

HOME AND RENTAL COMPLIANCE SERVICES PTY LTD
TERMS AND CONDITIONS

Your transaction is subject to these legally binding terms and conditions. Please read them carefully before proceeding with the transaction.

PART A – GENERAL TERMS AND CONDITIONS

I. Definitions

In these Terms and Conditions:

- 1.1. "HRCS" means Home And Rental Compliance Services Pty Ltd (ACN 647 978 194) and includes its servants, agents and sub-contractors;
- 1.2. "Contract" means a contract for the provision of Services arising out of an order requested by the Customer that is accepted by HRCS or that is performed by HRCS (including but not limited to part performance);
- 1.3. "Customer" means the person, partnership, company or any other entity acquiring services from HRCS, and includes any agent of such parties;
- 1.4. "Electrical Safety Service Conditions" means the terms and conditions in Part D of these Terms and Conditions;
- 1.5. "Gas Safety and Carbon Monoxide Service Conditions" means the terms and conditions in Part C of these Terms and Conditions;
- 1.6. "General Terms and Conditions" means the terms and conditions in Part A of these Terms and Conditions;
- 1.7. "GST" has the meaning given in the GST Act;
- 1.8. "GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- 1.9. "Invoice" means the invoice issued by HRCS in relation to each Contract;
- 1.10. "Insolvency Event" means the occurrence of any of the following events in relation to the Customer:
 - 1.10.1. it is unable to pay its debts as and when they fall due ("Insolvent"), states that it is Insolvent or is presumed to be Insolvent, under an applicable law;
 - 1.10.2. it is wound up, dissolved or declared bankrupt;
 - 1.10.3. a liquidator, provisional liquidator, controller, administrator, trustee for creditors, trustee in bankruptcy or other similar person is appointed to, or takes possession or control of, any or all of its assets or undertaking; or
 - 1.10.4. it suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business or becomes unable to pay its debts when they fall due;
- 1.11. "PPSA" means *Personal Property Securities Act 2009* (Cth);
- 1.12. "Services" means all services carried out by HRCS, its principals, employees and sub-contractors, which may include but are not limited to:
 - 1.12.1. GSCM Services (as defined in the Gas Safety and Carbon Monoxide Service Conditions);
 - 1.12.2. ES Services (as defined in the Electrical Safety Service Conditions); and
 - 1.12.3. SAS Services (as defined in the Smoke Alarm Safety Service Conditions);
- 1.13. "Site" means the property or location where the Services are carried out;
- 1.14. "Smoke Alarm Safety Service Conditions" means the terms and conditions in Part B of these Terms and Conditions;
- 1.15. "Terms and Conditions" means:
 - 1.15.1. the General Terms and Conditions;
 - 1.15.2. where applicable the Smoke Alarm Safety Service Conditions, the Gas Safety and Carbon Monoxide Service Conditions, and the Electrical Safety Service Conditions;
 - 1.15.3. the terms of the relevant Invoice; and
 - 1.15.4. any other written agreement between HRCS and the Customer; and

- 1.16. "Website" means any website as created by HRCS from time to time.

2. Incorporation of Terms and Conditions

- 2.1. Every Contract is governed by the Terms and Conditions which constitute the entire agreement between the parties.
- 2.2. HRCS reserves the right to amend the Terms and Conditions at any time and by;
 - 2.2.1. giving seven (7) days' notice to the Customer; or
 - 2.2.2. uploading a notice onto its Website.If the Customer does not agree to any such variation, then it may cease any future dealings with HRCS provided that it is not in default under these Terms and Conditions.
- 2.3. Any terms or conditions submitted by the Customer, whether in a purchase order, specification or otherwise, will not be accepted by, or binding on, HRCS or in any way amend, annul or augment any of these Terms and Conditions, unless:
 - 2.3.1. specifically agreed to by HRCS in writing (including but not limited to within an Invoice); or
 - 2.3.2. performed by HRCS (including but not limited to partial performance).

3. Prices

- 3.1. Prices for each Contract shall be the greater of:
 - 3.1.1. the amount set out in the relevant Invoice; or
 - 3.1.2. the amount quoted by HRCS and accepted by the Customer in writing; or
 - 3.1.3. the amount quoted by HRCS and accepted by the Customer continuing to engage HRCS for the relevant Services.
- 3.2. Prices are subject to alteration by HRCS without notice to the Customer.
- 3.3. All amounts payable and consideration provided under these Terms and Conditions or in respect of a Contract are exclusive of GST, stamp duty, value added tax, environmental tax or any other tax.

4. Payment

- 4.1. HRCS will issue the Customer with an Invoice for payment:
 - 4.1.1. upon the performance of the Services; or
 - 4.1.2. prior to the performance of the Services, as determined by HRCS.
- 4.2. Unless otherwise required by HRCS, the Customer must pay HRCS the full amount stated in an Invoice within thirty (30) days of the date the Invoice is issued.
- 4.3. The Customer must pay to HRCS the GST payable in respect of the supply of Services by HRCS at the time the payment or consideration for the supply falls due.
- 4.4. The Customer must pay to HRCS any amount it is required to pay under these Terms and Conditions in full and without deduction, notwithstanding any entitlement that it may have to a credit or offset however arising.
- 4.5. Payments made by credit card or charge card may incur an additional fee to be set by HRCS. HRCS reserves the right to vary the additional fee at any time and without notice to the Customer.
- 4.6. HRCS reserves the right to request an upfront payment from the Customer, with such an amount to be determined by HRCS on a case-by-case basis. HRCS reserves the right to withhold from providing Services to the Customer if an upfront payment is not paid by the Customer to HRCS on demand.

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5. Liability

- 5.1. To the fullest extent permitted by law, all conditions, warranties and representations, express or implied by statute, common law or otherwise in relation to the Services are hereby excluded and to the fullest extent permitted by law, HRCS will be under no liability to the Customer for any damages or losses (including but not limited to incidental, special, consequential or general damages or losses) suffered by any party in connection with or arising out of the provision of the Services howsoever arising, even if due to HRCS' negligence, including but not limited to damage or losses suffered as a result of:
- 5.1.1. any delay caused by the Customer, which prevents HRCS from performing the Services within a reasonable period of time;
 - 5.1.2. HRCS' performance of the Services;
 - 5.1.3. any goods supplied by third party product suppliers that are utilised by HRCS in the performance of the Services being defective or faulty;
 - 5.1.4. the Customer's use or reliance upon any information provided by HRCS in relation to the Services; or
 - 5.1.5. any breach by the Customer of these Terms and Conditions.
- 5.2. These Terms and Conditions do not affect the rights, entitlements and remedies compulsorily conferred on the Customer under the *Competition and Consumer Act 2010* (Cth) and other statutes, rules or regulations for the time being in force, and nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.
- 5.3. To the fullest extent permitted by law, in the event that HRCS' liability cannot be excluded under clause 5.1, HRCS' liability:
- 5.3.1. will be reduced to the extent that the Customer's own negligence has contributed to the losses suffered by the Customer; and
 - 5.3.2. will not exceed the amount payable or paid by the Customer under the relevant Contract.
- 5.4. HRCS will make every reasonable effort to meet any timeframes stated by HRCS for the performance of the Services, however such timeframes are estimates only and HRCS shall not be liable for any losses (including but not limited to indirect or consequential losses) suffered by the Customer or its customers as a result of the late or non-performance of the Services.
- 5.5. To the fullest extent permitted by law, if any goods supplied by third party product suppliers are utilised by HRCS in the performance of the Services and are deemed to be defective or faulty, the Customer will only make a claim against the manufacturer of the goods, shall utilise any warranty provided by the manufacturer, and will not make a claim against HRCS.

6. Customer's Warranties

- 6.1. The Customer warrants that:
- 6.1.1. all information given to HRCS by the Customer in relation to the Services is accurate, complete and true, and is not misleading in any way;
 - 6.1.2. it is the lawful owner, or is lawfully entitled to possession of the Site and has permission to engage HRCS to perform the Services at the Site; and
 - 6.1.3. it has not relied on any prior representations or statements made by HRCS and that these

Terms and Conditions constitute the entire agreement between the parties.

- 6.2. The Customer must indemnify and keep harmless HRCS from all costs, claims, damage, expenses and losses suffered by HRCS as a result of a breach of any of the Customer's warranties in clause 6.1 or any of the Customers obligations in these Terms and Conditions.

7. Intellectual Property Rights

- 7.1. The Customer will take all reasonable care to safeguard against the intellectual property rights of HRCS and of any third party product supplier of the Goods or Services and agrees not to do anything that would adversely affect those rights.
- 7.2. The Contract does not confer on the Customer any licence or right under copyright, patent, design or trade mark or any other intellectual property right which is the property of HRCS and/or a third party.

8. Termination

- 8.1. The Customer will be able to terminate or suspend the Services by providing HRCS with 21 days written notice from the date that it intends to do so.
- 8.2. For the purposes of this clause, "Termination Event" means the occurrence of any of the following:
- 8.2.1. the Customer fails to make a payment of an Invoice by the relevant due date;
 - 8.2.2. the Customer breaches any of these Terms and Conditions;
 - 8.2.3. the Customer fails to provide HRCS with all necessary information to allow HRCS to effectively and efficiently perform the Services (including but not limited to notifying HRCS of any changes to any information previously provided by the Customer);
 - 8.2.4. any instructions, information, documentation, approvals or authorisations requested by HRCS have not been provided by the Customer;
 - 8.2.5. HRCS is unable to access the Site to perform the Services for any reason whatsoever;
 - 8.2.6. HRCS determines that performing any of the Services at the Site is unsafe or could cause harm to the health of HRCS;
 - 8.2.7. the Customer has not taken steps in accordance with HRCS' professional advice and recommendations to ensure that any plant and equipment located at the Site, which has been tested and maintained by HRCS is compliant;
 - 8.2.8. the Site is no longer a domestic residential dwelling; or
 - 8.2.9. an Insolvency Event.
- 8.3. If a Termination Event occurs, then without prejudice to any other right or remedy available to it, HRCS shall (at its sole discretion) be entitled to do any of the following:
- 8.3.1. treat the Contract as repudiated by the Customer;
 - 8.3.2. suspend the provision of any Services to the Customer;
 - 8.3.3. claim damages from the Customer; and/or
 - 8.3.4. charge the Customer interest (both before and after any Court judgment) on any amount owed by the Customer to HRCS at the rate that is 2% more than the rate from time to time prescribed by the *Penalty Interest Rates Act 1983* (Vic).
- 8.4. The termination of a Contract or suspension of the Services for any reason whatsoever shall not release the Customer from any liability, obligation or agreement, which has already accrued at the time of such termination or suspension.

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9. Sub-Contractors

9.1. The Customer authorises HRCS to act as an agent for the Customer and to contract, either in its own name or as agent for the Customer, with any sub-contractors of HRCS on any terms for the performance of all or any part of the Services.

10. Force Majeure

10.1. For the purposes of this clause, "Force Majeure Event" means the occurrence of any of the following: acts of God; acts or threats of terrorism or war; riots; strikes; lock-outs; trade dispute; fire; break-down; accidents; inclement weather; interruption of transport; government action; epidemics; pandemics; delay in delivery to HRCS of any goods or services; or by any cause whatsoever (whether or not of like nature to those specified above) outside HRCS' control.

10.2. If HRCS is prevented or delayed (directly or indirectly) in performing the Services or any part thereof or from otherwise performing any Contract between HRCS and the Customer or any part thereof by reason of a Force Majeure Event, HRCS shall be under no liability whatsoever to the Customer and shall be entitled (at its sole discretion) to either:

10.2.1. cancel the Contract; or

10.2.2. extend the time or times for the performance of the Services or any part thereof by a reasonable period of time having regard to the effect of the Force Majeure Event on the performance of the Services,

by giving written notice to the Customer.

11. Privacy

11.1. HRCS covenants to handle the Customer's details in accordance with the relevant privacy laws.

12. Dispute Resolution Procedure

12.1. In the event of a dispute between the parties in connection with a Contract or these Terms and Conditions, the dispute resolution procedure in this clause will apply prior to any legal proceedings being initiated.

12.2. Any party may initiate the dispute resolution procedure by notifying the other party in writing of the nature of the dispute and their intention to implement the procedure ("Dispute Resolution Notice").

12.3. After the issue of the Dispute Resolution Notice, the parties must endeavour to resolve the dispute in good faith and fair dealing.

12.4. If the dispute is not resolved within 14 days of the Dispute Resolution Notice being served:

12.4.1. the parties must jointly appoint a person to act as mediator to resolve the dispute ("Mediator"); and

12.4.2. if the parties cannot agree on a Mediator within a further 5 days, either party may submit a request to the President of the Law Institute of Victoria to appoint a Mediator, and such appointment will be final and binding on the parties.

12.5. Once the Mediator has accepted the appointment the parties must comply with the mediator's instructions.

12.6. The parties must sign all documents and do all things reasonably necessary to effect the appointment of the Mediator.

12.7. If the dispute is not resolved within 30 days of the appointment of the Mediator or any other period agreed by the parties in writing, the mediation ceases.

12.8. The costs of the Mediator will be paid equally by the parties.

13. Authority

13.1. If the Customer is a corporation, it warrants that its directors have approved of it entering into the Contract and accept these Terms and Conditions.

13.2. If the Customer is a trustee of a trust (whether disclosed to HRCS or not), it warrants that:

13.2.1. it enters into the Contract and accepts these Terms and Conditions in both its capacity as trustee of the relevant trust and its personal capacity;

13.2.2. it has the right to be indemnified out of the relevant trust's assets;

13.2.3. it has the power under the trust deed of the relevant trust to enter into the Contract and accept these Terms and Conditions; and that

13.2.4. it will not vary the trust deed of the relevant trust, retire as trustee of the relevant trust, or appoint any new or replacement trustee without advising HRCS.

13.3. If the Customer is a partnership, it warrants that:

13.3.1. all the partners have approved of it entering into the Contract and accept these Terms and Conditions on their behalf; and that

13.3.2. it will not vary the terms of the partnership agreement without advising HRCS.

14. Notices

14.1. A notice given under these Terms and Conditions may be given:

14.1.1. by pre-paid post;

14.1.2. by delivery;

14.1.3. by email; or

14.1.4. in any manner authorised by law or the Supreme Court of Victoria for service of documents, including any manner authorised for service on or by a legal practitioner, to the party's last known address or registered office.

14.2. Posted notices will be taken to have been received on the third business day after posting that is not a Saturday, Sunday or bank holiday in place of intended receipt, unless proved otherwise.

14.3. Notices delivered or sent by email are taken to have been served or given at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*.

15. General

15.1. HRCS is entitled to transfer, assign or novate any of its rights or obligations under any Contract at any time.

15.2. HRCS' failure to enforce or exercise, at any time or for any period of time, any of its rights pursuant to a Contract will not constitute, and will not be construed as, a waiver of such rights and will not in any way affect HRCS' ability to later enforce or exercise such rights.

15.3. If any clause or part of any clause in these Terms and Conditions is or becomes illegal, invalid or unenforceable, that clause or part of that clause shall be severed from these Terms and Conditions and the remainder of these Terms and Conditions is not affected.

15.4. These Terms and Conditions will in all respects be construed and have effect according to the laws of the State of Victoria and the parties agree to submit to the non-exclusive jurisdiction of the Courts of that State.

15.5. If there is any inconsistency between any provision in these Terms and Conditions, the Terms and Conditions will take priority in the following order:

15.5.1. the General Terms and Conditions;

15.5.2. where applicable the Smoke Alarm Safety Service Conditions, the Gas Safety and Carbon Monoxide Service Conditions, and the Electrical Safety Service Conditions;

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- 15.5.3. any other written agreement between HRCS and the Customer; and then
- 15.5.4. the terms of the relevant Invoice;
- 15.6. The rights conferred on HRCS by these Terms and Conditions are in addition to and not in substitution for and do not derogate from the rights conferred on HRCS pursuant to any other agreement in force between the Customer and HRCS including but not limited to any Deed of Guarantee and Indemnity.

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PART B – SMOKE ALARM SAFETY SERVICE CONDITIONS

1. Definitions

In these Smoke Alarm Safety Service Conditions:

- 1.1. "FIP Linked Smoke Alarm" means a smoke alarm or detector at the Site that is linked to a security system or fire indication panel;
- 1.2. "Smoke Alarm" means collectively, any of the following:
 - 1.2.1. FIP Linked Smoke Alarm;
 - 1.2.2. Wired Smoke Alarm; and
 - 1.2.3. Wireless Smoke Alarm;
- 1.3. "SAS Services" means Smoke Alarm safety services;
- 1.4. "Wired Smoke Alarm" means a smoke alarm or detector at the Site that is 240v mains powered and is hard wire to the mains; and
- 1.5. "Wireless Smoke Alarm" means a smoke alarm or detector at the Site that is detachable, portable or battery powered.

2. Application

These Smoke Alarm Safety Service Conditions together with the General Terms and Conditions apply if the Customer provides HRCS with instructions to provide SAS Services at the Site.

3. Smoke Alarm Safety Service

- 3.1. If the Customer engages HRCS to provide SAS Services, HRCS will (subject to the Customer's performance of its obligations under these Terms and Conditions) ensure that the SAS Services will be conducted annually at the Site until terminated by HRCS or the Customer giving 14 days' written notice.
- 3.2. The SAS Service may, subject to agreement between HRCS and the Customer, include but is not limited to:
 - 3.2.1. maintaining a photo database of all Smoke Alarms, including the time, date and location of all Smoke Alarms;
 - 3.2.2. conducting a maintenance check on each Smoke Alarm, which includes cleaning, smoke tests, button tests and checking the status relative to each Smoke Alarm's expiry period;
 - 3.2.3. replacing the battery in each Smoke Alarm;
 - 3.2.4. assessing the position and functionality of each Smoke Alarm and identification of any installed Smoke Alarm that is in excess of regulatory requirements ("Above Regulations");
 - 3.2.5. replacing or rectifying faulty or expired Smoke Alarms (with the exception of those that are Above Regulations); and
 - 3.2.6. where required, arranging a qualified electrician to attend the Site to install or replace a Wired Smoke Alarm.

4. Relocation and Replacement

- 4.1. The Customer authorises HRCS to remove or relocate any pre-existing Smoke Alarms if deemed necessary by HRCS and acknowledges that any such removal or relocation may cause damaged to the Site.
- 4.2. HRCS agrees to use its best endeavours to ensure that the Site is not unreasonably damaged in removing or relocating pre-existing Smoke Alarms.
- 4.3. The Customer agrees that it will:
 - 4.3.1. not make a claim against HRCS;
 - 4.3.2. indemnify HRCS from any claim; and that
 - 4.3.3. be responsible for any repair costs or works that are required,as a result of any damage or losses suffered by any person in connection with the removal or relocation of pre-existing Smoke Alarms.

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PART C – GAS SAFETY AND CARBON MONOXIDE SERVICE CONDITIONS

1. Definitions

In these Gas Safety and Carbon Monoxide Service Conditions:

- 1.1. "Gas Appliance" has the same meaning given in the AS/NZS 5601.1:2013 Gas Installations – General Installations, as provided by the Customer and accepted by HRCS; and
- 1.2. "GSCM Services" means gas safety and carbon monoxide services.

2. Application

These Gas Safety and Carbon Monoxide Conditions together with the General Terms and Conditions apply if the Customer provides HRCS with instructions to provide GSCM Services at the Site.

3. Scheduled Gas Service

- 3.1. If the Customer engages HRCS to provide GSCM Services, HRCS will (subject to the Customer's performance of its obligations under these Terms and Conditions) ensure that the GSCM Services will be conducted at least once every two (2) years at the Site by a licensed or registered plumber until the GSCM Services are terminated by HRCS or the Customer giving 14 days' written notice.
- 3.2. The GSCM Services may, subject to agreement between HRCS and the Customer, include but is not limited to:
 - 3.2.1. pressure retention testing of the main gas line into the Site (test of gas tightness);
 - 3.2.2. gas and carbon monoxide check in respect of all Gas Appliances; and
 - 3.2.3. a service, maintenance check and where applicable a safety spillage check (carbon monoxide analyser and negative pressure test).
- 3.3. The Customer acknowledges and agrees that if HRCS determines that a Gas Appliance or gas fitting line is unsafe or non-compliant, the Gas Appliance or gas fitting line will be decommissioned until a replacement is made or remedial work is carried out.

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PART D - ELECTRICAL SAFETY SERVICE CONDITIONS

1. Definitions

In these Electrical Safety Service Conditions:

- 1.1. "Certificate of Periodic Verification" has the meaning as given in the AS/NZS 3019 2007 regulations;
- 1.2. "Electrical Appliance" means an electrical appliance supplied by you at the Site and:
 - 1.2.1. expressly excludes solar installations, and any appliance supplied by a tenant residing at the Site; and
 - 1.2.2. includes but is not limited to electric ovens, fixed wall electric heaters, electric hot plates, electric air-conditioners, electric hot water units, refrigerators, electric range hoods and dishwashers;
- 1.3. "Electrical Safety Check" has the meaning as given in the AS/NZS 3019 2007 regulations; and
- 1.4. "ES Services" means electrical safety services.

2. Application

These Electrical Safety Service Conditions together with the General Terms and Conditions apply if the Customer provides HRCS with instructions to provide ES Services at the Site.

3. ES Service

- 3.1. If the Customer engages HRCS to provide ES Services, HRCS will (subject to the Customer's performance of its obligations under these Terms and Conditions) ensure that the ES Services will be conducted at least once every two (2) years at the Site by a qualified electrician until the ES Services are terminated by HRCS or the Customer giving 14 days' written notice.
- 3.2. The ES Services may, subject to agreement between HRCS and the Customer, include but is not limited to:
 - 3.2.1. Electrical Safety Check in respect of all electrical installations, electrical fittings and the applicable Electrical Appliances;
 - 3.2.2. The provision of a detailed report of Periodic Verification after each Electrical Safety Check is completed; and
 - 3.2.3. Visual inspection and testing in accordance with selected AS/NZS 3019 2017 regulations.

4. Accessibility

- 4.1. The Customer do all things necessary to ensure that any electrical installations, fittings and Electrical Appliances that are subject to the ES Services are easily accessible for HRCS to perform the ES Services.
- 4.2. HRCS will not provide the ES Services to an Electrical Appliance, installation or fitting that:
 - 4.2.1. is not owned by the Customer;
 - 4.2.2. is located in the roof space or on the roof or under the Site;
 - 4.2.3. is not accessible or is obscured and unable to be moved without the risk of damage or injury;
 - 4.2.4. is located 2.5 metres above the ground level of the Site; or
 - 4.2.5. prevents HRCS from providing the ES Services safely and effectively in accordance with its obligations under any law or the AS/NZS 3019 2007 regulations.

5. Limitations to Service

- 5.1. The Customer acknowledges and agrees that:
 - 5.1.1. where testing and observation of accessible power points are required, only those power points that are visible and accessible to HRCS will be tested;

- 5.1.2. permanent or glass light fitting diffusers will not be removed to assess globe ratings;
- 5.1.3. no electrical installations, fittings or Electrical Appliances will be opened during the inspections other than the switchboard;
- 5.1.4. if power points, light switches or light fittings are replaced, they will be replaced with items of standard appearance as selected by HRCS;
- 5.1.5. equipotential bond testing will not be completed;
- 5.1.6. leakage current testing will not be completed;
- 5.1.7. main earth testing will only be completed if the main earth conductor and the main earth electrode/stake are easily accessible as determined by HRCS; and that
- 5.1.8. the ES Services are for the purpose of testing and inspecting applicable Electrical Appliances, and that HRCS will not be responsible for the repair or replacement of any Electrical Appliances.