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JUNE 2012 TERMS AND CONDITIONS OF SALE

1.0 GENERAL

1.1 These terms and conditions shall apply to the sale of all Goods manufactured and offered for sale by Elsafe Australia Pty. Limited (Elsafe). Where a quotation is made by Elsafe, these terms and conditions shall form part of that quotation.

1.2 No variation or cancellation of these terms and conditions shall bind Elsafe unless agreed to by Elsafe in writing.

1.3 These terms and conditions shall be governed by and construed in accordance with the laws of the state of New South Wales and the purchaser submits to the non-exclusive jurisdiction of the courts of New South Wales.

2.0 TERMS OF PAYMENT

2.1 Unless otherwise stated in writing, payment shall be made in cash in full within thirty (30) days of the end of the month of date of invoice.

2.2 The extension of credit to the purchaser and the terms upon which it is provided shall be at the absolute discretion of Elsafe at all times and Elsafe retains the right to withdraw credit facilities at any time prior to the delivery of Goods.

2.3 Interest at the rate of twenty percent (20%) per annum, shall be payable on outstanding balances due or not met pursuant to 2.1 hereof. Such interest shall accrue daily from the date of invoice.

3.0 PRICE

3.1 All prices and pricelists of the Goods are subject to change without notice and all orders are accepted by Elsafe on the condition that they will be invoiced at the prices applicable at the date of delivery.

3.2 Elsafe reserves the right to revoke and withdraw any quotation provided to a potential purchaser at any time prior to the acceptance of the quotation.

3.3 In the further event that a quotation by Elsafe is not accepted within a period of thirty (30) days from the date provided, the quotation will no longer be binding on Elsafe unless Elsafe notifies the purchaser in writing of its intention to be so bound.

4.0 GST AND OTHER IMPOSTS

4.1 Goods and Services Tax (GST) and other Government imposts, when applicable, will be added to the invoice and deemed part of the purchase price. If any payment by the purchaser to Elsafe under an accepted quotation constitutes consideration for a taxable supply for the purposes of GST, the amount to be paid for the supply will be increased so that the net amount retained by Elsafe after payment of that GST is the same as if Elsafe was not liable to pay GST in respect of that supply.

5.0 GOODS SPECIFICATION, VARIATION AND TAKE OFFS

5.1 Elsafe reserves the right to discontinue the supply of Goods and to modify designs and change specifications of any of its Goods included in its price list without incurring any obligation to the purchaser.

5.2 Any variations required by the purchaser resulting from a change in specifications, alterations or any other variations whatsoever, may result in additional charges being imposed. Any variation required by the purchaser shall be confirmed in writing by the purchaser within seven days of the requested variation having being made.

5.3 a) Unless otherwise agreed in writing, any material/quantity take offs, prepared by Elsafe on behalf of any client or customer, are supplied as a service only.
b) Elsafe requires the client to satisfy himself that the quantities, lengths, and type of material listed in the take off are suitable for his needs.
c) Elsafe will not accept responsibility for any omissions, errors, shortfalls, changes in dimensions or type of materials, or any consequential loss or losses which the client may suffer, should he rely entirely on the Elsafe take off.
d) Elsafe will rely entirely on the client's written order and Elsafe written order acknowledgements as being the documents which specify and confirm the client's definitive requirements.
e) Any subsequent changes to the purchase order, request for return for credit, cancellations, or warranty claims, will be subject to those other conditions referred to elsewhere in this document.

6.0 ACCEPTANCE

Acceptance of a quotation must be made in writing by the purchaser. If the terms of the acceptance differ in any way from the terms and conditions herein, then such an acceptance shall be deemed to constitute a counter offer and shall only bind Elsafe should the said counter offer be expressly accepted by Elsafe and confirmed in writing.

7.0 DELIVERY

7.1 All quoted delivery and consignment dates are estimates only and Elsafe has no obligation to meet such dates and Elsafe shall in no circumstances be liable to the purchaser by reason of delays in delivery caused by any reason whatsoever.

7.2 Unless otherwise specified in writing by Elsafe, all delivery charges will be to the purchaser's account or at the purchaser's expenses.

7.3 All Goods shall be at the purchaser's risk immediately upon delivery to the purchaser or to the purchaser's premises nominated by the purchaser in the written acceptance of a quotation given under clause 6 or the premises of the purchaser's nominee or carrier.

7.4 If delivery of Goods is delayed by the purchaser in excess of twenty one (21) days after the agreed date of delivery, then the purchaser shall pay an additional storage fee equivalent to twenty percent (20%) per annum of the quoted price. The additional charge shall apply retrospectively from the quoted delivery date and will accumulate daily.

8.0 LEGAL TITLE TO GOODS

8.1 Legal title and property of the Goods supplied shall not pass to the purchaser until such time as the purchaser shall have paid to Elsafe, all monies due and payable to it under this agreement or any variation thereof.

8.2 Despite anything in clause 8.1 all risk and potential liability for whatever reason in respect of the Goods shall pass to the purchaser at the time of delivery under clause 7.3 and the purchaser shall from that time and thereafter, insure and keep the Goods insured against all insurable risks in the name of the purchaser as purchaser, and Elsafe as an unpaid vendor for their full insurable value.

8.3. Elsafe reserves the right to:
a) sue for the price of the Goods purchased, or
b) recover possession of the Goods if the purchaser fails to pay monies due and payable for the Goods supplied.
c) take action in paragraph (a) if Elsafe elects not to recover possession of the Goods or where the Goods are not reasonably recoverable.

8.4 The purchaser will allow reasonable access and will perform all actions necessary to enable Elsafe to recover the Goods under clause 8.3.

8.5 TERMS PURSUANT TO THE PERSONAL PROPERTY SECURITIES ACT 2009 (Cth) (Hereinafter referred to as PPSA)
a) The purchaser acknowledges that these Terms and Conditions constitute a security agreement for the purpose of the PPSA. A security interest is taken in all Goods previously supplied by Elsafe to the purchaser (if any) and all Goods that may be supplied in the future by Elsafe to the purchaser securing the performance by purchaser of obligations under these Terms and Conditions, for so long as any of the monies owing by the purchaser to Elsafe in respect of the Goods or for so long as the Goods are consigned, rented or leased.
b)The purchaser must ensure that no security interest (within the meaning of the PPSA) is created, exists or subsists over the Goods (including any replacement part or other item that is incorporated in any product) in the purchaser's possession or control prior to the control of the Goods passing to the purchaser other than a security interest arising under these Terms and Conditions.
c) The purchaser must assist to complete the registration on the PPS Register of any financing statement in respect of the Goods and will do all things and provide all information necessary to enable Elsafe to perfect its security interests in the Goods and complete any financing change statement as defined in the PPSA.
d)To the extent permitted by law, the purchaser hereby waives any rights the purchaser may have to receive notices under Sections 121(4), 130, 132(4) and 135 of the PPSA, and will take all steps to reinstate a security agreement following Termination under Section 143.
e) The purchaser agrees that it irrevocably waives any rights it may have to receive a verification statement (as defined in the PPSA).

9.0 PRODUCT RETURNS FOR CREDIT

9.1 No Goods, save for those which fall within the warranty provisions detailed at Clause 10 below, will be accepted for credit without the prior written consent of Elsafe except for Goods that have been wrongly supplied or oversupplied. Returned Goods must be delivered to Elsafe within sixty (60) days of their receipt by the purchaser, at the expense of the purchaser. Returned Goods must be in good condition, unused and in the original packaging, accompanied by a despatch note stating original invoice number, date of supply and reason for return.

9.2 Except where Goods have been wrongly supplied or oversupplied, a restocking charge will apply as follows:

- Standard Product – 50% of the original net invoice price and not less than $200
- Non-Standard Product – 50% of the original net invoice price, together with the cost of restoring the relevant Goods so that they are, in the opinion of Elsafe, in a saleable condition, and not less than $200
- Special Product – no returns – See 9.3 below

9.3 Special products made and/or delivered to customer's specification (as validated by customer's signature on a drawing or specification sheet) can only be returned for credit if the product does not meet the "validated" drawing or specification, or the Goods are defective or otherwise falls within the warranty provisions detailed at Clause 10 below.

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10.0 ALL WARRANTIES

'Acceptable quality' as referred to in clause 10 of this warranty has the same meaning referred to at Schedule 2 of the Australian Competition And Consumer Act 2010 (ACL) 'Major failure' as referred to in this warranty has the same meaning referred to in the ACL and includes a situation when a Good cannot be repaired or it is uneconomic for Elsafe, at its discretion, to repair a Good during the Warranty Period;

10.1 Elsafe agrees to make good by repair or, at Elsafe's option, replacement, defects or Goods not of acceptable quality which under proper use and in accordance with any instructions issued by Elsafe provided to the Purchaser, or as a result of faulty design, material or workmanship by Elsafe ('the defect') appear in Goods manufactured by Elsafe within twelve (12) months from the date of purchase, provided:

a) The defect/s are not due to normal wear and tear;
b) The defect/s are not a result of improper installation of the Goods;
c) The defect/s are not the result of negligent damage to the Goods;
d) The defect/s are not the result of accident;
e) The defect/s are not the result of insect or vermin infestation;
f) The defect/s are not the result of use outside of the Goods' rated specifications;
g) The defect/s are not the result of a power surge; and
h) The defect/s are not the result of modification or alteration to the Goods;
(hereinafter, the warranty)

10.2 To enquire about claiming under the warranty at clause 10.1 above, the purchaser should follow these steps:

a) carefully check the operating instructions, user manual and the terms of this warranty;
b) have the consignment number of Goods available;
c) have the proof of purchase (e.g. an invoice) available; and
d) telephone the number detailed at clause 10.3 below.

10.3 The person who gives this warranty is:

a) Elsafe Australia Pty Ltd
b) Unit 1, 9 Rodborough Road, Frenchs Forest NSW 2086, Australia
c) Tel: +61 2 9454 7500

10.4 If any of the conditions in clause 10.1 are not satisfied at any time, that is the Purchaser has not used the Goods properly or in accordance with any instructions issued by Elsafe and provided to the Purchaser, or if any of the exclusions in 10.1(a), to 10.1(f) apply, the warranty provided at paragraph 10.1 will be void and of no effect.

10.5 The benefits to the purchaser (consumer) of this warranty are in addition to other rights and remedies of the purchaser (consumer) under a law in relation to the Goods to which this warranty relates.

10.6 Elsafe's Goods come with guarantees that cannot be excluded under the Australian Consumer Law. A purchaser is entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. The purchaser is also entitled to have the Goods repaired or replaced if the Goods fail to be of acceptable quality and the failure does not amount to a major failure.

10.7 This warranty only applies to Appliances purchased and used in Australia or New Zealand and is in addition to (and does not exclude, restrict, or modify in any way) any non-excludable statutory warranties in Australia or New Zealand.

10.8 In the event the warranty at clause 10.1 is exercised, the purchaser agrees:

a) they will bear the cost of transportation, travel and delivery of the Goods. If the purchaser resides outside of the service area, you will bear the cost of:
(i) travel of an authorised representative;
(ii) transportation and delivery of the Goods to and from the place of purchase,
(b) In all instances, unless the Goods are transported by Elsafe or an Elsafe authorised representative, the Goods are transported at the owner's cost and risk while in transit to and from Elsafe.

10.9 Proof of purchase is required before you can make a claim under this warranty

11.0 INTELLECTUAL PROPERTY

11.1 All patents, trademarks, copyrights, designs, Goods specifications, operation manuals, know-how and other forms of intellectual property directly or indirectly associated with the Goods will remain exclusively with Elsafe despite delivery to and purchase of such Goods by the purchaser.

12.0 CONFIDENTIAL INFORMATION

12.1 The purchaser must keep confidential all information that is used by or relates to Elsafe or relates to the manufacture, sale, storage and delivery of the Goods and is not public knowledge.

13.0 INDEMNITY

13.1 The purchaser hereby indemnifies and keeps indemnified Elsafe against all costs, damages, claims, losses and liabilities whatsoever paid or incurred by Elsafe in respect of the delivery, storage and use of the Goods delivered to the purchaser in accordance with an accepted quotation.

14.0 DEFAULT

14.1 It is an event of default (Event of Default) of these terms and conditions, if:

a) any of these terms and conditions are not fully complied with
b) either the purchaser or Elsafe is deemed or presumed by grant of law to be insolvent, or
c) an application or order is made appointing a liquidator, or administrator or otherwise that may lead to the winding-up of either the purchaser or Elsafe.

14.2 Each party must give notice to the other party in writing if it contends that an event of default has occurred.

15. RECOVERY RIGHTS ON DEFAULT

15.1 Upon the occurrence of an Event of Default, Elsafe reserves its right to recover those Goods or their applicable market value pursuant to clause 8.3 from the purchaser.

16.0 TERMINATION

16.1 If an Event of Default occurs and the default is not capable of being remedied, or if capable of being remedied is not remedied within thirty (30) business days after notice is given under clause 14.2 Elsafe may terminate all quotations provided to or accepted by the purchaser.

17.0 NOTICES

17.1 Any notice to or by a party under this document must be in writing and signed by the sender, or if a corporate party, an authorised officer of the sender.

17.2 Any notice may be served by delivery, in person or by post or transmission by facsimile to the address or number of the recipient must recently notified by the recipient to the sender.

18.0 QUALITY

18.1 Notwithstanding clause 10, Elsafe as a responsible manufacturer wishes to make its customers aware of the following quality issues.
As it cannot be assured that our Elsafe Connector System is compatible or interchangeable with any other manufacturer's product, Elsafe product should not be used under any circumstances with a mating part not supplied by Elsafe.
The non-compatibility and interchangeable issues relate to:
a) Possible mismatched current ratings, poor quality electrical contact with the pins and sockets, which can result in high contact resistance and increased temperature rise, also possible voltage drop problems may be experienced.
b) Different mechanical mating and locking mechanisms may also adversely affect the integrity of the connection.
c) The connection of Elsafe product, together with a non-supplied Elsafe product may invalidate compliance with national or international safety standards and compliance certificates.
d) If a customer chooses to mix and match Elsafe product with non-supplied Elsafe product, without securing from Elsafe approval in writing to do so, then the customer does so entirely at its own risk. Elsafe cannot, and will not accept liability for any consequential loss or damage of any kind whatsoever resulting from the use of its products together with mating parts not supplied or approved by Elsafe. Elsafe warranties are invalidated under these circumstances.

19.0 VARIATION OF TERMS

19.1 These terms are subject to variation as agreed in writing between Elsafe and the purchaser.

19.2 By placing an order with Elsafe for Goods the purchaser warrants and agrees that they have read these terms and agree to be bound by them.