if the Client is not present at the address.
- 6.2 At Transhite's sole discretion, the costs of Delivery are in addition to the Price.
- 6.3 Any time or date specified by Transhite to the Client is an estimate only. The Client must still accept Delivery even if late and Transhite will not be liable for any loss or damage incurred by the Client as a result of the Delivery being late.
- 6.4 Any time specified by Transhite for Delivery of the Products is an estimate only. The Client must take Delivery by receipt or collection of the Products whenever they are tendered for Delivery. 11.12
7. **Risk**
- 7.1 Risk of damage to or loss of the Products passes to the Client on Delivery and the Client must ensure the Products are not before the Client in any way. 12.1
- 7.2 If any of the Products are damaged or destroyed following Delivery but prior to ownership passing to the Client, Transhite is entitled to receive all insurance proceeds payable for the Products. The production of these terms and conditions by Transhite is sufficient evidence of Transhite's rights to receive the insurance proceeds without the need for any person dealing with Transhite to make further enquiries.
- 7.3 If the Client requests Transhite to leave Products outside Transhite's premises for collection, Transhite shall be deemed to have delivered the Products to the Client at the Client's 13. address and the Client shall be deemed to have accepted the Products at the Client's sole risk.
- 7.4 The Client accepts that all electronic security systems, smoke detectors, heat detectors and any similar devices installed at the Client's address are:
 - (a) for monitoring and detection purposes only and should not be regarded as life saving devices; and
 - (b) do not guarantee that the address will be free from malicious damage or loss caused by attack and/or breaking or entering.
- 7.5 It shall be the Client's responsibility:
 - (a) to ensure the security system equipment is tested and maintained to full operational 13.3
- 3.2.1 Transhite is not granted in respect of a third-party installation, any warranty offered pertaining to the Products will be void.
- 3.2.2 Transhite and the Client agree that ownership of the Products shall not pass until:
 - (a) the Client has paid Transhite all amounts owing to Transhite; and
 - (b) the Client has met all of its other obligations to Transhite.
- 3.2.3 Receipt by Transhite of any form of payment other than cash shall not be deemed to be payment 14.1 until that form of payment has been honoured, cleared or recognised, and until then Transhite's ownership and rights in relation to the Products and this Contract shall continue. It is further agreed that, until ownership of the Products passes to the Client in accordance with clause 8.1:
 - (a) the Client is only a bailee of the Products and must return the Products to Transhite on demand;
 - (b) the Client holds the benefit of the Client's insurance of the Products on trust for Transhite and must pay to Transhite the proceeds of any insurance in the event of the Products being lost, damaged or destroyed;
 - (c) the Client must not sell, dispose of or otherwise part with possession of the Products other than in the ordinary course of business and for market value. If the Client sells, disposes or parts with possession of the Products then the Client must hold the proceeds of any such act on trust for Transhite and must pay or deliver the proceeds to Transhite on demand;
 - (d) the Client shall not convert or process the Products or intermix them with other goods, but if the Client does so then the Client holds the resulting product on trust for the benefit of Transhite and must sell, dispose of or return the resulting product to Transhite as it so directs;
 - (e) the Client irrevocably authorizes Transhite to enter any premises where Transhite believes the Products are kept and recover possession of the Products;
 - (f) Transhite may recover possession of any Products in transit whether or not Delivery has occurred;
 - (g) the Client shall not charge or grant an encumbrance over the Products nor grant nor otherwise give away any interest in the Products while they remain the property of Transhite;
 - (h) Transhite may commence proceedings to recover the Price of the Products sold notwithstanding that ownership of the Products has not passed to the Client.
- 3.2.4 In this clause financing statement, financing change statement, security agreement, and security interest has the meaning given to it by the PPSA.
- 3.2.5 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these documents together constitute a security agreement for the purposes of the PPSA and creates a security interest in all Products that have previously been supplied and that will be supplied in the future by Transhite to the Client.
- 3.2.6 The Client undertakes to:
 - (a) the Client sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which Transhite may reasonably require to:
 - (i) register a financing statement or financing change statement in relation to a security 9.4 interest on the Personal Property Securities Register; and
 - (ii) register any other document required to be registered by the PPSA or 9.5
 - (b) indemnify, and upon demand reimburse, Transhite for all expenses incurred in registering a financing statement or financing change statement on the Personal Property Securities Register established by the PPSA or releasing any registration made thereby;
 - (c) not register a financing change statement in respect of a security interest without the prior written consent of Transhite;
 - (d) 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 Transhite;
 - (e) immediately advise Transhite of any material change in its business practices of Products which would result in a change in the nature of proceeds derived from such sales.
- 3.2.7 Transhite and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the Client's personal property in relation to the Products.
- 3.2.8 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 3.2.9 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 3.2.10 Unless otherwise agreed to in writing by Transhite, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 3.2.11 The Client agrees to indemnify Transhite under clauses 9.3 to 9.5.
- 3.2.12 Subject to any express provisions to the contrary (including those contained in clause 9.5) nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
- 3.2.13 In consideration of Transhite agreeing to supply the Products, the Client agrees that all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the 15.7 payment of any money).
- 3.2.14 The Client indemnifies Transhite from and against all Transhite's costs and disbursements including legal costs on a solicitor and own client basis incurred in exercising Transhite's rights under this clause.
- 3.2.15 The Client irrevocably appoints Transhite and each director of Transhite as the Client's true and lawful attorney's to perform all necessary acts to give effect to the provisions of this clause 8 (including, but not limited to, the registration of the Client's liability).
- 3.2.16 **Defects, Warranties and Returns, Competition and Consumer Act 2010 (CCA)**
- 3.2.17 The Client must inspect the Products on Delivery and must within seven (7) days of such time notify Transhite in writing of any evident defect/damage, error or omission, shortage in quantity or failure to comply with the description or quote. The Client must notify any other alleged defect in the Products as soon as reasonably possible after any such defect becomes evident. Upon such notification the Client must allow Transhite to inspect/review the Products. Under applicable state, Territory and Commonwealth Law (including, without limitation the Consumer Credit Act 1995) Transhite warrants and warrants that the Products are permitted by the statutory requirements under the CCA) may be implied into these terms and conditions (Non-Excluded Guarantees).
- 3.2.18 Transhite acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 3.2.19 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, Transhite makes no warranties or other representations under these terms and conditions including but not limited to the quality or suitability of the Products. Transhite's 11.4 warranty in respect of the Products is limited to the fullest extent permitted by law.
- 3.2.20 If the Client is a consumer within the meaning of the CCA, Transhite's liability is limited to the extent permitted by section 64A of Schedule 2.
- 3.2.21 If Transhite is required to replace the Products under this clause or the CCA, but is unable to do so, Transhite may refund any money the Client has paid for the Products.
- 3.2.22 If the Client is not a consumer within the meaning of the CCA, Transhite's liability for any defect or damage in the Products is:
 - (a) limited to the value of any express warranty or warranty card provided to the Client by Transhite at Transhite's sole discretion;
 - (b) limited to any warranty to which Transhite is entitled, if Transhite did not manufacture the Products;
 - (c) otherwise negated absolutely.
- 3.2.23 Subject to this clause 11, returns will only be accepted provided that:
 - (a) the Client has complied with the provisions of clause 9.1; and
 - (b) Transhite has agreed that the Products are defective; and
 - (c) the Products are returned within a reasonable time at the Client's cost (if that cost is not significant); and
 - (d) the Products are returned in as close a condition to that in which they were delivered as possible.
- 3.2.24 Notwithstanding clauses 11.1 to 11.8 but subject to the CCA, Transhite shall not be liable for any defect or damage which may be caused or partly caused by or arise as a result of:
 - (a) the Client failing to properly maintain or store the Products;
 - (b) the Client using the Products for any purpose other than that for which they were 17. Trusts designed;
 - (c) the Client continuing the use of the Products after any defect became apparent or should have become apparent to a reasonably prudent operator or user;
 - (d) the Client failing to follow any instructions or guidelines provided by Transhite;
 - (e) fair wear and tear, any accident, or act of God.
- 3.2.25 The Client acknowledges and accepts that any warranty may be voided where the Products are:
 - (a) not purchased from a licensed/registered security adviser; and
 - (b) not installed by a licensed/registered security installer to comply with the current Australian Standards for the Alarm/Security Industry.
- 3.2.26 Transhite may, in its absolute discretion, accept non-defective Products for return in which cases:
 - (a) Products must be returned to Transhite at the Client's own cost within thirty (30) days of Delivery (or as otherwise agreed to between the parties); and
 - (b) Transhite may require the Client to pay handling fees up to twenty percent (20%) of the value of the returned Products.
- 3.2.27 Notwithstanding anything contained in this clause if Transhite is required by a law to accept a return then Transhite will only accept a return on the conditions imposed by that law.
- 3.2.28 **Intellectual Property**
- 3.2.29 Where Transhite has designed, drawn or developed Products for the Client, then the copyright in any designs and drawings and documents shall remain the property of Transhite. Under no circumstances may such designs, drawings and documents be used without the express written approval of Transhite.
- 3.2.30 Transhite shall retain the right to use the Client's name, logo, trade name or other identifying information to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify Transhite against any action taken by a third party against Transhite in respect of any such infringement.
- 3.2.31 The Client agrees that Transhite may (at no cost) use for the purposes of marketing or entry into any competition, any documents, designs, drawings or Products which Transhite has created for the Client.
- 3.2.32 **Default and Consequences of Default**
- 3.2.33 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of two and a half percent (2.5%) per calendar month (and Transhite is not required to compound such interest shall compound monthly at such a rate) after well as before any judgment.
- 3.2.34 If the Client owes Transhite any money the Client shall indemnify Transhite from and against all costs and disbursements incurred by Transhite in recovering the debt (including but not limited to internal administration fees, legal costs on a solicitor and own client basis, Transhite's contract 18.7 default fee, and bank disbursement fees).
- 3.2.35 Further to any other rights or remedies Transhite may have under this Contract, if a Client has
- (b) the Client has exceeded any applicable credit limit provided by Transhite;
- (c) the Client becomes insolvent, commences a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
- (d) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
- 3.2.36 **Cancellation**
- 3.2.37 Without prejudice to any other remedies Transhite may have, if at any time the Client is in breach of this Contract (including those contained in these terms and conditions) Transhite may suspend or terminate the supply of Products to the Client. Transhite will not be liable to the Client for any loss or damage the Client suffers because Transhite has exercised its rights under this clause.
- 3.2.38 Transhite may cancel Delivery at any time before the Products are delivered by giving written notice to the Client. Delivery of such notice shall relate to the Client any sums paid in respect of the Price. Transhite shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 3.2.39 In the event that the Client cancels Delivery the Client agrees to notify Transhite in writing or via telephone request subject to voice recording and accepts that the Client shall be liable for any loss incurred by Transhite (including, but not limited to, any loss of profits) up to the time of cancellation.
- 3.2.40 Cancellation of orders for Products made to the Client's specifications, or for non-stockist items, will definitely not be accepted once production has commenced, or an order has been placed.
- 3.2.41 **15. Privacy Policy**
- 3.2.42 All emails, documents, images or other recorded information held or used by Transhite is Personal Information, as defined and referred to in clause 15.3, and therefore considered Confidential Information. Transhite acknowledges its obligation in relation to the handling, use, disclosure and processing of Personal Information pursuant to the Privacy Act 1988 ("the Act") including the Part IIIIC of the Act being Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB) and any statutory requirements, where relevant in a European Economic Area ("EEA"), under the EU Data Privacy Laws (including the General Data Protection Regulation ("GDPR") (collectively, "EU Data Privacy Laws"). Transhite acknowledges that in the event it becomes aware of any data breaches and/or disclosure of the Client's Personal Information, held by Transhite that may result in serious harm to the Client, Transhite will notify the Client in accordance with the Act and/or the GDPR. Any release of such Personal Information must be in accordance with the Act and the GDPR (where relevant) and must be approved by the Client by written consent, unless subject to an operation of law.
- 3.2.43 Notwithstanding clause 15.1, privacy limitations will extend to Transhite in respect of Cookies where transactions for purchases/orders transpire directly from Transhite's website. Transhite agrees to display references to such Cookies and/or similar tracking technologies such as pixels and web beacons (if applicable), such technology allows the collection of Personal Information such as the Client's:
 - (a) IP address, browser, email client type and other similar details;
 - (b) tracking website usage;
 - (c) reports are available to Transhite when Transhite sends an email to the Client so Transhite may collect and review that information (collectively Personal Information)
- 3.2.44 In order to enable / disable the collection of Personal Information by way of Cookies, the Client shall have the right to enable / disable the Cookies first by selecting the option to enable / disable, provided on the website prior to proceeding with a purchase/order via Transhite's website.
- 3.2.45 The Client agrees for Transhite to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, driver's license details, medical insurance details or next of kin and other contact information (where applicable), previous credit applications, credit history) about the Client in relation to credit provided by Transhite.
- 3.2.46 The Client agrees that Transhite may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
 - (a) to assess an application by the Client; and/or
 - (b) to notify other credit providers of a default by the Client; and/or
 - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
 - (d) to assist with the business of the Client including the Client's repayment history in the preceding two (2) years.
- 3.2.47 The Client consents to Transhite being given a consumer credit report to collect overdue payment on commercial credit.
- 3.2.48 The Client consents that personal credit information provided may be used and retained by Transhite for the following purposes (and for other agreed purposes or required by):
 - (a) the provision of Products; and/or
 - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Products; and/or
 - (c) processing of any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
 - (d) enabling the collection of amounts outstanding in relation to the Products.
- 3.2.49 Transhite may also inform about the Client to a CRB for the following purposes:
 - (a) to obtain a consumer credit report;
 - (b) allow the CRB to create or maintain a credit information file about the Client including credit history.
- 3.2.50 The information given to the CRB may include:
 - (a) Personal Information as outlined in 15.3 above;
 - (b) name of the credit provider and that Transhite is a current credit provider to the Client;
 - (c) whether the Client is a licensee;
 - (d) type of consumer credit;
 - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
 - (f) any details of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and Transhite has been paid and/or completely discharged and all details relating to discharge (e.g. dates of payments);
 - (g) information that, in the opinion of Transhite, the Client has committed a serious credit infringement;
 - (h) advice that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 3.2.51 The Client shall have the right to request (by e-mail) from Transhite:
 - (a) a copy of the Personal Information about the Client retained by Transhite and the right to request that Transhite correct any incorrect Personal Information; and
 - (b) that Transhite does not disclose any Personal Information about the Client for the purpose of direct marketing.
- 3.2.52 Transhite will destroy Personal Information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this Contract or is required to be maintained and/or stored in accordance with a law.
- 3.2.53 The Client can make a privacy complaint by contacting Transhite via e-mail. Transhite will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at www.oaic.gov.au.
- 3.2.54 **16. Any written notice given under this Contract shall be deemed to have been given and received:**
 - (a) by sending the notice to the other party, in person;
 - (b) by leaving it at the address of the other party as stated in this Contract;
 - (c) by sending it by registered post to the address of the other party as stated in this Contract;
 - (d) if sent by facsimile transmission to the fax number of the other party as stated in this Contract; and
 - (e) if sent by email to the other party's last known email address.
- 3.2.55 Any notice that is posted shall be deemed to have been served, unless the contrary is shown, at the time when by the ordinary course of post, the notice would have been delivered.
- 3.2.56 If the Client at any time upon or subsequent to entering into the Contract is acting in the capacity of trustee of any trust ("Trust") then whether or not Transhite may have notice of the Trust, the Client consents with Transhite as follows:
 - (a) the Contract extends to all rights of indemnity which the Client now or subsequently may have against the Trust and trust fund;
 - (b) the Client has full and complete power and authority under the Trust to enter into the Contract and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Client against the Trust or the trust fund. The Client will not release the right of indemnity of the Client against the Trust or be a party to any other action which might prejudice that right of indemnity;
 - (c) the Client will not consent in writing of Transhite (Transhite will not unreasonably withhold consent), cause, permit, or suffer to happen any of the following events:
 - (i) the removal or discharge of the Client as trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.
- 3.2.57 **18. General**
- 3.2.58 The failure by either party to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Client's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable for validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 3.2.59 The terms and conditions of this Contract, together with the laws that apply shall be governed by the laws of Victoria, the state in which Transhite has its principal place of business, and are subject to the jurisdiction of the Melbourne courts in Victoria.
- 3.2.60 Subject to clause 11, Transhite shall be under no liability whatsoever to the Client for any indirect or/ consequential loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by Transhite of these terms and conditions (alternatively Transhite's liability shall be limited to damages which under no circumstances shall exceed the Price).
- 3.2.61 Transhite may licence and/or assign all or any part of its rights and/or obligations under this Contract without the Client's consent.
- 3.2.62 Transhite may licence or assign without the written approval of Transhite.
- 3.2.63 Transhite shall not be liable for any loss or damage the Client shall not be relieved from any liability or obligation under this Contract by so doing. Furthermore, the Client agrees and understands that they have no authority to give any instruction to any of Transhite's sub-contractors without the authority of Transhite.
- 3.2.64 The Client agrees that Transhite may amend their general terms and conditions for subsequent future contracts with the Client by disclosing such to the Client in writing. These changes shall be deemed to take effect from the date on which the Client accepts such changes, or

condition; and
(b) for all phone calls emanating from the security system panel; and
(c) to ensure all electronically protected areas are free from obstacles which may impair the operation of the system.

7.6 Notwithstanding clause 7.4 the Client further acknowledges and agrees that Trantech will not be liable for any defects in the Products due to the Client or the Client's third-party installer using the Products other than for the intended purpose that may result in overloading the structure/system to which Trantech's Products are installed or connected to. Where Trantech's

made payment to Trantech, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by Trantech under this clause 13 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this Contract.

13.4 Without prejudice to Trantech's other remedies at law Trantech shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to Trantech shall, whether or not due for payment, become immediately payable if:

(a) any money payable to Trantech becomes overdue, or in Trantech's opinion the Client will be unable to make a payment when it falls due;

otherwise at such time as the Client makes a further request for Trantech to provide Products to the Client.

18.8 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.

18.9 Both parties warrant that they have the power to enter into this Contract and have obtained all necessary authorisations to allow them to do so, they are not insolvent and that this Contract creates binding and valid legal obligations on them.