

## Relay Monitoring Systems Pty Ltd

ACN 052 484 483  
ABN 76 052 484 483

### 1. GENERAL

#### (a) DEFINITIONS

"Company" means Relay Monitoring Systems Pty Ltd, its successors and assigns.

"Contract" means the Agreement herein between the Company and the Customer.

"Customer" means the person, firm or corporation to whom the Quotation is addressed.

"Terms & Conditions" means the terms and conditions hereof.

"Quotation" means the quotation herein.

#### (b) TERMS & CONDITIONS

The Terms & Conditions (subject only to amendments thereto in writing by the Company and the law of the State of Victoria) shall exclusively govern this Quotation and any Contract between the Company and the Customer which shall arise. The placing of an order by the Customer based upon this Quotation shall constitute acceptance by the Customer of the Terms and Conditions, and agreement that the same shall supersede and prevail over all terms and conditions which may be contained in any order or in any correspondence or otherwise. Given that the Terms & Conditions apply generally and exclusively to the supply of goods to the Customer it shall not be necessary to include the Terms & Conditions on any of the Company's orders, invoices or other documentation as the Terms & Conditions shall be deemed included therein.

### 2. TERMS

Strictly 30 days. Payment for all equipment and services provided by the Company to the Customer must be made within 30 days from the date of the invoice. When payment is not made within that period interest at the rate of 1.5% per month, shall accrue automatically from the due date for payment and will be payable at a daily rate until payment is made. However, nothing herein contained shall be interpreted as an indulgence to the Customer to effect payment after the due date.

### 3. VALIDITY

The Quotation is valid for a period of 30 days from the date herein unless otherwise stated or unless it is previously withdrawn by the Company.

### 4. CANCELLATION OR VARIATION

(a) The Contract cannot be varied unless and to the extent agreed upon by the Company in writing.

(b) The Customer cannot cancel the Contract unless it has first obtained the written consent of the Company to such cancellation, which consent the Company shall be under no obligation to give. The Company reserves the right to make any such consent conditional upon such reasonable conditions as the Company in its absolute discretion may determine which, without limiting the generality of the foregoing, may include payment of a reasonable cancellation charge determined by the Company.

(c) The Company may terminate the Contract by written notice effective immediately in the event the Company makes a determination based on reasonable grounds that the Customer is insolvent or is for any other reason unlikely to be able to pay the Company in full in accordance with the requirements of the Terms & Conditions. In the event of termination of the Contract pursuant to this paragraph, the Company shall be entitled to reimbursement from the Customer of all expenses necessarily incurred by the Company up to the date of termination.

### 5. PRICES

All prices are subject to change without notice and all orders are accepted by the Company on the condition that they will be invoiced at the prices ruling at the date of dispatch. All prices are strictly net (including prices for Imported equipment) unless otherwise stated in writing. Those prices shown in lists or catalogues, which may be recommended selling prices, provide no obligation upon the part of the Company to abide by those list prices. For imported equipment, prices quoted are in local currency and are based upon the exchange rates existing at the date of Quotation or upon a specific exchange rate as listed within this Quotation. A specific exchange rate listed in the Quotation will take precedence. Any changes to in this exchange rate, between time of Quotation & time of shipment, may be to Customer's account at the option of the Company.

### 6. GOODS & SERVICES TAX (GST)

Quoted prices do not include GST unless otherwise stated. This quotation is made on the basis that 10% GST applies from 01/07/2000 for the domestic sale of RMS products. RMS reserves the right, however, to amend this price quotation should there be a change in the GST tax legislation.

### 7. WARRANTY AND LIMITATION OF LIABILITY

(a) Equipment manufactured by the Company is warranted to be free from Defects in material and workmanship which may develop within the warranty period from the date of shipment of the goods to the original buyer. The warranty period for each product type is specified at [www.rmspl.com.au/handbook/part9.pdf](http://www.rmspl.com.au/handbook/part9.pdf). Where the equipment provided by the Company is not of a kind ordinarily acquired for personal, domestic or household use or consumption then the liability of the Company for a breach of condition or warranty implied by the Trade Practices Act 1974 (other than the condition or warranty implied by Section 69) shall be limited to the repair of the goods, provided that such equipment is returned to the place nominated by the Company, or at the Company's option the repair or replacement of the goods or the supply of equivalent goods at the discretion of RMS.

(b) For equipment not manufactured by the Company then the original manufacturers warranty will be offered by the Company to the purchaser. The Company's liability for such equipment shall not exceed the liability provided in Clause 7(a).

(c) In no event shall the Company be liable for any direct/indirect, special or consequential damages such as, but not limited to, economic loss how so ever caused.

### 8. GOODS RETURNED FOR CREDIT

Goods will not be accepted from the Customer for credit unless with the prior written consent of the Company. Returned goods shall be delivered to the Company free of charge, in good order and condition, unused and in the original packaging accompanied by a dispatch note stating the original invoice number, date of supply, and the reason for return. Except where the goods have been wrongly or over supplied, the Company will determine a charge to be applied to the Customer for the purpose of covering handling and restocking costs. Goods made to special order by the Company cannot be returned nor credited unless they do not meet the specifications, or otherwise not in accordance with the specific terms of the Contract.

### 9. SHIPMENTS AND DELIVERY

Delivery of the equipment shall be FOB from the Company's main point of supply. Delivery dates are approximate and are based upon the prompt receipt of all necessary information by the Company to ensure uninterrupted manufacture. Extra costs as determined by the Company owing to delay in starting the work or suspension or the work due to Customers delays, overtime, mistakes or other causes for which the Company is not responsible, or through additional work entailed in taking down and refixing equipment to suit Customer's changed requirements, shall be chargeable to the Customer. The Company shall not be liable for delay of delivery and failure to manufacture due to any causes whatsoever beyond its control. Partial shipments may be made and invoiced upon completion of manufacture. If delivery is delayed at the request of the Customer, equipment may be stored subject to payment of an extra charge based upon storage costs and the Company will invoice the full value of the equipment stored. The risk of loss or damage to equipment shall pass from the Company to the Customer upon delivery by the Company to the carrier at the point of supply, unless storage of the equipment has been requested in which case the risk passes at the start of the storage period, and any claims for loss or damage after risk of loss has passed to the Customer shall not be the responsibility of the Company. The Company assumes no liability for loss, damage or consequential damages due to delays.

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### 10. INSPECTION

Where inspection by the customer or other persons is required, this must be arranged by the Customer with the Company. Special witness tests are extras chargeable as determined by the Company.

### 11. INJURY AND DAMAGE

The Customer shall indemnify the Company against all claims whether made under Contract or statute or under common law, in respect to any loss or damage to any property whatsoever or injury to any person whatsoever arising out of any defect in material or workmanship of equipment manufactured and/or sold by the Company or for any default or negligence on the part of the Company's personnel in connection with or during the carrying out of any work by the Company on the Customer's or any other person's property.

### 12. INSTALLATION AND COMMISSIONING

All equipment shall be installed and commissioned by and at the expense of the Customer unless agreed to in writing or otherwise stated herein.

### 13. PROPERTY AND TITLE

(a) Notwithstanding that the Goods shall in whole or in part be in the possession or at the risk of the Customer, property in the Goods shall not pass from the Company to the Customer but shall remain with the Company until payment in full has been received by the Company unless the Company declares by notice in writing that property in the Goods has passed to the Customer in which case, immediately upon giving such notice, property in the Goods shall pass to the Customer and the Company shall be entitled to rely upon property having passed for the purpose of maintaining an action against the Customer for recovery of any moneys owing hereunder.

(b) Any and all Goods which belong to the Company but which are held in the possession or custody of the Customer shall, pending sale by the Customer, be held on trust by the Customer as bare trustee for the Company and, accordingly, unless and until payment in full the following shall apply:

(i) the Goods shall not be installed or affixed to any other property;

(ii) the Goods shall be stored separately from any other goods of the Customer and labelled so that they shall be capable of being easily identified as goods belonging to the Company;

(iii) in the event that the Goods are sold by the Customer the purchase price received by the Customer in respect of such sale will be held upon trust by the Customer for the Company absolutely.

(c) The Customer hereby authorises the Company, its lawful agents and representatives, to enter onto the premises of the Customer at any time of day using such reasonable force as is necessary for the purpose of retaking possession of any Goods which remain the property of the Company and in respect of which the Customer is in default of payment.

### 14. DEFAULT

Should the Customer default in the payment of any part of the moneys payable hereunder by the due date then, without prejudice to any other rights the Company may have:-

(a) any other amounts outstanding by the Customer shall become immediately due and payable and shall be paid by the Customer to the Company;

(b) the Company may suspend supply and/or delivery of any and all goods to the Customer until receipt in full of all moneys outstanding;

### 15. ESCALATION

Prices are quoted based on material & equipment costs, wages as determined by appropriate National Award rates & conditions, & material charges based upon C.P.I. operating at the date of the quotation, & any other variation in cost due to any alteration in these factors which may occur from the quotation acceptance until the contract will be to the Customers account.

### 16. FORCE MAJEURE

All quotations, offers and contracts are subject to the express condition that the Company will not be in any way responsible for loss, damage, or delays arising from strikes, lockouts, cessation of labour, fire, transport delays, shortened hours of labour, accidents of any kind, perils of the sea or rivers, war or the like, acts of God, non-delivery of material or parts by other manufacturers, or any other cause of contingency whatsoever beyond the control of the Company, whether "ejusdem generis" with the preceding causes or not.

### 17. EXCLUSIONS

All conversations, representations, and statements, not embodied in this quotation, or not confirmed in writing by the Company are expressly excluded, and shall not be deemed to be part of the quotation, or to have induced the order, or to have any legal affect whatsoever.

### 18. DEPOSIT

The Company reserves the right to request payment of a deposit with the placing of any order. Where such request is made by the Company, the Company shall not be obliged to process an order until payment of the deposit.

### 19. WAIVER

Failure by the Company to insist upon strict performance of any term, warranty or condition of the Terms and Conditions shall not be deemed a waiver thereof or of any rights that the Company may have and no express waiver shall be deemed a waiver or any subsequent breach of any term, warranty or condition.

### 20. SEVERANCE

If any provision hereof is held or declared to be in violation of public policy or legally unenforceable, void or voidable or invalid at law or inequity or in breach of any Act or Parliament then such provision shall be severable and of no force and effect and shall be deemed to be omitted without effecting the validity of the remaining provisions or any parts thereof which other provisions or part or parts thereof shall remain in full force and effect.

### 21. GOVERNING LAW

The validity, construction, performance and enforcement of this Agreement, or the parties' rights under this Agreement will be governed and construed in accordance with the laws of the state of Victoria, Australia and the United Nations convention on contracts for the international sale of goods (1980).

The parties agree that the courts of Victoria, Australia will have exclusive jurisdiction to hear and determine any dispute between them in respect of the validity, construction, performance and enforcement of this Agreement, their rights under this Agreement or following any termination of this Agreement.