

Leedsafe Terms of Trade

1. Terms of contract

1.1 Any Goods supplied by us to you shall be subject to these Terms unless we agree in writing to change them. If you accept Goods from us, that action by you will be deemed to be acceptance of these Terms, despite anything that may be stated to the contrary in your enquiries or your order.

2. Price

2.1. The price for Goods will be either as quoted to you in writing or, if no written quotation is provided, as set out in our standard price list applying at the time of delivery.

2.2. Despite clause 2.1 above, unless otherwise agreed in writing, any quoted price may be altered before delivery of Goods to you, if our costs fluctuate after the date of quotation. Further, quoted prices only apply to the total quantities and delivery dates specified in the quotation.

2.3. We may withdraw a quotation before it is accepted and, in any event, a quotation will lapse, without notice, 7 days after it is given.

2.4. Unless otherwise agreed in writing, all prices are exclusive of packaging, freight, insurance and delivery charges and Goods and Services Tax and other government duties, levies or taxes in respect of the Goods. These will be charged at the rates applying at the time of delivery.

3. Payment

3.1. Unless we have agreed in writing to extend credit to you, you must pay for Goods in full before delivery.

3.2. Unless otherwise agreed in writing, where we have agreed to extend credit to you, you must pay for Goods in full, without deduction or set off, by the 20th day of the month following the date of invoice. Your payment is made only when funds have fully cleared through the bank system into our bank account.

3.3. If full payment for the Goods is not made by the due date, then without prejudice to any other rights or remedies available to us:

(a) we may cancel or suspend the delivery of further Goods;

(b) we may charge interest on overdue monies on a daily basis at 5% per annum above the current overdraft rate charged by our bankers at that time, and interest shall continue to accrue both before and after judgment;

(c) you will be responsible for all costs (including legal costs on a solicitor/client basis) incurred by us in recovering such monies; and

(d) any discount offered to you will be deemed to be withdrawn, and you will be liable for the full invoice price.

3.4. We may accept and apply payments from you in respect of any indebtedness, and we will not be bound by any conditions or qualifications attaching to the payments.

3.5. Where we have agreed to extend credit to you, we may, from time to time at our discretion, vary your credit limit with us. If a purchase of Goods would exceed your current credit limit, we may require payment in cash of the excess before delivery of them.

3.6. Despite clauses 3.1 and 3.2 above or any agreement to the contrary, all payments shall become immediately due and payable if we reasonably believe that the information which you have given us in your credit application is not correct or no longer correct, or if you default under any agreement with us, become insolvent or commit any act of bankruptcy, a receiver, liquidator or statutory manager is appointed over any of your assets or undertaking or you make or attempt to make an arrangement or composition with your creditors.

4. Ownership

4.1. Ownership in the Goods shall not pass to you at the time of delivery, but will remain with us until we have received full payment, in cash or cleared funds, of all monies owing by you to us.

4.2. Until all such monies have been paid:

(a) you will keep the Goods separate from any other goods in your possession, and properly stored, protected and insured, and identified as our property;

(b) all sums received from any insurance claim made in respect of loss of or damage to the Goods shall be treated as if they were proceeds of sale and held by you on the same terms as those set out in clause 4.2(d) below, and you will also hold on trust for us and, if required by us, forthwith assign to us the benefit of any insurance claim made in respect of the Goods;

(c) where the Goods are sold to you as inventory for resale, you may resell them in the normal course of your business at full market value, provided that (i) the resale shall be as principal in relation to your sub-buyer but, as between you and us, you will sell as our fiduciary agent and bailee and (ii) you hold the proceeds of the resale on trust for us, and pay them into a separate bank account without mixing them with other monies; and

(d) we may, at any time, require you to deliver the Goods (which have not been resold) to us and, if you fail to do so forthwith, our employees and agents may enter any premises where the Goods might be stored and recover them, and you agree to indemnify us, on demand, against any liability incurred by us in our exercise of this right.

5. Risk and delivery

5.1. Delivery of the Goods will take place when they are received by a carrier for delivery to you, or the time they are received by you or your agent, whichever is earlier. When you ask us to deliver Goods directly to another person, that person takes possession of the Goods for you as your agent.

5.2. We will make every effort to ensure delivery of Goods is on time. However, we shall not be liable to you for any failure to deliver on a specified date or within a specified period, however that failure was caused.

5.3. Despite clause 4 above, risk in respect of the Goods shall pass to you on delivery in accordance with clause 5.1 above. You are responsible for insurance of the Goods from that time.

5.4. Without limiting the previous provisions of this clause 5, all claims for shortages or delivery damage must be made to the carrier and us within seven days after delivery.

6. Returns and cancellation

6.1. Goods may be returned for credit only if we have agreed in writing, and they are received by us at our premises where they were despatched from within 14 days after delivery and in the same condition as they were delivered to you. Returned Goods must be sent at your expense, with a copy of the original packing slip or invoice. We may charge you a restocking fee.

6.2. You may not cancel an order for Goods, wholly or partly, without our written consent. As a condition of giving our consent, we may require reimbursement of any costs (including materials, handling fees and labour) incurred by us in connection with the order up to the date of our consent.

6.3. In addition to our rights under clause 3.3(a) above, we may cancel or suspend an order for Goods, wholly or partly and without liability to you, in any of the circumstances set out in clause 3.6 above or if fulfilling the order becomes impractical or uneconomic due to any cause beyond our control.

7. Consumer Guarantees Act 1993

7.1. If the CGA applies, these Terms shall be read subject to your rights under the CGA.

7.2. Where you are acquiring the Goods for the purposes of a business (as provided in sections 2 and 43 of the CGA), the CGA shall not apply.

7.3. Where clause 7.2 above applies and you are acquiring the Goods for the purposes of resale, your terms of trade applying to the resale (and, if your customers acquire the Goods for the purposes of resale, their terms of trade and the terms of trade of each other person in your distribution chain) must include a provision having the same effect as that clause. You agree to indemnify us, on demand, against any liability under the CGA as a result of any failure by you, your customers or any other person in your distribution chain to include such a provision.

7.4. We do not undertake that repair facilities and parts will be available for the Goods and, accordingly, section 12 of the CGA shall not apply.

8. Warranties and liability

8.1. We warrant that we will replace or, at our option, repair Goods supplied to you which are accepted by us to be defective free of charge, provided that you notify us in writing of the defect in sufficient detail for the Goods and the defect to be clearly identified within seven days after delivery, and return the Goods to us at our premises where they were despatched from or to an authorised repairer nominated by us for the purpose at your expense.

8.2. Despite clause 8.1, where we are resupplying Goods that have been supplied to us, we will, where we are able to do so, pass on the benefit of any supplier's guarantee or warranty given to us, without being directly liable to you in any respect, including where the Goods are defective in any way.

8.3. We shall not be liable under any circumstances for any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow our instructions, misuse, or any alteration or repair of the Goods not authorised by us.

8.4. To the fullest extent permitted by law:

- (a) our liability under these Terms is in substitution for, and to the exclusion of, all other warranties, representations, conditions or obligations imposed or implied by law, statute or otherwise in relation to the Goods;
- (b) all liability for any indirect, special or consequential loss or damage of any kind is expressly excluded; and
- (c) you accept that ratings, weights, product descriptions, details, specifications, as stated in marketing material, on our website, online or in emails from us, in product spec sheets, price lists or data sheets, are approximate only and based on industry knowledge available at the time, and where we share this information with you, (including product details or data around the functionality or specifications of a product), you agree that we have provided them in good faith and you acknowledge that you are responsible for ensuring the Goods purchased from us are adequate for the planned use.

8.5. For the avoidance of doubt, if you are "in trade" as that term is used in the Fair Trading Act 1986, the requirements in clauses 9, 12A, 13 and 14(1) are excluded to the fullest extent permitted by law, and both parties agree that it is fair and reasonable to do so.

9. Personal Property Securities Act 1999

9.1. You acknowledge and agree that, by accepting these Terms, you grant us a security interest over the Goods and their proceeds (by virtue of the retention of title in clause 4 above).

9.2. You undertake to:

- (a) do all acts and provide us on request all information we require to register a financing statement or financing change statement on the Personal Property Securities Register; and

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(b) advise us immediately in writing of any proposed change in your name or other details on the Personal Property Securities Register.

9.3. You:

(a) waive your right to receive a verification statement in respect of any financing statement or financing change statement relating to the security interest;

(b) waive your rights and, with our agreement, contract out of your rights under sections 116, 120(2), 121, 125, 126, 127, 129 and 131 of the PPSA; and

(c) agree that nothing in sections 114(1)(a), 133 and 134 of the PPSA shall apply to these Terms and, with our agreement, contract out of such sections.

9.4. Unless the context otherwise requires, the terms and expressions used in this clause 9 have the meanings given to them in, or by virtue of, the PPSA.

10. Privacy Act

10.1. You and any guarantor (if relevant) authorise us to collect, store use and disclose personal information as appropriate for credit, administration, service and marketing purposes in accordance with our Privacy Policy at <https://www.leedsafe.co.nz/privacy-policy/>.

10.2. You understand that you have a right of access to, and may request correction of, personal information held by us about you.

11. Intellectual property

11.1. Neither we nor our suppliers transfer to you any right, title or interest in any copyright, trade marks, patents or other intellectual property rights in or relating to the Goods.

11.2. You warrant that any designs, drawings or specifications which you provide to us will not infringe any intellectual property rights of any third party, and you agree to indemnify us, on demand, against any liability we may suffer as a result of our use of those designs, drawings and specifications.

12. Website and Ecommerce Ordering

12.1. When purchasing from us online (including from our website, apps' or by other online means), you acknowledge that:

(a) payments made online through our website at www.leedsafe.co.nz are secured by an encryption process and the information provided will be dealt with in accordance with our Privacy Policy, and cannot be read by outside influences; and

(b) we cannot guarantee the Goods (or any services) as pictured on our website are available and any order placed on our website or app requires approval and acceptance by us.

13. General terms

13.1. Amendments: We may amend these Terms from time to time by notice to you in writing.

13.2. Waiver: No delay or failure by us to exercise our rights under these Terms operates as a waiver of those rights. A partial exercise of those rights does not prevent their further exercise in the future.

13.3. Severability: If a court decides that part of these Terms is unenforceable, the part concerned shall be deleted from the rest of these Terms, which will then continue in force.

13.4. Law: These Terms will be interpreted in accordance with and governed by the laws of New Zealand, and the New Zealand Courts will have non-exclusive jurisdiction in respect of all matters between us. The parties hereby agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this contract.

14. Defined terms and interpretation

14.1. In these Terms, the following words have the following special meanings:

- **"CGA"** means the Consumer Guarantees Act 1993;
- **"Goods"** means (i) all safety clothing, footwear and personal protective equipment, and other goods supplied by us to you at any time, and includes any goods described by item or kind on any relevant quote, order form, packing slip or invoice, on the basis that each such quote, order form, packing slip or invoice shall be deemed to be incorporated in and form part of these Terms and (ii), except where the context otherwise requires, all services supplied by us to you at any time, whether in conjunction with the supply of goods or otherwise;
- **"PPSA"** means the Personal Property Securities Act 1999;
- **"Terms"** means these terms of trade (as amended from time to time);
- **"we", "our", "us"** means Leedsafe Limited and any of its related companies (as defined in the Companies Act 1993) from time to time ; and
- **"you"** means the customer named in any customer information form, credit application, quote, invoice, document or order, and applies jointly and severally where there is more than one customer named.

14.2. For convenience, these Terms have been grouped under different headings, but the headings do not affect the meaning of these Terms.

14.3. In these Terms references to any law include any changes to that law which are in force from time to time.