

Safe Direction Pty Ltd (ACN 156 459 684)
Standard Terms and Conditions of Supply
Effective September 2012

1. Definitions and Interpretation

In this document:

- (a) **"Amount Payable"** means, at any time, all amounts payable by the Customer to Safe Direction at that time (whether or not those amounts have become due for payment) in connection with the Contract (including, without limitation, any invoiced amount, interest, fees, costs or expenses);
- (b) **"Breach"** has the meaning given in clause 10(a);
- (c) **"Corporations Act"** means the *Corporations Act 2001* (Cth);
- (d) **"Credit Account Application"** means the document by which a Customer applies to Safe Direction for a credit account;
- (e) **"Customer"** means the customer specified in a Credit Account Application (or if there is no Credit Account Application, the person placing the Order, or on whose behalf the Order is placed, with Safe Direction);
- (f) **"Contract"** has the meaning given in clause 2(d);
- (g) **"Guarantor"** means each individual, if any, specified as a guarantor in the Customer's Credit Account Application.
- (h) **"Goods"** means any goods, products or materials supplied or to be supplied by Safe Direction at any time and from time to time including, without limitation, any goods specified in an Order Confirmation or invoice;
- (i) **"Incorporated Goods"** has the meaning given in clause 6(d);
- (j) **"Insolvent"** means being an insolvent under administration or insolvent (each as defined in the Corporations Act) or having a controller (as defined in the Corporations Act) appointed, or being in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration, wound up, subject to any arrangement, assignment or composition, protected from creditors under any statute, dissolved (other than to carry out a reconstruction while solvent) or being otherwise unable to pay debts when they fall due or having something with the same or a similar effect happen under the laws of any jurisdiction;
- (k) **"Mixed Goods"** has the meaning given in clause 6(d);
- (l) **"Order"** is an offer from a Customer to purchase Goods from Safe Direction whether made in writing (including by the issue of a purchase order), electronically (including by email) or verbally;
- (m) **"Order Confirmation"** is a confirmation of an Order issued by Safe Direction to the Customer;
- (n) **"PPSA"** means the *Personal Property Securities Act 2009* (Cth);
- (o) **"Safe Direction"** means Safe Direction Pty Ltd (ACN 156 459 684) and its Related Bodies Corporate and for each Order means the company (namely Safe Direction Pty Ltd (ACN 156 459 684) or one of its Related Bodies Corporate) that issues the relevant Order Confirmation;
- (p) **"Terms and Conditions"** means the terms and conditions set out in this document;
- (q) the terms "financing statement", "financing change statement", "perfected", "proceeds", "purchase money security interest", "security agreement", "security interest" and "verification statement" have the respective meanings given to them under, or in the context of, the PPSA;
- (r) unless otherwise stated, an expression used or defined in the Corporations Act has the same meaning in the Terms and Conditions; and
- (s) words indicating the singular include the plural and vice versa.

2. Application of these Terms and Conditions

- (a) The Customer may submit Orders to Safe Direction from time to time but Safe Direction may accept or refuse any Order in its absolute discretion.
- (b) An Order is accepted by Safe Direction when:
 - (i) the Customer receives an Order Confirmation from Safe Direction; or
 - (ii) Safe Direction commences delivery of the Goods identified in the Order,whichever occurs first.
- (c) Unless Safe Direction otherwise agrees in writing, the Terms and Conditions apply to every Order. Acceptance of Goods by the Customer is deemed acceptance that these Terms and Conditions apply to, and govern the supply of, the Goods.
- (d) The Terms and Conditions, together with the Credit Account Application, the Order and the Order Confirmation constitute the entire agreement between Safe Direction and the Customer with respect to any Order (the **Contract**). To the extent of any inconsistency, unless expressly agreed in writing to the contrary, the Contract must be interpreted according to the following hierarchy, in descending order of priority: Order Confirmation, Terms and Conditions, Credit Account Application, Order. All prior negotiations, proposals, previous dealings, correspondence, trade custom and/or trade usage are superseded by and will not affect the interpretation of the Contract.
- (e) If at any time in relation to the supply of the Goods, the Customer provides, uses or otherwise contends for terms and conditions other than the Terms and Conditions, those terms and conditions will not form part of, or be incorporated into, the Order or the Contract.

3. Price

- (a) The price charged for the Goods will be:
 - (i) the price set out in writing in the Order Confirmation;
 - (ii) if there is no Order Confirmation or the Order Confirmation does not set out a price, the price set out in the most recent quotation issued by Safe Direction, if any;
 - (iii) if neither (i) nor (ii) applies, the price agreed in writing by Safe Direction and the Customer; or
 - (iv) if none of the above applies, Safe Direction's then current list price for the Goods.
- (b) Unless otherwise stated to the contrary in the Order Confirmation or quotation, the price is exclusive of any goods or services tax and any new taxes that come into existence after the effective date of the Contract which impose an additional cost to Safe Direction in connection with supply of the Goods.
- (c) Where a tax applies to any supply made under the Contract, Safe Direction may recover from the Customer an additional amount on account of that tax.

4. Credit

- (a) Any agreement by Safe Direction to grant the Customer credit has been or will be made on the basis of a Credit Account Application and any additional information (including references) required by Safe Direction.
- (b) If Safe Direction approves the Customer's Credit Account Application and grants the Customer credit, the Customer must pay the Amount Payable within the period of credit and in the accordance with any agreed credit terms.
- (c) Until Safe Direction grants the Customer credit by notice in writing, or if Safe Direction withdraws, suspends or limits credit (which it may do at any time and for any reason, in its absolute discretion), Safe Direction will only supply Goods the Customer on the basis of payment by cash in advance.
- (d) By completing a Credit Account Application and applying for credit with Safe Direction, the Customer agrees to be bound by these Terms and Conditions for each supply of Goods made by Safe Direction to the Customer unless and until Safe Direction and the Customer agree in writing to the contrary.
- (e) If the Customer holds a credit account with Safe Direction, the Customer must immediately notify Safe Direction in writing of any change in the shareholding or ownership of the Customer or any material change in the Customer's financial position or any other information provided by the Customer in the Credit Account Application.

5. Delivery and Risk in Goods

- (a) Safe Direction will make all reasonable efforts to have the Goods delivered to the Customer or its designated agent where the parties have agreed a delivery date and location and documented these terms in the Contract.
- (b) If the Contract is silent regarding delivery, Safe Direction will make the Goods available for collection by the Customer or the Customer's agent at Safe Direction's warehouse facility on an ex-works basis and the Customer must collect the Goods within 7 days of Safe Direction notifying the Customer that the Goods are available for collection.
- (c) Safe Direction will not be liable for:
 - (i) any failure to deliver or delay in delivery for any reason; or
 - (ii) any damage or loss due to unloading or inadequate packaging, except to the extent that such damage was caused by the negligent act or omission of Safe Direction; or
 - (iii) damage to property arising in connection with the entry into any premises to deliver the Goods.
- (d) Safe Direction may invoice the Customer (in addition to the purchase price) for, and the Customer must pay, any costs reasonably incurred by Safe Direction due to:
 - (i) any failure by the Customer to accept the Goods at the time of delivery; or
 - (ii) if clause 5(b) applies, any failure by the Customer to collect the goods from Safe Direction's warehouse facility within the time specified by Safe Direction in accordance with clause 5(b).
- (e) Subject to clause 5(b), risk in the Goods passes to the Customer upon delivery (including all risks associated with unloading) or upon title in the Goods passing to the Customer in accordance with clause 6, whichever is the earlier.

6. Title to Goods

- (a) The legal and equitable title to the Goods will only be transferred from Safe Direction to the Customer when the Amount Payable has been paid in full to Safe Direction.
- (b) Until the Amount Payable is paid in full, the Customer holds the Goods as bailee for Safe Direction and a fiduciary relationship exists between the Customer and Safe Direction.
- (c) Subject to clauses 6(d), 6(e) and 6(f) below, the Customer must:
 - (i) keep the Goods separate and in good condition as a fiduciary of Safe Direction, clearly showing Safe Direction's ownership of the Goods;
 - (ii) keep books recording Safe Direction's ownership of the Goods and the Customer's sale or otherwise of them; and
 - (iii) if required by Safe Direction, deliver the Goods up to Safe Direction.
- (d) The Customer may only mix, affix, incorporate or install the Goods to other goods (**Mixed Goods**) or use or permit the Goods to be manufactured, processed, assembled, commingled or otherwise dealt with (so that the identity of the Goods is lost) (**Incorporated Goods**) in the ordinary course of its normal business.
- (e) If the Customer is in Breach, in addition to Safe Direction's other rights under the Contract, the PPSA or any other applicable law, Safe Direction may:
 - (i) take possession of the Goods or any Mixed Goods, wherever they are located;
 - (ii) remove any Incorporated Goods; and/or
 - (iii) enter wherever the Goods, Mixed Goods or Incorporated Goods are stored, without notice to the Customer and without liability for trespass or resulting damage, for the purposes outlined above in clauses 6(e)(i) and 6(e)(ii); and/or
 - (iv) appoint any person to be a receiver of all or any of the Goods, Incorporated Goods, Mixed Goods or other assets the subject of the security interests created by the Contract.
- (f) The Customer may sell the Goods, any Mixed Goods or Incorporated Goods to a third party in the normal course of the Customer's business provided that the Customer holds the proceeds of sale on trust for Safe Direction to the extent of the Amount Payable and must keep those proceeds separate (without mixing the proceeds with other monies) and on trust for Safe Direction.

7. Quality and Quantity of Goods

- (a) Any claim by the Customer in respect of defective, non-conforming or damaged Goods must be made in writing within 7 days of the delivery of the Goods, or such longer period as expressly agreed by Safe Direction in writing.
- (b) The Customer must inspect all Goods received as soon as practicable following delivery. No claim by the Customer for shortages of Goods may be made unless such claim is notified to Safe Direction with 48 hours of such inspection and in any event within 7 days of delivery. The Customer must provide such substantiation of any shortage as reasonably requested by Safe Direction and must assist Safe Direction to investigate any such claim. Safe Direction will endeavour to rectify any shortages, properly notified and verified in accordance with this clause, as soon as reasonably practicable after receiving notice but will not be liable for any delay in respect of such rectification.
- (c) Despite any other provision of the Contract, Safe Direction is not liable, to the maximum extent permitted by law, for:
 - (i) the cost of removal or return of Goods not meeting the specification or which are otherwise claimed to be defective or deficient, whether installed or otherwise;
 - (ii) the cost of installation of replacements for Goods not meeting the specification or which are otherwise claimed to be defective or deficient; or
 - (iii) defects or deficiencies in Goods caused by improper installation or maintenance of the Goods or related components or normal wear and tear and damage.

8. Payment

- (a) The Customer must make payment for the Goods in full (without any set off) either:
 - (i) as specified in the Order Confirmation; or
 - (ii) if payment terms are not set out in the Order Confirmation, by the last business day of the month immediately following the month of delivery of the Goods.
- (b) Unless the Contract states otherwise, Safe Direction may invoice the Customer for the Goods during each month on a progressive basis and is not required to wait until all Goods have been delivered.
- (c) Safe Direction may set off any amount due and payable by Safe Direction to the Customer, against any amount due and payable by the Customer to Safe Direction.
- (d) Safe Direction may allocate and apply payments received from the Customer to the Amount Payable in such manner and order as Safe Direction deems fit.
- (e) Safe Direction may charge interest on any overdue amount at a rate equivalent to 2.5% p.a. above the business overdraft interest rate published by Commonwealth Bank, as determined and calculated by Safe Direction. Such interest will be payable on demand by Safe Direction and for so long as it remains unpaid will compound on a monthly basis.

9. Security Interest and PPSA

- (a) The Customer acknowledges and agrees that, with respect of the Goods identified in the Contract or otherwise supplied to the Customer, the Contract constitutes a security agreement and that Safe Direction may register a financing statement in respect of the security interest provided by the Contract.
- (b) The Customer grants to Safe Direction a security interest in the Goods supplied to the Customer by Safe Direction to secure payment of the Amount Payable. The security interest:
 - (i) extends to and continues in all proceeds; and
 - (ii) is a purchase money security interest to the extent to which it secures payment of the unpaid purchase price of Goods.
- (c) The Customer must:
 - (i) promptly do anything required by Safe Direction to ensure Safe Direction's security interest is a perfected security interest and has priority over all other security interests in the Goods;
 - (ii) not do or permit anything to be done that may result in the purchase money security interest granted to Safe Direction ranking in priority behind any other security interest;
 - (iii) not cause or knowingly permit any person to take a security interest over, or to register a financing statement in relation to, the Goods without the prior written consent of Safe Direction;
 - (iv) immediately notify Safe Direction if it becomes aware of any person taking steps to register a financing statement in relation to the Goods.
- (d) The Customer:
 - (i) waives the right under the PPSA to receive a copy of the verification statement verifying registration of a financing statement or a financing change statement relating to a security interest created under the Contract; and
 - (ii) to the extent permitted by the PPSA, contracts out of its rights to receive any other notice or statement under any other provision of the PPSA.
- (e) To the fullest extent permitted by the PPSA, the parties agree to contract out of sections 95, 118, 121(4), 130, 132(3)(d), 132(4), 135, 142 and 143 of the PPSA, which sections (or parts of sections) will not apply.
- (f) The costs of registering any financing statement will be paid by the Customer and may be invoiced by Safe Direction or debited against the Customer's credit account.
- (g) If the Customer defaults in the performance of any obligation owed to Safe Direction under the Contract or any other agreement for Safe Direction to provide Goods to the Customer, Safe Direction may enforce its security interest in any Goods by exercising all or any of its rights under the Contract or the PPSA.

10. Breach of the Contract

- (a) A party will be in breach of the Contract if:
 - (i) it breaches a material term of the Contract and the breach is not remedied within 14 days of receiving notice from the other party requiring it to do so;
 - (ii) it becomes Insolvent;
 - (iii) in the case of the Customer, payment for the Goods has not been received by Safe Direction by the due date for payment,each a **Breach** of the Contract.
- (b) If the Customer is in Breach, Safe Direction may do any one or more of the following:
 - (i) treat the Breach as a repudiation of the Contract and sue for breach of contract;
 - (ii) by notice to the Customer declare all monies owing by the Customer to Safe Direction on any account immediately due and payable (including the Amount Payable);
 - (iii) refuse to supply any Goods to the Customer on credit or at all;
 - (iv) demand immediate return of any Goods in the Customer's possession where title has not passed to the Customer or exercise any other right or remedy available to it under the Contract, the PPSA or any other applicable law, including to enforce any security interest created by the Contract.

11. Intellectual Property

- (a) The Customer indemnifies Safe Direction from and against all claims and all losses and damages incurred by Safe Direction as a direct or indirect result of any breach of a third party's intellectual property rights as a result of Safe Direction using or relying on any specifications, drawings, production requirements or other materials or instructions provided by the Customer in relation to the Goods.
- (b) If the Customer receives any confidential information from Safe Direction, the Customer must not use or disclose the information unless it receives the prior written consent of Safe Direction or until the information either enters the public domain (other than as a result of a breach of the Contract) or the use or disclosure is required by law.

12. Force Majeure

Safe Direction will not be liable for failure to perform its obligations under the Contract to the extent and for so long as its performance is prevented or delayed without substantial fault or negligence by Safe Direction because of circumstances outside of its control, failure of Safe Direction's plant and equipment or failure of a supplier to Safe Direction, provided that Safe Direction gives notice to the Customer of the delay and uses reasonable efforts to remedy the cause of the delay quickly.

13. Representations and Fitness for Purpose

- (a) Except as expressly provided to the contrary in the Contract, all representations, warranties, guarantees and implied terms or conditions in relation to the Goods (whether implied or otherwise) are excluded to the maximum extent permitted by law.
- (b) The Customer agrees that if it is aware (or should be aware) that the goods, the subject of an Order, are for a particular purpose (including, but not limited to, use as a component part of another product) or are required to possess special or uniform characteristics, the Customer will clearly specify that purpose or those characteristics in the Order.
- (c) Unless expressly agreed by Safe Direction in writing, the Customer acknowledges and agrees it has made its own enquiries in relation to the suitability of the Goods and does not rely on representations by Safe Direction in relation to their suitability for a particular purpose or any steps which may need to be taken in relation to their use or supply to the Customer.

14. Limitation of Liability

- (a) To the maximum extent permitted by law, the Customer acknowledges and agrees Safe Direction's liability to the Customer (and any party claiming through the Customer against Safe Direction) for any claim for loss or damages (including legal expenses) made in connection with the Contract whether in contract, tort (including negligence), under statute, in equity or otherwise will be limited for any liability for defective goods (whether arising from those goods not meeting the specification or otherwise), at Safe Direction's election, to the cost of repair or replacement of those goods as soon as reasonably practicable, or repayment to the Customer of the invoice price of those goods..
- (b) To the maximum extent permitted by law, the Customer acknowledges and agrees that Safe Direction will not be liable for, and the Customer waives any right it has to claim, any loss of income, profit, production, contract, customers, goodwill, opportunity or business, or any indirect, special or consequential loss or damage of any nature whatsoever arising under or in connection with the Contract or any Goods, whether in contract, tort (including negligence), under statute, in equity or otherwise.
- (c) The Customer acknowledges and agrees, to the maximum extent permitted by law, that any other liability falling outside the application of clauses 14(a) or 14(b) above, for any loss or damage arising from or caused in any way by Safe Direction, the goods it supplies or this Contract is excluded.

15. Guarantee

This clause applies to the extent a Guarantor has been nominated under the Credit Account Application.

- (a) In consideration for Safe Direction entering into the Contract, the Guarantor unconditionally and irrevocably guarantees to Safe Direction on the terms set out in this clause 15 the performance of the Customer's obligations under the Contract, including prompt payment of all money due under the Contract, whether or not on credit terms (the **Guaranteed Money**). Without limitation:
 - (i) if any money due under the Contract is not paid when due, the Guarantor must immediately on demand from Safe Direction, pay to Safe Direction the money due in the same manner as that money is required to be paid by the Customer under the Contract;
 - (ii) if the Customer fails to perform any obligations under the Contract when they are due, the Guarantor must immediately on demand from Safe Direction, cause the Customer to perform its obligations under the Contract.
- (b) The Guarantor indemnifies Safe Direction against any claim, action, damage, loss, liability, cost, charge, expense, outgoing or payment suffered, paid or incurred by Safe Direction in relation to:
 - (i) the failure of the Customer to perform its obligations under the Contract; or
 - (ii) the failure of the Guarantor to cause the Customer to perform its obligations under the Contract.
- (c) This clause 15 applies:
 - (i) to the present and future amount of Guaranteed Money and the present and future obligations of the Customer under the Contract;
 - (ii) to this Contract, as amended, supplemented, renewed or replaced;
 - (iii) regardless of whether the Guarantor is aware of or has consented to or is given notice of any amendment, supplement, renewal or replacement of any Contract to which the Contract to which the Customer and Safe Direction are a party or the occurrence of any other thing; and
 - (iv) irrespective of any rule of law or equity to the contrary.
- (d) This clause 15 is:
 - (i) a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation; and
 - (ii) independent of an not in substitution for or affected by any other collateral security which Safe Direction may hold in respect of the Guaranteed Money or the obligations of the Customer under Contract.
- (e) This clause 15 is enforceable against the Guarantor:
 - (i) without first having recourse to any collateral security; and
 - (ii) whether or not Safe Direction has made demand on the Customer, given notice to the Customer or any other person in respect of any thing or taken any other steps against the Customer or any other person.

16. Waiver

Except as expressly set out in the Terms and Conditions, a party may only waive or vary a right under this Contract by written notice addressed to the other party. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

17. Severance

If a provision of the Contract would, but for this clause, be unenforceable:

- (i) the provision must be read down to the extent necessary to avoid that result; and
- (ii) if the provision cannot be read down to that extent,

it must be severed without altering the validity and enforceability of the remainder of the Contract.

18. Notices & Variation

- (a) A Notice under or in connection with these Terms and Conditions can be delivered to a party by email, facsimile or post.
- (b) Safe Direction may at any time vary these Terms and Conditions as they apply to future Orders and must notify the Customer of these variations by notice complying with clause 18(a), on any invoice or Order Confirmation or by publishing the revised Terms and Conditions or notice on its website.
- (c) Notices given by Safe Direction will be deemed to be received:
 - (i) if given by email, on being sent, provided the notice is sent to the email address of an officer or employee of the Customer responsible for placing or administering orders for Goods and no "out of office" or other automated reply is received indicating that the message has not been or will not be received or read by the intended recipient;
 - (ii) if given by facsimile transmission to a facsimile number shown in the Credit Account Application (or any other facsimile number provided by the Customer) by production by Safe Direction of a copy of the facsimile transmission bearing the time and date of dispatch, on that date and at that time; and
 - (iii) if given by post, on the third day after posting.

19. Costs

The Customer must pay all of Safe Direction's costs and expenses in connection with the enforcement of any security interest given under the Contract and the registration, maintenance and release of any security interest in connection with the Contract or the recovery of the Amount Payable (including legal expenses on a full indemnity basis).

20. Applicable Law

The Contract is governed by the law of, the State of New South Wales. The courts of the State of New South Wales have non-exclusive jurisdiction in connection with the Contract. The Sale of Goods (Vienna Convention) Act 1986 (New South Wales) (and any similar legislation relating to the Vienna Convention in other States or Territories) does not apply to the Contract.

21. Assignment

Safe Direction may assign its rights or novate its rights and obligations under the Contract (in whole or in part) to any person without the consent of the Customer. The Customer may not assign or otherwise transfer its rights under the Contract without prior notice to and consent from Safe Direction.

22. Subcontracting

Safe Direction may appoint subcontractors to assist in the provision of Goods to the Customer in its absolute discretion.